

2007 LEGISLATIVE SUMMARY



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State of Florida

**DEPARTMENT OF
FINANCIAL SERVICES**

Front Cover:
Map compliments of NOAA Coastal Services Center

**Hurricanes in Florida
1992 – 2006**

Andrew – August 1992
Erin – August 1995
Opal – October 1995
Danny – July 1997
Earl – September 1998
Irene – October 1999
Charley – August 2004
Frances – September 2004
Ivan – September 2004
Jeanne – September 2004
Dennis – July 2005
Katrina – August 2005
Wilma – October 2005

Legend – Hurricane Track

Category 3 – 5
Category 1 – 2
Tropical Storm
++++ Extratropical Storm
Tropical Low

INTRODUCTION

This document has been compiled to offer an overview of the legislation passed by the Florida Legislature during the 2007 Regular Legislative Session that affects the Department of Financial Services. Access to all bills, their final action, legislative staff analyses, floor amendments, bill history and Florida Statutes citations are available through the Internet. The Internet address for the Florida Legislature Online Sunshine web site is:

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

For additional information on legislation passed by the Florida Legislature you may contact the Office of Legislative Affairs at (850) 413-2863 or SUNCOM 293-2863.

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**HB 55 – Domestic Violence: Chapter 2007-107, L.O.F.;
Effective July 1, 2007; by Jobs & Entrepreneurship Council;
Rep. Porth and others.**

Any person who is either the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of domestic violence may file a sworn petition for an injunction for protection against domestic violence. Florida law currently prohibits dismissing from employment any person who testifies in a judicial proceeding in response to a subpoena but does not address other protections enumerated in the bill to victims of domestic violence.

The bill requires employers with 50 or more employees to allow employees who have been employed for at least 3 months to request or take up to three working days of leave with or without pay within a 12-month period if the employee is the victim of domestic violence and the leave is sought to:

- seek an injunction for protection against domestic violence;
- obtain medical care or mental health counseling;
- obtain services from a victim-services organization;
- make the employee's home secure or to seek new housing; or
- to seek legal assistance to address issues arising from the act of domestic violence and to attend and prepare for court-related proceedings arising from the act of domestic violence.

The bill requires employees to provide advance notice of the leave (except in cases of imminent danger) and use all available annual or vacation leave, personal leave, and sick leave available to the employee prior to using the leave provided for in this bill (unless this requirement is waived by the employer).

The bill authorizes employers to require documentation of the act of domestic violence, requires employers to keep information relating to the employee's leave confidential, and prohibits employers from taking any disciplinary action against the employee for exercising rights under the bill. The bill specifies that the remedy for damages to an employee aggrieved under the bill is limited to a civil suit for damages or equitable relief in the circuit court.

A tied bill, HB 63, has been passed to provide the public records exemption needed to keep confidential the information covered by this bill in public employee personnel files.

**HB 63 – Public Records/Victim of Domestic Violence:
Chapter 2007-108, L.O.F.; Effective July 1, 2007; by Rep.
Porth and others.**

This bill is tied to HB 55, which requires the submission of documentation in order for an employee to be granted leave related to incidents of domestic violence.

This bill creates a public records exemption for personal identifying information contained in records documenting an act of domestic violence, which are submitted to a public agency by an agency employee as required by the provisions of HB 55. The bill also creates a public records exemption for written requests for leave submitted by an agency employee who is a victim of domestic violence and any agency time sheet that reflects such requests. The exemption for the written request and the timesheet expires one year after the leave has been taken.

The bill provides a statement of public necessity. It also provides for future review and repeal of the exemptions pursuant to the Open Government Sunset Review Act in accordance with s. 119.15, F.S, which provides that these exemptions will stand repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

**~~HB 97 – Medicare Supplement Policies: Chapter 2007-____,
L.O.F.; Effective July 1, 2007; by Healthcare Council; and
Rep. Hays:~~**

Vetoed by Governor 6/19/07

~~This legislation allows employers of at least 50 employees to offer Medicare supplement policies to employees that are not subject to requirements in statute for Medicare supplement insurance. The bill amends s. 627.672(1), F.S., to exclude Medicare Supplement Insurance offered to employees or former employees by employers that have at least 50 employees at issue from the definition of "Medicare supplement policy." The change in definition also requires employers to offer two options of continued insurance coverage to employees age 65 or older who have terminated eligibility.~~

HB 111 – Title Insurance: Chapter 2007-44, L.O.F.; Effective October 1, 2007; by Jobs & Entrepreneurship Council; Rep. Galvano and others.

The bill provides for the following changes to the title insurance law:

- Requires nonresident title insurance agents to qualify for licensure by passing an examination and completing continuing education requirements in the same manner as Florida resident title insurance agents;
- Allows for the rebating of an attorney's fee charged for professional services, the title agent's portion of the insurance premium, or any other agent charge or fee, to the person responsible for paying the premium, charge, or fee;
- Clarifies that no portion of the attorney's fee, the title agent's portion of premium, any agent charge or fee, or any other monetary consideration or inducement, may be paid directly or indirectly for the referral of title insurance business;
- Clarifies definitions within the title insurance law and provides that "primary title services" do not include closing services or title searches, for which a separate charge may be made;
- Repeals the authority for the Financial Services Commission to establish limitations on related title services charges by rule;
- Provides that a title insurer may not issue a title policy until the insurer has made a determination of insurability based upon the evaluation of a reasonable title search; Repeals the provision that the title insurer or agency must maintain a record of the related title service charges made for the issuance of a policy;
- Clarifies the definition of an "estoppel letter" relating to mortgage certificates of release;
- Clarifies the provisions to clear liens that have been paid off from the public records; and,
- Removes the requirement that the Financial Services Commission adopt rules to establish a premium charged by a title agent for preparing and recording of an affidavit of release of a mortgage.

HB 211 – Hurricane Preparedness: Chapter 2007-25, L.O.F.; Effective April 30, 2007; by Economic Expansion & Infrastructure Council; Rep. Nehr and others.

The bill provides that no sales tax will be collected on certain items that assist residents in preparing for hurricane season that are purchased between June 1, 2007 through June 12, 2007. This coincides with the first day of hurricane season (June 1) and follows National Hurricane Preparedness Week (May 20-26, 2007).

The list of exempt hurricane preparedness items includes:

- Any portable self-powered light source selling for \$20 or less;

- Any portable self-powered radio, two-way radio, or weatherband radio selling for \$75 or less;
- Any tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- Any item sold as, or generally advertised as, a ground anchor system or tie-down kit selling for \$50 or less;
- Any gas or diesel fuel tank selling for \$25 or less;
- Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- Any cell phone battery selling for \$60 or less and any cell phone charger selling for \$40 or less;
- Any nonelectric food storage cooler selling for \$30 or less;
- Any portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$1,000 or less;
- Any storm shutter device selling for \$200 or less;
- Any carbon monoxide detector selling for \$75 or less;
- Any re-usable ice selling for \$10 or less; and
- Any single product consisting of two or more of the items listed above selling for \$75 or less.

The provisions of the bill do not apply to sales within an airport, within a public lodging establishment, or within a theme park or entertainment complex.

This bill grants rulemaking authority to the Department of Revenue and appropriates \$289,100 from the General Revenue Fund to administer this sales tax holiday.

HB 359 — Motor Vehicle Financial Responsibility: Chapter 2007-150, L.O.F.; Effective June 15, 2007; by Policy & Budget Council; Economic Expansion & Infrastructure Council; Rep. Kriseman and others.

The bill creates s. 324.023, F.S., under the Financial Responsibility (FR) law which provides for an additional financial responsibility requirement based on a vehicle owner or operator who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to the charge of driving under the influence (DUI).

Specifically, the bill requires after October 1, 2007, every owner or operator of a motor vehicle that is required to be registered or located in Florida, and who, regardless of adjudication of guilt, has been found guilty of or entered a plea of

guilty or nolo contendere to the charge of DUI, under s. 316.193, F.S., must have and maintain \$100,000 in Bodily Injury (BI) liability coverage for injury to, or death of, one person in any one crash; \$300,000 in BI coverage for injury to, or death of, two or more persons in any one crash; and, \$50,000 in Property Damage (PD) liability coverage in any one crash. The bill provides motorists the option of posting a bond or furnishing a certificate of deposit of not less than \$350,000. The bill provides such higher limits must be carried for a period of three years. If the person has not been found guilty of a DUI or a felony traffic offense during the three year period, then the person is allowed to return to the standard coverage limits.

The bill amends s. 316.646, F.S., pertaining to security requirements, to require persons subject to the increased BI and PD liability coverages under s. 324.023, F.S. (Section 1 of the bill) to maintain in their possession at all times while driving proper proof of the required insurance coverages. Such proof may be an insurance card, policy, binder, certificate of insurance or such other proof prescribed by the Department of Highway Safety and Motor Vehicles (DHSMV). Persons who violate this provision commit a nonmoving traffic infraction under Chapter 318, F.S. Failure to furnish proof of liability insurance results in suspension of the person's registration and driver's license and reinstatement of same is provided for under s. 627.733, F.S.

The bill also amends s. 320.02, F.S., pertaining to motor vehicle licenses. The bill requires county tax collectors to verify that the increased BI and PD insurance coverages mandated under s. 324.023, F.S., have been purchased by the motorist at the time he or she applies for a vehicle registration or registration renewal. If such proof is not provided, the vehicle registration or renewal will not be issued.

This bill amends s. 627.733, F.S., relating to required motor vehicle security. Under current law, any operator or owner whose driver's license or registration has been suspended under s. 316.646, F.S., may apply for reinstatement upon compliance with specified financial insurance requirements and payment to DHSMV of a nonrefundable fee of \$150 for a first reinstatement; \$250 for a second reinstatement and \$500 for each subsequent reinstatement during the three years following the first reinstatement. The effect of this provision is that drivers who are required to maintain the increased liability insurance coverages under the bill, and who seek reinstatement of their license or registration, will have to pay the fees outlined herein.

The bill also adds ss. 324.021(8) and 324.023, F.S., to the requirements of s. 627.733, F.S., to clarify persons present proof to the DHSMV of securing the increased liability coverage required under the bill. Current law requires persons seeking reinstatement of their license or registration to also secure

noncancelable insurance coverage described under s. 627.7275, F.S., and present to the DHSMV prove the coverage is in force and such proof is noncancelable for 2 years.

In addition, the bill amends s. 627.7261, F.S., pertaining to refusal to issue automobile liability insurance. The bill prohibits insurers from denying an application for motor vehicle liability insurance, imposing a surcharge or otherwise increasing the premium for a policy "solely" on the basis the applicant, a named insured, a member of the insured's household, or a person who operates the insured's vehicle, is a "volunteer driver." The bill defines the term "volunteer driver" as a person who provides services, including transporting individuals or goods, without compensation in excess of expenses to a private nonprofit agency as defined in s. 273.01(3), F.S., or a charitable organization defined in s. 737.501(2), F.S.

Finally, the bill states this provision does not prohibit an insurer from refusing to renew, imposing a surcharge on, or otherwise increasing premiums for a motor vehicle liability policy based on factors other than the volunteer status of the person. Under current law, an insurer may not deny an application for automobile liability insurance "solely" on the ground that renewal of similar coverage has been denied by another insurer or on the ground of an applicant's failure to disclose that such denial has occurred.

HB 411 – Limited Insurance Licenses: Chapter 2007-76, L.O.F.; Effective January 1, 2008; by Jobs & Entrepreneurship Council; Rep. Precourt and others.

This bill makes changes to the law relating to limited licenses to transact insurance. The bill provides for a travel insurance limited license and a motor vehicle rental insurance limited license.

Travel Insurance Limited License

Under current Florida law, there is no limited license to transact business in the area of travel insurance. The bill amends s. 626.321(1)(c), F.S., replacing the current personal accident insurance limited license with the travel insurance limited license. Travel insurance covers: risks incidental to travel, planned travel or accommodations while traveling, including accidental death and dismemberment of a traveler; trip cancellation, interruption, or delay; loss of or damage to personal effects or travel documents; baggage delay; emergency medical travel or evacuation of a traveler; and medical, surgical, and hospital expenses related to an illness or emergency of a traveler. A travel insurance policy is effective for up to a 60-day travel period. However, the term during which the policy can be used may extend beyond 60 days. A policy or certificate

that provides coverage for air ambulatory services only is not subject to the 60 day limit.

The following persons or entities are eligible to obtain the travel insurance license: a fulltime salaried employee of a common carrier; a full-time salaried employee or owner of a transportation ticket agency; the developer of a timeshare plan that is the subject of an approved public offering statement under Chapter 721, F.S.; an exchange company operating an exchange program approved under Chapter 721, F.S.; a managing entity operating a timeshare plan approved under Chapter 721, F.S.; a seller of travel as defined in Chapter 559, F.S.; and a subsidiary or affiliate of any of the timeshare entities or sellers of travel are also eligible to obtain a license.

In order for an entity to obtain a travel insurance license, the entity's President, Secretary, Treasurer, and any other officer or person who directs or controls the entity's travel insurance operations must submit fingerprints.

The timeshare-related and seller of travel licensees are also subject to an educational requirement. In order to transact insurance in Florida, each employee of these licensees must receive initial training from a general lines agent or an insurer that is authorized under Chapter 624, F.S. (Insurance Code: Administration and General Provisions).

Motor Vehicle Rental Insurance Limited License

Additionally, the bill amends s. 626.321(1)(d), F.S., and it replaces the baggage and motor vehicle excess liability insurance limited license with the motor vehicle rental insurance limited license. The license covers policies offered, sold, or solicited with and incidental to the rental or lease of motor vehicles. The insurance applies only to motor vehicles that are the subject of a lease or rental agreement and to occupants of the motor vehicle.

Motor vehicle rental insurance covers the following risks: coverage in excess of that provided by the lessor for liability arising in connection with the negligent use of a leased or rented motor vehicle; damage to the leased or rented motor vehicle; damage to personal effects or travel documents; and accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the leased or rented motor vehicle.

The bill also provides that a single license issued to a business entity that offers motor vehicles for rent or lease effectively licenses each office, branch office, or place of business that makes use of the entity's business name, and allows those offices, branches, and places of business to offer, solicit, and sell insurance. This is different from existing law, which requires each location that transacts such insurance to have its own license. The effect of this change is revenue-neutral,

however, because the bill provides that the agent's original appointment and biennial renewal fee for each entity must be calculated by multiplying the fees set forth in the statute by the number of offices, branch offices, or places of business covered by the license.

To that end, the bill amends s. 624.501(9), F.S., relating to the limited license fees that are payable to the Department of Financial Services (DFS). The bill adds a new subsection, which provides an exception to the method for calculating agent/entity fees that must be paid by an insurer holding a motor vehicle rental insurance limited license.

Therefore, while the bill provides for a motor vehicle rental insurance limited license to be provided to a single entity, the entity's appointment and renewal fees are based on the number of locations operating under the entity's license, and fees are calculated accordingly.

The application for a motor vehicle rental insurance limited license must list the name, address and phone number for each office, branch office, or place of business that is covered by the license, and the licensee must notify the Department of specific information as to new locations that are to be covered by the license. Additionally, the licensee must notify the Department within 30 days after closing an office, branch office, or place of business, and the Department must delete that office from the subject license.

Insurance is available under the motor vehicle rental insurance limited license only if the lease or rental agreement does not exceed 60 days, and the insurance coverage does not exceed 60 consecutive days per lease period. If the initial lease is extended, the insurance coverage may be extended one time only, for up to 60 additional days.

The bill also contains a provision which states that nothing contained in the statute shall permit the sale of an insurance policy or certificate for any limited class of business in a limited license category by a person or entity other than an insurance policy or certificate offered by an authorized insurer in Florida or an eligible surplus lines insurer in Florida.

HB 517 – Financial Responsibility for Motor Vehicles:
Chapter 2007-49, L.O.F.; Effective July 1, 2007; by Jobs & Entrepreneurship Council; and Rep. Evers.

Florida's Financial Responsibility Law requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of motor vehicle accidents or serious traffic violations. The bill amends the Financial

Responsibility Law in Chapter 324, F.S., to provide an exemption for active members of the Armed Forces and their dependent spouses.

Specifically, the bill allows a member of the United States Armed Forces to be exempt from providing an automobile liability insurance policy as proof of financial responsibility if the member is the owner, registrant, or operator of a motor vehicle as long as the member is called to or on active duty outside of Florida or outside of the United States and the vehicle is primarily maintained at the member's place of deployment. The exemption also applies to the dependent spouse if the service member is the owner of the vehicle, and the vehicle is primarily maintained at the member's place of deployment. The exemption only applies while the service member is on active duty out of the state or out of the country and only if the service member obtains security for the vehicle that complies with the laws and regulations of the place of deployment (if the deployment is in another state or territory).

HB 547 – Employment Requirements for Law Enforcement Personnel: Chapter 2007-27, L.O.F.; Effective October 1, 2007; by Rep. Patterson.

The bill requires a law enforcement officer, correctional officer, or correctional probation officer, upon entering into service as such officer, to successfully pass a physical examination in order to presumptively claim that his or her tuberculosis, heart disease, or hypertension resulting in total or partial disability or death was accidental and suffered in the line of duty. It also authorizes an agency that employs law enforcement personnel to establish standards regarding the use of tobacco.

SB 562 – Ownership or Transfer of Securities: Chapter 2007-138, L.O.F.; Effective June 15, 2007; by Senator Fasano.

This bill amends s. 628.511, F.S., relating to the ownership or transfer of securities by domestic insurers without the actual physical delivery of the security certificates. The bill would permit a licensed securities broker or dealer to act as the custodian for securities that are held in a clearing corporation. The bill brings Florida in conformity with the National Association of Insurance Commissioners (NAIC) Model Act on Custodial Agreements and the Use of Clearing Corporations.

NAIC's model rule 298 requires a "broker/dealer" to be "registered with and subject to jurisdiction of the Securities and Exchange Commission," maintain "membership in the Securities Investor Protection Corporation" and have "a

tangible net worth equal to or greater than two hundred fifty million dollars (\$250,000,000).” This standard for a broker/dealer seeks to safeguard the insurer’s securities investments by minimizing the risk of loss in the event of bankruptcy or liquidation of the custodian.

The bill revises the term "clearing corporation" by adding broker/dealer to the list of permissible custodians. This definition change correlates with the conforming deletion of the term "Federal Reserve book entry system" throughout the bill, and modifies the current law to include the various Treasury securities book-entry systems.

Additionally the bill streamlines the acquisition of controlling stock statutes for insurers and specialty insurers by expanding up to 30 days the filing period with the Office of Insurance Regulation (OIR), and the licensee, of the full acquisition statement. Further the bill provides that OIR may waive certain other requirements if there is no change in ultimate control and no unaffiliated parties are involved in the acquisition.

The bill also updates the statute to reflect the most current NAIC Model Regulation which provides, in part, improved reciprocity with other states.

SB 590 — Health Maintenance Contracts: Chapter 2007-215, L.O.F.; Effective July 1, 2007; by Health Regulation; and Senators Saunders, Atwater, and Lynn.

This bill amends subsection (25) of s. 641.31, F.S., to expand the right of a subscriber covered under a HMO contract who is a resident of a continuing care facility or a retirement facility, to be referred to that facility’s skilled nursing unit or assisted living facility. The bill deletes the current requirement that the HMO primary care physician make a determination that such care is in the best interests of the subscriber. Instead, the bill requires that such referral be requested by the subscriber and agreed to by the facility, if the primary care physician finds that such care is medically necessary. The bill retains the requirements that the facility agree to be reimbursed at the HMOs contract rate negotiated with similar providers for the same services and supplies; and that the facility meet all guidelines established by the HMO related to quality of care, utilization, referral authorization, risk assumption, use of the HMOs network, and other criteria applicable to providers under contract for the same services and supplies.

The bill further requires that HMOs provide in writing a disclosure of such rights to new subscribers who reside at a continuing care facility or retirement facility, including the right to use a specified grievance process in the event their request

to be referred to the skilled nursing unit or assisted living facility at their place of residence is not honored.

SB 672 – Credit Balances/Unclaimed Property: Chapter 2007-142, L.O.F.; Effective July 1, 2007; by Senator Fasano.

This bill creates s. 655.851, F.S. This section exempts credit balances held by a financial institution, a credit union, or a participant depository institution, as defined in Federal law, from the unclaimed property law. These credit balances are the result of check-clearing functions and are not subject to the Florida unclaimed property reporting requirements. The bill provisions will apply retroactively to those credit balances held before, on, or after July 1, 2007.

HB 699 – Preference in Public Employment for Veterans: Chapter 2007-51, L.O.F.; Effective July 1, 2007; by Rep. Sachs and others.

Currently, s. 295.07, F.S., requires state government entities, counties, cities, towns, villages, special tax school districts, and special districts to grant employment preferences in hiring and retention to certain veterans and spouses of veterans who are Florida residents. The preference applies to all vacant positions within those government entities except positions that are specifically exempt. Under s. 295.101, F.S., a veteran's employment preference expires after an eligible person has applied and been employed by state government, a county, city, town, village, special tax school district, or special district.

This bill repeals s. 295.101, F.S. As a result, if a person claims a veteran's preference, and is employed by a government entity, that person may claim a veteran's preference when applying for non-exempt government positions in the future.

The bill does not require government employers to create new positions for eligible persons, or affect the veteran's preferences for promotions or reinstatements. Further, the bill does not affect private employers in any way because private employers are not subject to veteran's preference hiring requirements.

SB 746 – Workers' Compensation/First Responders: Chapter 2007-87, L.O.F.; Effective June 8, 2007; by General Government Appropriations; Senator Alexander and others.

This bill provides standards for determining benefits for employment-related accidents and injuries of “first responders,” which generally increase the amount and likelihood of eligibility for workers’ compensation benefits. Many of these provisions have the effect of reversing the application to first responders of benefit changes to the workers’ compensation law enacted in 2003 (Ch. 2003-412, L.O.F.).

The bill defines “first responder” to include a law enforcement officer; a firefighter; an emergency medical technician or paramedic; and a volunteer firefighter, law enforcement officer, emergency medical technician, or paramedic engaged in employment by the state or local government.

The bill amends current law regarding first responders that are exposed to toxic substances and that contract occupational diseases. The burden of proof for first responders in these cases is reduced from a clear and convincing standard to a preponderance of the evidence standard. Thus, the standard of proof in these claims is that which existed prior to the passage of Chapter 2003-412, L.O.F., a preponderance of the evidence standard.

The bill changes current law relating to the psychiatric injuries sustained by first responders. First, the bill allows a first responder to receive medical care even if the psychiatric injury is not accompanied by a physical touching but does not allow the first responder to receive payment of indemnity benefits (lost wages) unless a physical injury accompanies the psychiatric injury. Second, the bill exempts psychiatric benefits for first responders from the limits contained in current law for psychiatric benefits for injured workers other than first responders. In this regard, the bill allows first responders to receive unlimited temporary indemnity and permanent impairment benefits for psychiatric injuries whereas all other workers can only receive temporary indemnity benefits for six months after the worker reaches MMI for the physical injury and can only receive a maximum one percent permanent impairment rating for the psychiatric injury.

The bill amends current law to allow any injured first responder to receive permanent total disability supplemental benefits for life if the injured first responder is employed by an employer who does not participate in the Social Security program.

The bill provides that any adverse result or complication by a first responder to a smallpox inoculation is compensable, meaning the first responder can receive medical care and lost wages under workers’ compensation for adverse reactions.

SB 816 – OGSR/Public Records Requests/Law Enforcement Agencies: Chapter 2007-93, L.O.F.; Effective October 1, 2007; by Governmental Operations; and Criminal Justice.

Section 119.071(2)(c)2., F.S., provides that a request of a law enforcement agency to inspect or copy a public record that is in the custody of another agency, the custodian's response to the request, and any information that would identify the public record that was requested by the law enforcement agency or provided by the custodian are exempt from public records requirements during the period in which the information constitutes active criminal intelligence or investigative information.

This bill makes some organizational changes for clarity, including transferring existing retroactive language to a new sub-subparagraph; clarifies that any information that would identify whether a law enforcement agency has requested or received that public record is protected; and deletes the repeal of the exemption.

SB 886 – Public Records/Building Plans and Drawings: Chapter 2007-95, L.O.F.; Effective October 1, 2007; by Military Affairs & Domestic Security; and Senator Bullard.

The bill reenacts and amends s. 119.071(3)(b), F.S. This section provides a public records disclosure exemption for building plans, blueprints, schematic drawings, and diagrams which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility or other structure owned or operated by an agency as defined in s. 119.011, F.S. The exemption applies to draft, preliminary, and final formats of such plans. The bill makes the exemption permanent and reorganizes the section to clarify the exemption.

HB 1177 – Funeral and Cemetery Industry Regulation: Chapter 2007-55, L.O.F.; Effective July 1, 2007; by Jobs & Entrepreneurship Council; Rep. Weatherford and others.

The bill prohibits any person regulated by chs. 395, 400, or 429, F.S., relating to hospitals, nursing homes, and related health care facilities, including hospices and assisted care communities, from owning, managing, or operating any business entity whose service or activity is licensed under Chapter 497, F.S. It applies this prohibition to any officer, administrator, or board member of an

entity if the entity is a firm, corporation, partnership, or any person who owns more than five percent or more of such a business entity. It provides exemptions from the prohibition.

The bill provides that limited licenses can be issued to retired professionals when there is a critical need, and defines critical need. It requires that all limited licensees must be employed by an entity licensed under Chapter 497, F.S.

The bill also:

- Requires non-licensed operational personnel to complete a required course on communicable disease every six years;
- Provides that the monument installation requirement apply to all cemeteries in this state, including unlicensed cemeteries;
- Provides standards for the ventilation of private and family mausoleums;
- Permits deceased persons to be interned or entombed with the cremated inurned remains of their pets;
- Permits funeral director and embalmers to complete a continuing education instruction in HIV and AIDS once every six years instead of once every two years;
- Revises requirements for licensure by endorsement for funeral directors; and
- Changes the term "monument dealer" to "monument retailer."

The bill prohibits claims objecting to cremation against a funeral director, direct disposer, funeral establishment, direct disposal establishment or a cinerator facility under certain conditions.

SB 1372 – Agriculture & Consumer Services/Consumer Fireworks Task Force: Chapter 2007-67, L.O.F.; Effective July 1, 2007; by General Government Appropriations; Commerce; Agriculture; Senator Lynn and others.

This bill addresses a variety of issues relating to the Department of Agriculture and Consumer Services (department). Included in this legislation is the creation of the Consumer Fireworks Task Force, staffed by the department. The Chief Financial Officer appoints one person to the task force. The task force is charged with reviewing and evaluating issues relating to the proper use of fireworks, regulation of temporary sale facilities for consumer fireworks, zoning classifications for placement of retail facilities and regulation of hours and location for use of consumer fireworks, studying funding options for fire official training and education, as well as studying funding options for clean-up of expended consumer fireworks products. The bill requires a report of the

recommendations and findings of the task force to be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2008.

HB 1375 — Affordable Housing: Chapter 2007-198, L.O.F.; Effective July 1, 2007; by Economic Expansion & Infrastructure Council; Rep. M. Davis and others.

Included in the provisions of this bill:

Public Housing Authorities Self-Insurance Funds

The bill authorizes any two or more public housing authorities in the state to create a self-insurance fund for the purpose of self-insuring real or personal property against loss or damage from any hazard or cause, and against any loss consequential to such loss or damage, if the state requirements for local government self-insurance funds established in s. 624.4622, F.S., are met. Public housing authorities who are members of a self-insurance fund created under this provision are exempt from the assessments imposed under the insurance risk apportionment plan, the Florida Insurance Guaranty Association Act, and the Florida Hurricane Catastrophe Trust Fund.

HB 1381 — Insurance: Chapter 2007-199, L.O.F.; Effective July 1, 2007, except as otherwise provided; by Policy & Budget Council; Jobs & Entrepreneurship Council; and Rep. Richter.

The bill makes the following changes pertaining to the regulation of insurance agencies, agents and adjusters under the authority of the Department of Financial Services (DFS or department):

- Requires the DFS and the Financial Services Commission (FSC) to adopt rules to protect service members of the United States Armed Forces from dishonest and predatory insurance sales practices by insurers and agents involving the offer of life insurance products. The rules must be based upon model rules or model laws adopted by the National Association of Insurance Commissioners. This is in response to a 2006 federal law that expresses the intent of Congress that every state adopt rules or laws to protect members of the military from deceptive and improper insurance sales practices;
- Allows a branch location of a securities dealer to register as an insurance agency rather than obtain an insurance agency license;

- Provides that the current exemptions from taking the written examination for an adjuster's license for persons who complete certain educational programs apply to persons who are applying for an independent adjuster or company employee adjuster license. Therefore, the exemptions would no longer apply to applicants for a public adjuster license;
- Adds an entity ("ALL-LINES Training") to the list of entities that may apply to the DFS for approval to be a pre-licensing adjuster course provider. Persons who take a course which is approved by DFS are exempt from taking the adjuster license examination, except for public adjusters who must take the exam as provided for under the bill; Allows correspondence courses to be approved by the DFS for satisfying the prelicensing education requirements for obtaining a life or health insurance agent license;
- Allows an insurance agent to be in charge of more than one agency branch location so long as insurance activities do not occur at the location when the agent is not physically present (effective January 1, 2008);
- Clarifies that the surety bond required for a public adjuster must be maintained continuously and for one year after termination of the license;
- Allows the DFS to extend the deadline for up to one year for an insurance adjuster to meet continuing education requirements, for good cause;
- Clarifies that the agent manual of the Florida Surplus Lines Service Office must be approved by the DFS;
- Requires that "risk bearing entities" (i.e., reciprocal insurers; commercial, group, local government, public utility or independent educational self insurance funds) clearly indicate on advertising materials that they are offering insurance products. The bill provides that there is no liability to the insured on the part of, and no cause of action of any nature shall be brought against any licensed or appointed insurance agent for the insolvency of any risk bearing entity when such entity has been authorized or approved by the Office of Insurance Regulation to do business in Florida. However, if the agent was a "controlling producer" (i.e., controlling the management and policies of an entity) of the risk bearing entity within 2 years preceding the insolvency, the agent is subject to a penalty under s. 626.7491, F.S. (i.e., OIR can order the agent to cease placing business with the controlled insurer or the OIR may bring a civil action for recovery of damages); and
- Provides an appropriation of \$132,000 to the DFS from the Insurance Regulatory Trust fund to make necessary computer system changes as required under the bill.

SM 1506 – State Children's Health Insurance Program: By Health Policy; Senator Peaden and others.

This Memorial is a resolution by the Legislature that will be sent to the President and Congress to encourage reauthorization of funding for the State Children's Health Insurance Program (SCHIP). SCHIP funds are used to match state funds to pay for premium assistance for children in low-income families who are uninsured and not eligible for Medicaid.

Copies of the memorial will be sent to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

HB 1549 – Examination of Insurers: Chapter 2007-224, L.O.F.; Effective July 1, 2007; by Rep. Rivera.

This bill addresses the frequency of insurer examinations and other rules pertaining to such examinations, and the changes largely conform to the model law established by the National Association of Insurance Commissioners. Florida law requires the Office of Insurance Regulation (OIR) to conduct examinations of each insurer applying for a certificate of authority, and it requires OIR to comply with certain requirements for examining domestic, foreign, and alien insurers.

Currently, OIR is required to examine domestic insurers not less than once every 3 years. The bill amends s. 624.316(2)(a), F.S., changing the frequency of examinations to not less than once every 5 years.

The bill also amends s. 624.316(2)(e), F.S., which pertains to the rules for insurer examinations. An agreement between OIR and the insurer as to the entity that conducts the examination is no longer required. This section is also amended to expand the types of outside entities that may conduct examinations. The current list includes independent certified public accountants, actuaries, and reinsurance specialists. The bill adds investment specialists and information technology specialists to the list of qualified examiners.

Additionally, the bill makes several changes to the requirements the rules adopted by the Financial Services Commission regarding insurer examinations. First, the rules must provide that the rates charged to the insurer by the examining firm be consistent with rates charged by other firms in a similar

profession and must be comparable with the rates charged for comparable examinations.

The rules must provide that the firm that OIR selects to conduct the examination must be free of any conflicts of interest that might prevent an independent performance. Additionally, the rules must provide that the insurer's payment for the examination must be done in accordance with rates and terms established by OIR and the examining firm.

The bill removes the insurer from the process of determining the rates and terms. The insurer must pay OIR for the examination, and OIR will reimburse the examiner.

The bill also amends s. 624.316(2)(f), F.S. Remaining in the statute is the requirement that a domestic insurer that has continuously held a certificate of authority for less than 3 years must be examined at least once every year; OIR may limit the scope of the examination.

The bill removes language which states that OIR may not accept an independent certified public accountant's audit report in lieu of an examination of a domestic insurer who has continuously held a certificate of authority for less than 3 years.

The bill eliminates the \$25,000 cap on the examination payment obligations of a domestic insurer who has continuously held a certificate of authority for less than 3 years.

The bill removes the provision which requires that an insurer that has continuously held a certificate of authority without a change in ownership for more than 15 years must have an examination no less frequently than once every 5 years. Removing this language is consistent with the bill's amended language that will subject most insurers to an examination no less than once every 5 years.

SB 1624 – Insurance/Public Construction Projects: Chapter 2007-216, L.O.F.; Effective October 1, 2007; by General Government Appropriations; Banking & Insurance; and Senator Bennett.

This legislation restricts the use of an owner-controlled insurance program (OCIP) for a public construction project. The law currently prohibits state and local governments constructing public works from requiring a contractor or subcontractor to participate in an OCIP, with certain exceptions. Specifically,

current law provides that an OCIP must meet a \$75 million threshold in order for the construction project to be eligible to use an OCIP.

The bill provides that a capital infrastructure improvement program for which the OCIP is used must be for a single public service, system, or facility cannot be combined with another public agency service, system, facility, or other public work to meet \$75 million threshold unless the services, systems, facilities, or other public works are part of:

- A capital infrastructure improvement program that will be performed under a single prime contract; or
- An interrelated capital infrastructure improvement program that interconnects the housing or transportation of persons or cargo arriving via an airport or seaport, when the combined estimated costs of the construction projects exceed \$125 million.

The bill requires an OCIP to provide completed operations coverage for at least 10 years as opposed to the 5 years provided for in current law. The bill also authorizes general contractors and subcontractors working under a construction project to combine their payrolls under the owner-controlled insurance program to satisfy eligibility requirements for large deductible workers' compensation rating plans if the deductible is \$100,000 or more and the standard premium is \$500,000 or more. Owner-controlled insurance programs issued prior to October 1, 2007, are exempt from the provisions of the bill.

SB 1638 — Gift Certificates and Similar Credit Items:
Chapter 2007-256, L.O.F.; Effective June 28, 2007; by
General Government Appropriations; Commerce; Banking &
Insurance; Senators Constantine, Webster, Atwater, Lynn,
Aronberg, Crist, and Alexander.

This bill requires that a gift certificate or credit memo sold or issued for consideration in this state may not have an expiration date, expiration period, or any post-sale charge or fee, such as a service charge, dormancy fee, account maintenance fee, or cash-out fee. The bill creates the following exemptions to this requirement:

- A gift certificate may have an expiration date of not less than three years if it is provided as a charitable contribution where payment of consideration is not required and the expiration date is prominently disclosed in writing to the consumer at the time it is provided.
- A gift certificate may have an expiration date of not less than one year if it is provided as a benefit pursuant to an employee incentive

program, consumer-loyalty program, or promotional program where payment of consideration is not required and the expiration date is prominently disclosed in writing to the consumer at the time it is provided.

- A gift certificate may have an expiration date if it is provided as part of a larger package related to a convention, conference, vacation, sporting, or fine arts event having a limited duration and if the majority of the value paid by the recipient is attributable to the convention, conference, vacation, sporting or fine arts event.
- The prohibitions against expiration dates, expiration periods, or post-sale charges or fees do not apply to gift certificates or credit memos sold or issued by a financial institution, as defined in s. 655.055, F.S., (state-chartered banks and credit unions), or by a money transmitter, as defined in s. 560.103, F.S., if the gift certificate or credit memo is redeemable by multiple unaffiliated merchants that accept monetary consideration remitted through the financial institution or money transmitter that sold or issued the gift certificate or credit memo.

The terms “gift certificate” and “credit memo” are defined by the bill. This bill provides that unredeemed gift certificates or credit memos are not required to be reported as unclaimed property. However, this does not apply to gift certificates that are exempt from the prohibitions against fees and expiration dates contained in the bill and are sold or issued by a financial institution as defined in s. 655.005, F.S., or a money transmitter as defined in s. 560.103, F.S.

SB 1748 — Insurance Contracts/Workers’ Compensation:
Chapter 2007-178, L.O.F.; Effective July 1, 2007; by Senators
Gaetz, Baker, Bennett, and Lynn.

The bill prohibits a person, such as a contractor, from rejecting workers’ compensation coverage from a self-insurance fund that is subject to Chapter 631, Part V, F.S., based upon the self-insurance fund not being rated by a nationally recognized insurance rating agency. Such coverage is required pursuant to a construction project. Chapter 631, Part V, F.S., establishes the Florida Workers’ Compensation Insurance Guaranty Association to pay claims for insolvent insurers and self-insurance funds. Presently, some builders, notably national companies, require contractors or subcontractors to secure coverage with a workers’ compensation carrier rated not less than an “A” by a nationally recognized rating agency as a condition of being a vendor or receiving payment. In Florida, workers’ compensation insurance is offered by insurance companies and commercial self-insurance funds whose claims are protected by the Florida Workers’ Compensation Insurance Guaranty Association in the event of

insolvency. There is no current law requiring workers' compensation insurers or self-insurance funds to be rated by a rating service as a condition of being authorized to write workers' compensation insurance.

SB 1760 – Custodian of Public Records: Chapter 2007-39, L.O.F.; Effective July 1, 2007; by Senator Justice.

The bill amends the Public Records Act to require each agency head who appoints a designee to act as a custodian of public records to disclose the identity of the designee to any person requesting to inspect or copy public records. It requires a custodian or designee to promptly acknowledge requests to inspect or copy records and to respond to such requests in good faith. A good faith response includes making reasonable efforts to determine from other officers or employees within the agency whether the record exists and, if so, the location at which the record can be accessed.

SB 1848 – OSGR/Department of Financial Services/ Unclaimed or Abandoned Property: Chapter 2007-69, L.O.F.; Effective October 1, 2007; by Banking & Insurance.

The bill amends and reenacts the public records exemption in s. 717.117(8), F.S., related to reports of unclaimed property. The bill re-enacts the public records exemption for social security numbers and expands the exemption by exempting "property identifiers" contained in an unclaimed property report instead of "financial account numbers." Representatives from the Bureau of Unclaimed Property indicated that the term "financial account numbers" has been interpreted by the Department of Financial Services to include types of account numbers that are not directly related to finances (such as patient medical records). The bill removes the exemption for financial account numbers, a term that is undefined by statute. Instead, a property identifier—the descriptor used by the property holder to identify the unclaimed property—is made exempt under the bill. The bill does not include a reference to bank account numbers, debit, charge, and credit card numbers because an agency has authority to hold such items exempt pursuant to s. 119.071(5)(b), F.S. Because the bill expands the public records exemption, it is made subject to the Open Government Sunset Review Act and will repeal on October 1, 2012, unless reviewed and reenacted.

SB 1852 – OGSR/Consumer Complaints/Inquiries: Chapter 2007-70, L.O.F.; Effective October 1, 2007; by Banking & Insurance.

Consumers may file complaints with, or make inquiries to, the Department of Financial Services (DFS) or the Office of Insurance Regulation (OIR) concerning an insurance company or other entity regulated by DFS or OIR under the Florida Insurance Code. Current law provides a public records exemption for financial account numbers and other personal financial and health information held by DFS or OIR relating to a consumer's complaint or inquiry. This exemption, however, does not protect the release of the same information held by the Division of Workers' Compensation although consumers provide such information to the division, which is located in DFS.

The bill reenacts and expands the public records exemption to include personal financial and health information provided by consumers to the Division of Workers' Compensation of DFS for the purpose of resolving disputes and complaints of employees. It provides for future review and repeal of the exemption and provides a statement of public necessity.

SB 1894 – Joint Underwriting Plan/Workers' Compensation: Chapter 2007-146, L.O.F.; Effective July 1, 2007; by General Government Appropriations; Governmental Operations; Banking & Insurance; and Senator Posey.

The bill amends laws governing the Florida Workers' Compensation Joint Underwriting Association, Inc., (JUA) to provide greater accountability and oversight, to assist the JUA in achieving tax-exempt status, and to authorize additional funding mechanisms.

JUA Board Oversight; Tax-Exempt Status

The bill revises the JUA board appointment process by requiring the Financial Services Commission (FSC) to appoint eight of the nine members instead of three members. The insurance industry will have five representatives, as currently provided by law; however, the FSC will select and appoint each respective representative from a list of five nominees for each vacancy, which would be submitted by the industry. The number of state governmental appointees (including the Consumer Advocate of the Department of Financial Services) would remain at four members.

Upon dissolution of the JUA, the bill requires that all assets of the JUA first be used to pay all debts and obligations of the plan and that any remaining assets

would revert to the state. This provision will also assist the JUA in its effort to obtain tax-exempt status.

To avoid significant future federal tax liabilities, the bill requires that, on or before January 1, 2008, the JUA must seek a letter ruling or determination from the IRS regarding the JUA's eligibility as a tax-exempt organization. Since its inception in 1994, the JUA has incurred an estimated \$33 million in federal income tax expenses, including \$16 million in 2006.

Code of Ethics and Financial Disclosure

Senior managers, officers, and board members are subject to certain provisions of Chapter 112, Part III, F.S., including, but not limited to, standards of conduct, public disclosure requirements, and reporting of financial interests to the Commission on Ethics on an annual basis. The bill authorizes an employee, director, etc., of an insurance entity to be a board member unless the insurance entity provides certain services to the JUA.

The bill prohibits such a board member from voting on a matter if the insurance entity would obtain a special benefit that would not apply to similarly situated entities. Current and prospective employees are required to submit an annual statement to the JUA attesting that no conflict of interest exists. Any senior manager or officer of the JUA employed as of January 1, 2008, who retires or terminates employment, is prohibited from representing another person before the JUA for a two-year period. Employees and board members are prohibited from accepting gifts of any value from a person or entity, or an employee or representative of such person or entity, that has a contractual relationship with the plan or who is under consideration for a contract. Employees or board members that fail to comply with this provision are subject to penalties, such as fines. The executive and legislative branches of government are subject to a similar prohibition as that applied to lobbyists.

Deficit Funding

The JUA is required to use any policyholder surplus attributable to former subplan C prior to assessing policyholders in the voluntary market for funding subplan D deficits on a cash flow basis. The surplus in subplan C is approximately \$39 million and the estimated additional funding needed is less than \$5 million. The deadline for levying "below-the-line" assessments to fund deficits in subplan D, and Tiers One and Two is extended from July 1, 2007, to July 1, 2012.

Regulatory Oversight

The JUA is required to refund premiums to their policyholders if the OIR subsequently disapproves the rate. Also, the OIR is required to conduct periodic market conduct examinations of the JUA.

Procurement of Goods and Services

Competitive selection of goods and services valued at over \$25,000 is generally required. Exceptions for exempted services (legal and auditing, etc.), sole sourcing and emergency purchases are authorized. Any purchase that exceeds \$100,000 requires approval by the board of governors. Guidelines and criteria are provided for determining whether staff attorneys or outside attorneys should be used and factors to be used in selecting outside firms.

SB 1974 – State Information Technology: Chapter 2007-105, L.O.F.; Effective July 1, 2007; by General Government Appropriations; Governmental Operations; Senator Lynn and others.

The bill creates the Agency for Enterprise Information Technology (AEIT) within the Executive Office of the Governor. The executive director of AEIT is the state chief information officer (SCIO) and the executive sponsor for all IT projects.

AEIT will have the following responsibilities and duties:

- Develop and implement strategies for the design, delivery, and management of IT services for executive branch agencies;
- Make recommendations to the SCIO and Legislature concerning other IT services that should be designed, delivered, and managed;
- Develop a work plan describing the activities the AEIT intends to undertake and the proposed outcomes;
- Develop policy recommendations and implementation plans for current and proposed IT services; and
- Assess and recommend minimum operating procedures for ensuring an adequate level of security for all data and IT resources for executive branch agencies.

The bill also:

- Removes the Technology Resource Center (TRC) from the State Technology Office (STO);
- Establishes the TRC in the Department of Management Services (DMS);
- Requires AEIT to designate a chief information security officer;
- Provides for DMS to assume the duties and responsibilities of STO;
- Requires AEIT to publish annually, no later than September 30 each year, standards, templates, guidelines, and procedures to enable agencies to incorporate them in their planning for the following fiscal year;

- Requires AEIT to develop implementation plans for up to three of the proposed enterprise IT services beginning fiscal year 2008-2009; and
- Requires each agency head to develop written internal policies and procedures for notifying AEIT when an information security incident occurs or data is compromised.

SB 2142 – Protecting Florida's Investments Act: Chapter 2007-88, L.O.F.; Effective June 8, 2007; by Governmental Operations; Senator Deutch and others.

The bill creates the "Protecting Florida's Investments Act." It provides for divestiture in certain companies associated with the Governments of Iran and Sudan. At least 90 days after the effective date of this act, the Public Fund (essentially, the State Board of Administration) must make best efforts to identify all scrutinized companies in which it has direct or indirect holdings or could possibly have such holdings in the future.

A scrutinized company means any company that: has certain business operations with the Government of Sudan or the Government of Iran; is complicit in the Darfur genocide; or that supplies military equipment within Sudan, unless certain requirements are met. The Public Fund must create a "Scrutinized Companies with Activities in Sudan List" and a "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List". It must provide written notice to any company that has been included on those lists. For any scrutinized company having active business operations with Iran or Sudan, the Public Fund must send written notice informing the company of its scrutinized status and informing the company that it may become subject to divestment. If, after 90 days, the company continues scrutinized active business operations, then the Public Fund must sell, redeem, divest, or withdraw all publicly traded securities of the company within 12 months.

The bill provides legislative findings, definitions, and exceptions. It also creates quarterly reporting requirements for the State Board of Administration (SBA). Furthermore, it provides for expiration of the act if certain requirements are met.

SB 2198 – Insurer Financial Statements: Chapter 2007-148, L.O.F.; Effective July 1, 2007; by Banking & Insurance; and Senator Gaetz.

This bill allows viatical settlement providers and certain insurance administrators to submit their annual audited financial statements on a fiscal year rather than a calendar year basis.

Insurance administrators are subject to a number of statutory requirements; these requirements include submitting to the Office of Insurance Regulation (OIR) both an annual financial statement and an annual audited financial statement.

Administrators

The bill amends s. 626.89(2), F.S., relating to the administrator's audited financial statement. It allows an administrator to base its audit on a fiscal year and submit its audited financial statement on or before December 31 if it meets certain conditions. First, the administrator must have an established fiscal year of July 1 to June 30, its sole stockholder must be an association representing health care providers, and it must not be an affiliate of an insurer. This amendment would allow the administrator to have one rather than two separate annual audits.

Viatical Settlement Providers

Viatical settlement providers enter into agreements with life insurance policy owners or certificate holders to purchase their policies or become policy beneficiaries. The consideration given in exchange for the policy is an amount less than the death benefit on the policy. Viatical settlement providers must be licensed by OIR in order to engage in business in Florida. Each year, the licensee must submit to OIR a statement that conforms to requirements of the Financial Services Commission (FSC). The statute currently provides that the annual audited financial statement, due on or before March 1, must be prepared as of the last day of the preceding calendar year. Additionally, after December 31, 2007, the annual statement must include an audited financial statement. The audit must be conducted by an independent certified public accountant, and it must be conducted in a manner consistent with generally accepted accounting principles.

The bill amends s. 626.9913(2), F.S., and it addresses the ending day of the year on which a viatical settlement provider's audited financial statement is to be based. Instead of requiring that all audited financial statements be prepared as of the last day of the calendar year (December 31), the bill requires that the annual statement contain an annual audited financial statement that covers a 12-month period and ends on a day that falls during the last six months of the

preceding calendar year. The bill allows licensees who operate on a fiscal year to conduct their financial statement audit on the same basis, rather than on a calendar year basis.

SB 2498 – Hurricane Preparedness and Insurance: Chapter 2007-90, L.O.F.; Effective June 12, 2007, except as otherwise provided; by Banking & Insurance; Senator Garcia and others.

This bill makes numerous changes to the property insurance law, including changes to Citizens Property Insurance Corporation (Citizens). Many of the changes provided by the bill are to provisions that were contained in property insurance legislation enacted during the 2007A Special Session (Ch. 2007-1, L.O.F.; HB 1A). The changes are as follows:

Citizens Property Insurance Corporation

In 2002, the Florida Legislature created Citizens Property Insurance Corporation (Citizens) which combined the then existing Florida Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association. Citizens is the state's "insurer of last resort" and has historically operated as a residual market for property insurance.

Citizens offers three types of property and casualty insurance in three separate accounts: 1) Personal Lines Account (PLA) which covers homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies; 2) Commercial Lines Account (CLA) covering condominium associations, apartment buildings and homeowners associations; and 3) High-Risk Account (HRA) which covers personal lines windstorm-only policies, commercial residential wind-only policies and commercial non-residential wind-only policies.

As of April 6, 2007, Citizens provided coverage to almost 1.3 million policyholders, making Citizens the largest insurer in Florida.

The bill makes substantial changes to Citizens. Some of the changes made provide extended rate relief to Citizens' policyholders and place Citizens in a more competitive role with the private market. Specific changes to Citizens are as follows:

- Revises the legislative findings for Citizens to help it support its tax-exempt status.
- Retains current law regarding Citizens' Board of Governors – 8 member board with Chief Financial Officer appointing the chair.

Eligibility for Residential Coverage in Citizens

- Revises the provision enacted in HB 1A (Ch. 2007-1, L.O.F.) that places Citizens in more direct competition with the voluntary market by further expanding the eligibility for residential coverage from Citizens. The bill allows a new applicant to Citizens to obtain coverage from Citizens even if the homeowner has an offer from a private market insurer at its approved rate if the private market insurer's premium is 15 percent or greater than the premium for comparable coverage from Citizens. House Bill 1A contained the same provision, but allowed a Citizens' applicant to obtain coverage from Citizens if the private market insurer's premium was 25 percent or greater than the premium for comparable coverage in Citizens.
- For purposes of keeping policies out of Citizens, defines and provides guidelines for Citizens and insurance agents to use to determine if comparable coverage has been offered by a private market insurer.
- Allows Citizens' business plan relating to the creation of an electronic database to determine eligibility for coverage in Citizens to require authorized insurers or agents to submit electronic information needed by Citizens to make a determination of Citizens' eligibility.
- Requires an authorized insurer that submits information to Citizens that results in a risk being denied coverage in Citizens to offer coverage to the risk at its approved rates for at least one year.
- Permits a policyholder that has been removed from Citizens via an assumption agreement with another insurer to continue to be eligible for Citizens' coverage through the end of the assumption period regardless of any offers of coverage that policyholder receives from an authorized insurer or surplus lines insurer.
- Makes property insured in Citizens for \$1 million or more ineligible for coverage in Citizens starting January 1, 2009, rather than July 1, 2008. Maintains current law specifying how such property can overcome ineligibility.

Rates for Coverage in Citizens

- Extends the rate freeze for Citizens' rate increases enacted in HB 1A for another year (from 2007 only to 2007 and 2008). New rates for Citizens' coverage are to take effect January 1, 2009.

Standards of Conduct for Citizens' Employees

- Requires Citizens' board members and senior managers to file financial disclosure with the Commission on Ethics and the Office of

Insurance Regulation, rather than the Office of Insurance Regulation only.

- Applies the two-year revolving door provision prohibiting Citizens' employees from obtaining employment or having a contractual relationship with an insurer that has a take-out bonus agreement with Citizens to senior managers only.
- Requires a Citizens' employee suspecting fraud committed by another Citizens' employee to report the suspected fraud to the Citizens' Office of the Internal Auditor and the Division of Insurance Fraud within the Department of Financial Services, rather than the Division of Insurance Fraud only.

Other Changes to Citizens

- Repeals the 10-day waiting period required before a Citizens' policy can be bound.
- Allows Citizens to offer a monthly premium payment plan.
- Clarifies the newly expanded Citizens' assessment base (expanded in HB 1A) applies only to Citizens' deficits incurred after January 25, 2007.
- Eliminates the adjust your own requirement for private insurers. This requirement requires insurers writing non-wind coverage to issue and service Citizens' wind policies.
- Subjects Citizens to liability and causes of action for breach of contract or for policy benefits and subjects Citizens to attorney fees in such cases if the policyholder wins the suit.
- Provides guidelines and requirements for Citizens' management of its claims adjusters, independent adjusters, and other claims handlers.
- Allows the Office of Insurance Regulation to create a pilot program to allow Citizens to offer additional sinkhole coverage as an option to the base property insurance policy. HB 1A enacted during Special Session authorized insurers to cover only catastrophic ground cover collapse in the base policy and offer additional sinkhole coverage as an option with an additional premium.

Citizens Mission Review Task Force

- Creates "The Citizens Property Insurance Corporation Mission Review Task Force" (Task Force). The Task Force's charge is to analyze and compile data pertinent to developing a report specifying the statutory and operational changes needed for Citizens to operate as a state created, noncompetitive residual market. The report is to be submitted to the Governor and the Legislative presiding officers by January 31, 2008. The Task Force is staffed by the Department of Financial Services.

- Delineates specific areas the Task Force must provide recommendations on in its report to the Governor and Legislative presiding officers. The Task Force is required to hold meetings, take testimony, and conduct research to fulfill its charge.
- Specifies the membership of the 19 member Task Force:
 - ✓ Three members appointed by the House Speaker;
 - ✓ Three members appointed by the Senate President;
 - ✓ Four members appointed by the Governor, none of which can be affiliated with insurers and two of whom must represent consumers; and
 - ✓ Nine members representing private sector insurers, six of which represent insurance companies with specified policy counts and three of which represent insurance agents and are appointed by the Chief Financial Officer.
- Specifies when the appointing entities must make the Task Force appointments (30 days after the effective date of the bill), when the Task Force must convene its first meeting (within one month of appointment of all Task Force members), and when the Task Force expires (no later than 60 calendar days after report submission). The bill does not allow Task Force members to receive compensation for service but allows them to receive state-allowed per diem. The Task Force is allowed to employ consultants and administrative staff. Citizens' senior staff is required to attend Task Force meetings and to cooperate with the Task Force.
- ~~The Task Force is funded by a \$600,000 appropriation from the Insurance Regulatory Trust Fund. ***Vetoed by Governor.***~~

Insurer Affiliates and Subsidiaries ("Pup Companies")

- Starting December 31, 2008, prohibits the formation of new "pup companies" for the transaction of residential property insurance.
- Starting December 31, 2008, requires the rate filings of "pup companies" to include information about the profits of the parent insurer that is located out of state.
- For initial capital requirements, redefines "pup company" to be a domestic insurer that transacts residential property insurance and is a wholly owned subsidiary of an insurer domiciled in any other state. Maintains current law which requires a "pup company" to have \$50 million in surplus in order to obtain a certificate of authority to transact insurance in Florida.

Timely Payment of Property Claims (90-Day Pay or Deny Provision)

House Bill 1A (Ch. 2007-1, L.O.F.) required property insurers to pay or deny a claim within 90 days of the receipt of the claim, unless the failure to pay the

claim was caused by factors beyond the control of the insurer that reasonably prevented payment. The bill revises this provision as follows:

- Requires property insurers to pay or deny residential property claims (e.g., homeowner, mobile homeowner, condominium unit owner, tenant, condominium association) in whole or in part within 90 days of notice of a claim, unless failure to pay the claim is caused by factors beyond the control of the insurer that reasonably prevent payment.
- Requires property insurers to pay or deny commercial property claims in whole or in part within 90 days of notice of a claim if the insured structure is 10,000 square feet or less, unless failure to pay the claim is caused by factors beyond the control of the insurer that reasonably prevent payment.
- Requires property insurers to pay or deny commercial tenants contents claims in whole or in part within 90 days of notice of a claim if the insured premises is 10,000 square feet or less unless failure to pay the claim is caused by factors beyond the control of the insurer that reasonably prevent payment.
- Does not require property insurers to pay or deny commercial property claims, including contents claims, in whole or in part within 90 days of notice of a claim, regardless of the size of the commercial property, if such property is covered by an insurance policy covering commercial businesses in more than one state.
- Requires insurers to pay interest on property claims paid 90 days after the insurer receives notice of the claim or over 15 days after all factors preventing the payment resolve, whichever is later, with interest accruing as of the date the insurer receives notice of the claim and being paid when the claim is paid.
- Prohibits the 90-day pay or deny provision from being waived, voided, or nullified by the insurance policy.
- Prohibits interest paid due to an insurer's failure to comply with the 90-day pay or deny provision to be included in the insurer's rate base and used to justify a rate or rate change.
- Requires the policyholder to elect either prejudgment interest or interest provided in the 90-day pay or deny provision if prejudgment interest is owed.
- Makes failure to pay or deny a property claim within 90 days a violation of the Insurance Code, but does not allow this violation to form the sole basis for a private cause of action.

Insurance Rating Law; Premium Notice

House Bill 1A (Ch. 2007-1, L.O.F.) enacted a moratorium on the use of "use and file" rate filings by property and casualty insurers. The moratorium prevents property and casualty insurers from implementing a rate change prior to filing

the rate for approval with the Office of Insurance Regulation (the "use and file" option), unless the insurer files for a rate that is less than the insurer's most recent rate approved by the Office of Insurance Regulation. The bill makes clarifying changes to the moratorium imposed in HB 1A as follows:

- Applies the moratorium on "use and file" rate filings provided by HB 1A to property insurance rate filings only and for purposes of the moratorium, automobile collision and comprehensive coverages are not considered to be property insurance.
- Applies the moratorium on "use and file" rate filings enacted in HB 1A only to those rate filings made or submitted after January 25, 2007 but before December 31, 2008.

The bill also makes clarifying changes to the provision in HB 1A requiring insurers to disclose specified information on premium renewal notices as follows:

- Clarifies insurers are required to specify the following information on residential property insurance renewal notices only:
 - ✓ Amount of any assessment by the Florida Hurricane Catastrophe Fund, Citizens Property Insurance Corporation, and the Florida Insurance Guaranty Association; and the full name of the assessing authority.
 - ✓ Amount of premium change due to an approved rate increase and the total dollar of premium increase due to coverage changes.

The bill revises three provisions enacted in HB 1A (Ch. 2007-1, L.O.F.) that allow policyholders to significantly reduce their windstorm coverage and to assume the risk of loss, in exchange for a lower premium, as follows:

Exclusion of Windstorm Coverage

- Allows any property insurance policy to exclude windstorm coverage. This would allow homes, mobile homes, condominium associations, and commercial businesses to exclude windstorm from their property insurance.
- Allows property insurers to keep an electronic or photographic copy of the policyholder's handwritten declination of windstorm coverage.
- Prohibits the policyholder from rejecting the windstorm exclusion during the policy term. If a policyholder excludes windstorm coverage, the exclusion is applied at all subsequent renewals if the policyholder does not change the exclusion at renewal.

Exclusion of Personal Contents Coverage

- Prohibits policyholders having tenants coverage from excluding contents coverage.

- Prohibit the policyholder from rejecting the contents exclusion during the policy term. If a policyholder excludes contents coverage, the exclusion is applied at all subsequent renewals if the policyholder does not change the exclusion at renewal.
- Allows insurers to keep an electronic or photographic copy of the policyholder's handwritten declination of contents coverage.

Hurricane Deductible

- Allows an insurer to keep an electronic or photographic copy of the policyholder's handwritten choice of hurricane deductible over 10 percent.
- If a policyholder chooses a hurricane deductible over 10 percent, the bill requires that hurricane deductible to remain the deductible for the term of the policy and for each subsequent renewal if the policyholder does not change the deductible at renewal.

Non-renewal Exceptions

The notice of non-renewal provision enacted by HB 1A (Ch. 2007-1, L.O.F.) requires 100 days written notice of non-renewal of a residential property policy or written notice by June 1, whichever is earlier, if a residential property insurance policy is going to be nonrenewed during hurricane season. This bill provides two exceptions to the notice of nonrenewal provision enacted by HB 1A. The exceptions require only 100 days notice of non-renewal and apply when:

- ✓ A residential property insurance policy is being non-renewed only to revise the sinkhole coverage as allowed under HB 1A; and
- ✓ A residential property insurance policy is being non-renewed by Citizens for a policy that has been assumed by an authorized insurer that offers replacement or renewal coverage to the policyholder.

Florida Hurricane Catastrophe Fund (FHCF or CAT Fund or fund)

The Florida Hurricane Catastrophe Fund is a tax-exempt state fund administered by the State Board of Administration. The CAT Fund reimburses insurers for a portion of their residential hurricane losses in exchange for a premium that is much lower than what private reinsurers charge. This results in lower premiums to policyholders and enables a greater number of policies to be written. The 2007A property insurance legislation (Ch. 2007-1, L.O.F.) substantially revamped the FHCF by requiring that it offer significant additional coverage to insurers on an optional basis, notably increasing the debt of Florida and its policyholders. This bill does not make substantial changes to the FHCF or to the provisions in the 2007A legislation. The changes to the fund made by the bill are as follows:

Supplemental FHCF Coverage

- Expands the optional \$10 million additional FHCF coverage established in the 2006 Legislative Session and extended and expanded in the 2007A Special Session to those insurers that purchased the coverage in 2006 and to all insurers qualifying as limited apportionment companies.

FHCF Assessment Base

- Exempts medical malpractice insurance from the FHCF assessment base until May 31, 2010. This has the effect of prohibiting the FHCF from assessing medical malpractice insurers for future FHCF deficits until May 31, 2010. Currently, medical malpractice insurance is exempted from the FHCF assessment until May 31, 2007.

Temporary Emergency Additional Coverage Options (TEACO)

- Changes the way the TEACO coverage amount and retention level for each insurer is defined and calculated, but does not change the overall calculation of the coverage amount and retention level.

Determination of FHCF Coverage for Insolvent Insurers Assumed by Citizens

- Deletes the June 1, 2007, expiration date in current law that authorizes Citizens to reach an agreement with the State Board of Administration to determine how to structure FHCF coverage for policies that Citizens assumes or otherwise acquires from an insurer that is placed in liquidation under Chapter 631, F.S.

Insurance Capital Build-Up Incentive Program

This Program was created by the 2006 property insurance legislation (Ch. 2006-12, L.O.F.; SB 1980) and additional changes to the Program were enacted in the 2007A property insurance legislation (Ch. 2007-1, L.O.F.; HB 1A). The purpose of the Program is to provide funding in the form of "surplus notes" to new or existing authorized residential property insurers, including insurers writing only manufactured housing policies, to incentive the insurers to write more property insurance policies in Florida.

The bill makes further changes to the Program as follows:

- Allows mobile home insurers to obtain up to a \$7 million surplus note under the Program if the insurer applies for the surplus note after July 1, 2006, but before June 1, 2007.
- Establishes a priority between mobile home insurers participating in the Program based on the insurer writing the highest percentage of mobile home policies.

- Provides a definition of "an insurer writing only manufactured housing policies" to be used in the Program.

Florida Insurance Guaranty Association (FIGA)

- Clarifies FIGA can use emergency assessments for the direct payment of covered claims (not just homeowners claims) of insurers rendered insolvent by the effects of a hurricane.
- Clarifies that any kind of self-insurance fund, liability pool, or risk management fund is not covered by FIGA.
- Permits all municipalities and counties in the state to issue revenue bonds to assist FIGA in expediting the handling and payment of covered claims of insolvent insurers, rather than only counties or municipalities "substantially affected by the landfall of a hurricane."

Surplus Lines Insurance

- Before a surplus lines insurer can write personal residential insurance policies (e.g., personal residential homeowner, mobile homeowner, condominium unit owner, renters), the insurance agent must advise the insurance applicant in writing that insurance coverage for the property may be available in Citizens and such insurance may be less expensive than the surplus lines insurance. The insurance agent may also advise the insurance applicant about Citizens' assessments and coverage differences. If the notice provided by the insurance agent about Citizens' coverage is signed, the insurance applicant is presumed to be informed about Citizens' price, coverage, and assessments.
- Amends the definition of "diligent effort" for surplus lines to mean one rejection from a private insurer, instead of three rejections, if the residential structure is insured for \$1 million or more for replacement cost. This allows homeowners of \$1 million or more homes to obtain insurance with a surplus lines insurer faster than under current law.
- Allows surplus lines insurers to cancel a property, casualty, surety, or marine insurance policy for nonpayment of premium and provides circumstances under which "nonpayment of premium" can void an insurance contract.

Florida Catastrophic Storm Risk Management Center

- Creates a Center at FSU to promote and disseminate research on issues related to hurricanes.

Other Changes to Property Insurance

- Requires the insurer report card prepared by the Insurance Consumer Advocate to apply to personal residential property

insurers only and requires complaints to be reported as a percentage of market share.

- Allows multi-line discounts only on multiple insurance policies purchased from the same insurer or insurer group.
- Allows insurers to offer monthly premium payment plans for personal lines residential and commercial property insurance.

Florida Building Code

- Retains the internal design options in the Florida Building Code until June 1, 2007, for a building permit application made prior to that date, meaning the effective date of the elimination of statewide applicable "internal design pressure option" for all structures as enacted by HB 1A (Ch. 2007-1, L.O.F.) is delayed until June 1, 2007. This provision of the bill applies retroactively to January 25, 2007, the effective date of Chapter 2007-1, Laws of Florida, and applies to any action taken on a building permit affected by Section 9 of Chapter 2007-1, L.O.F.

SB 2836 — Florida Building Commission: Chapter 2007-187, L.O.F.; Effective June 19, 2007; by Transportation & Economic Development Appropriations; Community Affairs; and Senator Constantine.

This bill makes various changes to the Florida Building Commission's authority and responsibilities. The following are a few of the changes enacted by this legislation:

Building Code Compliance and Mitigation Program

The Department of Community Affairs (department) is directed to develop the Florida Building Code Compliance and Mitigation Program (program) to develop, coordinate, and maintain education and outreach to persons required to comply with the code, and to ensure consistency in complying with code requirements, including methods of mitigating storm-related damage. The program replaces the Building Education and Outreach Program. The Building Education and Outreach Council is abolished, and services and materials under the new program will be provided by a private, non-profit provider under contract with the department. Contract terms and experience requirements are established for the private provider. The commission is directed to provide by rule for the accreditation of courses relating to the code and also is required to establish qualifications of accreditors and criteria for accreditation. The department is authorized to use funds from the contractor licensing application fees for the new program. The sum of \$1 million is appropriated from the department's Operating Trust Fund for

FY 2007- 2008 for the purpose of implementing and administering provisions relating to the Florida Building Code Compliance and Mitigation Program.

Firesafety inspection training requirements and certification

The bill provides that every firesafety inspection conducted under state or local firesafety requirements must be conducted by a person who is at least 18 years of age and certified as having met the inspection training requirements set by the State Fire Marshal. Florida residency requirements are repealed. The bill adds additional criteria under which the State Fire Marshal may deny, refuse to renew, suspend, or revoke the certificate of a firesafety inspector or a special state firesafety inspector. Legislative intent regarding the inspection of exposed underground piping and attached appurtenances, and the conducting of firesafety inspections by qualified persons is provided. Certified contractors of fire sprinkler systems are authorized to obtain provisional permits with an endorsement for inspection, testing, and maintenance of water-based fire extinguishing systems for certain employees. Such employees must achieve specific certification standards within two years after receiving a provisional certification or cease performing inspections. After an initial provisional permit expires, a certified contractor must wait for two additional years before a new provisional permit can be issued to prevent the use of employees who never achieve the required certification level. Continuing education requirements for certified contractors are established. After July 1, 2008, the technical curriculum for certification is at the discretion of the State Fire Marshal and can be used to meet other continuing education requirements or requirements for maintaining certification.

SB 2968 – Relief/Martin Lee Anderson Estate: Chapter 2007-57, L.O.F.; Effective May 23, 2007; by Criminal & Civil Justice Appropriations; Senator Hill and others.

The bill:

- Appropriates \$4.8 million for the estate of Martin Lee Anderson, providing for payments to Gina Jones and Robert Anderson as compensation for the personal injuries and death of Martin Lee Anderson.
- Provides for a release and waiver from any and all present or future claims or declaratory relief the estate of Martin Lee Anderson or any of his parents, heirs, successors, or assigns may have against the State of Florida arising out of the factual situation in connection or associated with the death of Martin Lee Anderson.
- States that the award is intended to provide the sole compensation for any and all present and future claims arising out of the factual

situation in connection or associated with the death of Martin Lee Anderson.

- Provides that not more than \$630,000 may be paid by the estate of Martin Lee Anderson, Gina Jones, or Robert Anderson for attorney's fees, lobbying fees, costs, or other similar expenses.

HB 7031 – Community Associations: Chapter 2007-80, L.O.F.; Effective May 24, 2007; by Safety & Security Council; Rep. Mahon and others.

This bill increases the options of condominium, cooperative, and homeowners' associations, with regard to insuring association property and participating in selfinsurance programs. Specifically, this bill amends laws relating to insurance and other issues for community associations, including but not limited to:

- Provide that the language relating to windstorm and self insurance (s. 718.111(11)(a), F.S.) that was added to the Condominium Act in HB 1-A during the 2007 special session on insurance applies to all residential condominiums in the state, regardless of the date of its declaration of condominium.

This bill provides that commercial self-insurance funds, including those for condominium associations, must purchase Hurricane Catastrophe Fund coverage, the same as an authorized insurer. This prohibits commercial selfinsurance funds from preventing, impeding, or restricting any applicant or fund participant from maintaining or selecting an agent of choice.

HB 7057 – Hurricane Damage Mitigation: Chapter 2007-127, L.O.F.; Effective June 12, 2007; by Policy & Budget Council; Jobs & Entrepreneurship Council; Rep. Traviesa and others.

During the 2006 General Session, the Legislature created the Florida Comprehensive Hurricane Damage Mitigation Program and appropriated \$250 million to provide financial incentives to encourage residential property owners in Florida to retrofit their properties, making them less vulnerable to hurricane damage and helping decrease the cost of residential property and casualty insurance. The program provides free home inspections and matching grants of up to \$5000 for home mitigation. The bill makes changes to the program and the Florida Building Code, and contains other issues related to hurricane damage mitigation.

My Safe Florida Home Program

- The name of the program is changed from Florida Comprehensive Hurricane Damage Mitigation Program to the My Safe Florida Home Program (MSFH).
- Legislative intent is provided that the MSFH program provide at least 400,000 inspections and at least 35,000 grants.
- The Department of Financial Services (DFS) is directed to expand the MSFH program beyond its current scope to provide inspections to homeowners statewide.
- The bill clarifies that a homeowner may receive a hurricane mitigation inspection even if not applying for a grant.
- The MSFH program is limited to single family residential homes. Multi-family structures of up to four units will no longer be eligible for the MSFH program.
- The bill allows a hurricane mitigation inspector to also be the mitigation contractor if the inspector is otherwise qualified and certified.
- The bill allows hurricane mitigation inspector training to be online or in person.
- The bill requires that an application for an inspection must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only a single application for that home.
- The DFS is given authority to contract with third parties for grants management, inspection services, educational outreach, and auditing services. Contracts valued at \$500,000 or more shall be subject to review and approval by the Legislative Budget Commission.
- The DFS is directed to make an annual report by February 1 of each year on the activities of the program that shall account for the use of state funds and indicate the number of inspections requested, the number of inspections performed, the number of grant applications received, and the number and value of grants approved.

Home Mitigation Grants

- Grants may only be used for opening protection; exterior doors, and to brace gable ends.
- To be eligible for a grant after May 1, 2007, the property must
 - ✓ have an insured value of \$300,000 or less;
 - ✓ be in the "wind-borne debris region"; and
 - ✓ be built prior to March 1, 2002.

No Interest Loans

- The DFS may develop a no interest loan program by December 31, 2007, to encourage the private sector to provide loans to owners of site-built, single family, residential property to pay for mitigation measures.
- The DFS shall pay the interest on the loans.
- The loans may be for a term of up to 3 years and cover up to \$5,000 in mitigation measures.
- The DFS may set aside up to \$10 million from funds appropriated for the My Safe Florida Home program to implement the no interest loans.

Volunteer Florida Foundation, Inc.

The DFS shall transfer the amount of \$40 million from funds appropriated to the MSFH program, including up to 5 percent for administrative costs, to Volunteer Florida Foundation, Inc., for provision of inspections and grants to low-income homeowners. Volunteer Florida Foundation, Inc., shall be responsible for inspections and grants management for low-income homeowners and shall report its activities and account for state funds on a quarterly and annual basis.

Low-income Emergency Home Repair Program

The DFS shall transfer \$1 million from the funds appropriated to the MSFH program to the Low-income Emergency Home Repair Program. The administrative expenses of the program may not exceed 5 percent of the total funds appropriated by the bill.

Public Outreach

The program shall develop brochures for distribution to general contractors, roofing contractors, and real estate brokers and sales associates explaining the benefits to homeowners of residential hurricane damage mitigation. The MSFH program shall encourage contractors to distribute the brochures to homeowners at the first meeting with a homeowner who is considering contracting for home or roof repairs or contracting for the construction of a new home. The MSFH program shall encourage real estate brokers and sales associates to distribute the brochures to clients prior to the purchase of a home.

Contractor Continuing Education

The bill adds, for applicable licensure categories, wind mitigation methodologies to contractor continuing education requirements.

Wind-loss Mitigation Study

The bill provides that it is the intent of the Legislature that scientifically valid and actuarially sound windstorm mitigation rate factors, premium discounts, and differentials be provided to residential and commercial property insurance

policyholders. In order to ensure the validity of such factors, the Office of Insurance Regulation, in consultation with the Department of Community Affairs and the Florida Building Commission, is directed to conduct one or more wind-loss mitigation studies. The studies related to residential property shall be completed by January 1, 2008 and the studies related to commercial nonresidential property shall be completed by March 1, 2008. The General Appropriations Act contained an appropriation of \$1.5 million to the Office of Insurance Regulation to conduct these studies, but the appropriation was vetoed by the Governor.

Building Code

- The Florida Building Commission must develop and adopt within the Florida Building Code recognized mitigation techniques.
- By October 1, 2007, the Building Code must require that a roof replacement for a home incorporate a secondary water barrier and strengthening the roof decking attachments.
- By October 1, 2007, the Building Code must require for a home that is located in the wind-borne debris region, that a roof replacement must also incorporate cost-effective improvements of roof-to-wall connections.
- By July 1, 2008, a home in the wind-borne debris region that has an insured value of \$750,000 or more must also have opening protections installed if the owner requests a building permit for improvements estimated to cost \$50,000 or more.

Citizens Property Insurance Corporation

By January 1, 2009, a home in the wind-borne debris region that has an insured value of \$750,000 or more must have opening protections or the home is not eligible for coverage by Citizens Property Insurance Corporation.

~~HB 7087 — Financial Services: Chapter 2007 —, L.O.F.; Effective October 1, 2007; by Jobs & Entrepreneurship Council; and Rep. Carroll.~~

Vetoed by Governor 6/28/07

The bill:

- ~~Authorizes the sale of optional guaranteed asset protection (GAP) products by motor vehicle installment sellers, sales finance companies, retail lessors and their assignees, and establishes requirements for the sale of such products. The seller of GAP coverage may not require its purchase as a condition for making a loan. In order to offer a GAP product, the seller of the GAP product must comply with specified statutory consumer protection requirements.~~

- ~~Defines "debt cancellation product," specifies that such products may be sold by financial institutions and their subsidiaries and other business entities authorized by law, and states that it is not insurance for purposes of the Florida Insurance Code. Financial institutions are required to manage risks associated with debt cancellation products prudently, and to establish and maintain effective risk management and control programs regarding such products. Insurance purchased by a creditor for debt cancellation products is defined as a form of casualty insurance.~~
- ~~Increases the maximum delinquency charge from \$10 to \$25 for a default of payment pursuant to a revolving account provision in a retail installment contract.~~
- ~~Eliminates the \$50,000 limit on insurance that may be procured on the life of a debtor under a debtor group contract, or pursuant to a credit life insurance policy. Instead, the limit is the amount of the person's indebtedness to the creditor. The bill also allows the term of credit disability insurance to extend for the term of the indebtedness, rather than the current 10-year time limitation.~~
- ~~Specifies that a deposit or account made in the name of two persons who are husband and wife is considered a tenancy by the entirety unless otherwise specified in writing.~~
- ~~Provides that an agreement to operate or share an ATM may not "prohibit, limit, or restrict" the right of the owner or operator to charge an access fee or surcharge not otherwise prohibited under state or federal law to a customer conducting a transaction using an account from a financial institution that is located outside of the United States.~~
- ~~The bill also provides that nothing in the act is intended to restrict the owner or operator from entering into agreements regarding access fee arrangements. The bill requires an owner or operator of an ATM to disclose such fees or surcharges in compliance with federal Regulation E,¹ addressing electronic fund transfers, which was issued by the Board of Governors of the Federal Reserve System, pursuant to the federal Electronic Fund Transfer Act.~~
- ~~Allows state-funded endowments that are funded by a general appropriation act prior to 1990 to maintain funds in state or federal financial institutions.~~
- ~~Raises the minimum capitalization for a proposed bank to \$8 million and deletes the differing capitalization for banks in a metropolitan area and those in other counties. The bill also raises the minimum total capital accounts at opening for a trust company from \$2 million to \$3 million and sets differing capitalization standards for~~

- ~~banks owned by a single bank holding company and banks owned by multibank holding companies.~~
- ~~Eliminates the need for a bank or trust company to obtain approval from the Office of Financial Regulation (OFR) in order to increase its capital. However, a state bank or trust company must notify the OFR in writing 15 days before increasing its capital stock. The bill deletes the prohibition against a bank or trust company issuing capital stock with over a \$100 par value. It states a financial institution may not issue or sell stock of the same class which creates different rights, options, warrants, or benefits among the purchasers or stockholders of that class of stock. However, the financial institution may create uniform restrictions on the transfer of stock as permitted in s. 607.0627, F.S.~~
- ~~Clarifies who can assert dissenter's rights pursuant to the approval of the sale of stock by a state bank or trust company. The fair value of the shares of stock will be determined using the procedures in s. 607.1326, F.S., and s. 607.1331, F.S., rather than by a panel of three appraisers. The new procedure would be the same as is applied to corporations.~~

HB 7169 – Public Records and Meetings/Florida Workers' Compensation Joint Underwriting Association: Chapter 2007-202, L.O.F.; Effective July 1, 2007; by Jobs & Entrepreneurship Council; Rep. Reagan and others.

The bill creates an exemption for certain records and portions of meetings of the Florida Workers' Compensation Joint Underwriting Association, Inc., the insurer of last resort for employers who are unable to secure workers' compensation insurance coverage in the voluntary market. The bill makes confidential and exempt underwriting files, claims files until termination of litigation and settlement, audit records, certain proprietary information, medical records, records relative to an employee's participation in an employee assistance program, certain information related to negotiations, reports regarding fraud until the investigation is closed or ceases to be active, and payroll and client lists of employee leasing companies obtained from the Department of Revenue.

The bill also makes confidential and exempt a public record prepared by an attorney retained by the association to protect or represent the interests of the association or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association. Exceptions are provided. The bill also makes exempt that portion of a meeting at which exempt records are discussed and the minutes of that portion of such meetings. The bill also provides the constitutionally-required statement

of public necessity for the exemption. Further, the bill makes the exemption subject to future review and repeal under the Open Government Sunset Review Act in 2012.

HB 7177 – Florida Government Accountability Act: Chapter 2007-166, L.O.F.; Effective July 1, 2007; by Policy & Budget Council; and Rep. Sansom.

This bill revises the Government Accountability Act regarding the Agency Sunset Review process. This is a process by which agencies are reviewed by committees of each house and a joint committee on a scheduled cycle for consideration for abolition, modification or termination. The bill changes the date of review for the Department of Financial Services from July 1, 2013 to July 1, 2018.

~~HB 7183 – Rules and Rulemaking: Chapter 2007-____, L.O.F.; Effective July 1, 2007; by Government Efficiency & Accountability Council, and Rep. Homan.~~

Vetoed by Governor 6/26/07

~~This bill revises provisions in the Administrative Procedure Act (APA), codified in Chapter 120, F.S., relating to unadopted agency rules. The bill creates incentives for agencies to adopt rules and for affected persons to challenge unadopted rules by:~~

- ~~• Prohibiting agency reliance on an unadopted rule while a challenge is pending;~~
- ~~• Bolstering the ability of the Joint Administrative Procedures Committee to examine unadopted agency rules; and~~
- ~~• Increasing the cap on the award of attorney fees from \$15,000 to \$50,000 and providing a cap on the award of attorney fees for challenges to unadopted rules.~~

~~The bill also modifies provisions of the APA concerning the incorporation by reference of materials into agency rules. In addition to technical or administrative refinements to Chapter 120, F.S., the bill makes the following significant changes:~~

- ~~• Provides definitions of the terms “law implemented” and “rulemaking authority”;~~
- ~~• Provides additional requirements for the use of material that is being incorporated by reference in rules;~~
- ~~• Requires electronic publication of the Florida Administrative Code;~~

- ~~Provides for material incorporated by reference to be filed in electronic form, unless doing so would constitute a violation of federal copyright law; and~~
- ~~Provides that if an agency head is a board or other collegial body, then the agency head may not delegate the responsibility to conduct requested public hearings.~~

HB 7187 — OGSR/ Exemption for Work Papers Held by OIR and DFS: Chapter 2007-249, L.O.F.; Effective October 1, 2007; by Government Efficiency & Accountability Council; and Rep. Attkisson.

This bill is the result of an Open Government Sunset Review of s. 624.319(3)(b), F.S. which makes confidential and exempt from the public record requirements work papers and other information held by the Department of Financial Services (DFS) or the Office of Insurance Regulation (OIR). Work papers and other information received from another governmental entity or the National Association of Insurance Commissioners (NAIC), for use by the DFS or the OIR in performance of its examination or investigation duties are also exempt.

The bill retains the exemption; however, it narrows it by defining the term “work papers” to mean records of the procedures, tests, information and conclusions reached in an examination or investigation performed. The term also includes planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, schedules or commentaries prepared or obtained in the course of such examination or investigation.

The bill further narrows the exemption by providing that after an examination report is filed or an investigation is completed or ceases to be active, portions of the work papers may remain confidential and exempt if disclosure would:

- Jeopardize the integrity of another active investigation;
- Impair the safety and financial soundness of the licensee, affiliated party or insured;
- Reveal personal financial, medical, or health information;
- Reveal the identity of a confidential source;
- Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual;
- Reveal investigation techniques or procedures; or
- Reveal confidential and exempt information received from another governmental entity or the National Association of Insurance Commissioners with respect to the sharing of such information.

HB 7197 – OGSR/Social Security Numbers and Financial Account Numbers: Chapter 2007-251, L.O.F.; Effective October 1, 2007; by Government Efficiency & Accountability Council; and Rep. Attkisson.

The bill reenacts the general public records exemption for social security numbers and bank account, debit, charge, and credit card numbers, held by an agency. It repeals a duplicative exemption for credit card numbers. In addition, the bill transfers to a new section of law those public records exemptions related to court records and official records.

BUDGET ISSUES

Agency for Health Care Administration

- ✓ KidCare Enrollment Increase – \$55.6 million – Provides additional funding for increased enrollment in the Florida KidCare program. This will fund an additional 31,000 kids during FY 2007-2008.
- ✓ KidCare Enrollment Marketing and Outreach Matching Grants – \$1 million – Continues funding for marketing and outreach matching grants to local organizations to increase enrollment in the KidCare program.

Major Consumer Protection and Regulatory Issues Funded

- ✓ Florida Comprehensive Hurricane Damage Mitigation Program – \$846,021 and 14 positions to administer this program, established by the 2006 Legislature, that provides free home inspections and matching grants to qualified homeowners. Also provided is \$1.5 million for a residential and commercial wind loss study and \$1.0 million for the Florida Catastrophic Storm Risk Management Center of Excellence.
- ✓ Office of the Insurance Consumer Advocate – \$255,820 and two positions.
- ✓ Insurance Fraud – \$2,398,278 and 30 positions for investigation of personal injury protection (PIP) fraud.
- ✓ Insurance Regulation – \$1,462,127 and two additional positions to address workload needs in casualty and property insurance, including new requirements from HB 1-A passed during the January 2007 Special Session.
- ✓ Public Hurricane Model – \$554,360 to expand the model to include commercial residential structures (condominiums and apartment buildings).

Major Technology and Security Issues Funded

- ✓ REAL System – \$7,718,442 for the Office of Financial Regulation's continued implementation of the Regulatory Enforcement and Licensing System, designed to integrate licensing, investigation, examination, legal, and complaint functions.
- ~~✓ PeopleFirst and MyFloridaMarketPlace Systems – \$500,000 for a feasibility study of the state's personnel and purchasing systems to determine what is in the best interest of the state when the contracts end in 2010 and 2011. ***Vetoed by Governor.***~~

Department of Community Affairs

- ✓ \$7 million for the Residential Construction Mitigation program and \$8.2 million for the Pre-disaster Mitigation Program.
- ✓ \$1.04 billion in hurricane-related recovery funds.

Employee Compensation and Pay

Bonuses

- ✓ A \$1,000 across the board bonus for state employees, including university personnel, effective November 1, 2007.

Health Insurance

- ✓ The overall health insurance premiums will be increased 5 percent, effective June 1, 2008. However, the employing agency will pay the full amount of the increase.
- ✓ The standard and high deductible health plans are continued with the current level of benefits remaining in place.
- ✓ Co-payments and other out-of-pocket expenses are maintained at the current levels.

SB 2802 — Implementing Appropriations for Fiscal Year 2007-2008

- ✓ Permits an agency to make cash awards to employees in appreciation and recognition of service to the state.
- ✓ Allows the Department of Financial Services to spend \$846,021 of prior funding for salaries and related expenses to support 14 positions appropriated to administer the Florida Hurricane Damage Mitigation Program.