

# Florida Office of Insurance Regulation



## 2007 Legislative Summary

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**Office of Insurance Regulation (Office)  
2007 Legislative Summary**

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## **Fiscal Year 2007-2008 – Office of Insurance Regulation (Office) Budget Overview**

2007 General Appropriations Act

SB 2800- Approved by the Governor May 24, 2007

<b>Budget Category</b>	<b>2006-2007 Funding</b>	<b>2007-2008 Funding</b>	<b>Difference Over/(Under)</b>
<b>Positions</b>	<b>311</b>	<b>315</b>	<b>4</b>
<b>Salaries and Benefits</b>	<b>\$18,003,043</b>	<b>\$19,413,626</b>	<b>\$1,410,583</b>
<b>Other Personal Services</b>	<b>\$1,193,245</b>	<b>\$1,132,750</b>	<b>(\$60,495)</b>
<b>Expenses</b>	<b>\$3,160,416</b>	<b>\$3,668,681</b>	<b>\$508,265</b>
<b>Operating Capital Outlay</b>	<b>\$16,900</b>	<b>\$37,578</b>	<b>\$20,678</b>
<b>Contracted Services</b>	<b>\$1,227,872</b>	<b>\$3,563,848</b>	<b>\$2,335,976</b>
<b>SPECIAL CATEGORIES</b>	<b>\$2,165,648</b>	<b>\$1,201,384</b>	<b>(\$964,264)</b>

**Disclaimer:** The Appropriations above represent funds allocated to the Office of Insurance Regulation as approved by the Legislature for the annual fiscal period beginning July 1, 2007 and ending June 30, 2008. The Office is entirely funded by the Insurance Regulatory Trust Fund.

## PROPERTY INSURANCE

### **CS/HB 7057 — Hurricane Damage Mitigation**

by Policy and Budget Council; Jobs and Entrepreneurship Council; and Rep. Traviesa

During the 2006 Regular 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 \$5,000 for home mitigation and is administered by the Department of Financial Services (DFS). 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 [s. 215.5586, F.S.]***

- The name of the program is changed from the 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 by June 30, 2009.
- The bill clarifies that free home inspections are available statewide, but limits the inspections to site-built, single-family residential property.
- The amount of matching grants (and non-matching grants for low-income homeowners) are maintained at a maximum of \$5,000, but grants are limited as follows:
  - Grants may only be used for opening protections (such as shutters); exterior doors, and to brace gable ends (and are no longer available for roof upgrades). The DFS may require that all openings be protected as a condition of approving a grant, under certain conditions.
  - The property must be homestead property with an insured value of \$300,000 or less (rather than \$500,000), located in the “wind-borne debris region,” and built prior to March 1, 2002.
  - The DFS must establish objective, reasonable criteria for prioritizing grant applications.
- The bill allows hurricane mitigation inspector training to be on line or in person and allows a hurricane mitigation inspector to also be the mitigation contractor if the inspector is otherwise qualified and certified.
- 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 authorized 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.

- DFS shall transfer \$40 million from funds appropriated to the MSFH program, including up to five percent for administrative costs, to Volunteer Florida Foundation, Inc. (VFF), for provision of inspections and grants to low-income homeowners.
- VFF must report its activities and account for state funds on a quarterly and annual basis.
- The DFS may use up to \$10 million from the funds appropriated for the MSFH to develop a no interest loan program by December 31, 2007, to encourage the private sector to provide loans for mitigation measures. The DFS shall pay the interest on the loans which may be for a term of up to three years and cover up to \$5,000 in mitigation measures.
- 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.
- The DFS must transfer \$1 million from the funds appropriated to the MSFH program to the Low-income Emergency Home Repair Program. Administrative expenses may not exceed five percent (\$50,000) of the funds appropriated.

***Florida Building Code: Roof Replacements and Adding Opening Protections [s. 553.844, F.S.]***

- The bill requires the Florida Building Commission to develop and adopt within the Florida Building Code standards for mitigation techniques for site-built, single-family-residential structures constructed prior to the implementation of the Florida Building Code, including gabled bracing, secondary water barriers for roofs, roof-to-wall connections, roof-decking attachments, and opening protections.
- The Florida Building Commission must adopt rules by October 1, 2007, to take immediate effect (to apply to building permits applied for on or after that date) to require that a roof replacement incorporate a secondary water barrier and strengthening the roof decking attachments. For single-family residential structures located in the wind-borne debris region that have an insured value of \$300,000 or more, a roof replacement must also incorporate cost-effective improvements of roof-to-wall connections as determined by the Florida Building Commission, under the standard that such improvements add no more than 15 percent to the cost of the reroofing. These rules shall be incorporated into the next edition of the Florida Building Code.
- Any construction activity that requires a building permit after July 1 2008, and for which the estimated cost is \$50,000 or more must include opening protections (shutters, etc.) as required for new buildings if the building has an insured value of \$750,000 or more and is located in the wind-borne debris region.

***Eligibility for Coverage in Citizens Property Insurance Corporation [s. 627.351(6), F.S.]***

Effective January 1, 2009, a home (personal lines residential structure) with an insured value of \$750,000 or more that is located in the wind-borne debris region is not eligible for coverage from Citizens Property Insurance Corporation (Citizens) unless it has opening protections as required for new construction. A home complies with this requirement if it has opening protections on all openings and complied with the Florida Building Code at the time they were installed.

### ***Contractor Continuing Education [s. 489.115, F.S.]***

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 (Office), in consultation with the Department of Community Affairs and the Florida Building Commission, is directed to conduct one or more wind-loss mitigation studies for both residential property (including mobile homes and condominiums) and commercial non-residential property.
- 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 contains an appropriation of \$1.5 million to the Office to conduct these studies.

These provisions take effect upon becoming law.

**Vote:** *Senate 39-0; House 90-28*

### **SB 2498 — Hurricane Preparedness and Insurance**

by Banking and Insurance Committee and Senators Garcia, Posey, Fasano, and Atwater

This bill makes changes to the Citizens Property Insurance Corporation (“Citizens”) law, prohibits the formation of new Florida domestic residential property insurance subsidiaries and requires rate filings for all insurance subsidiaries to include parent company profit information. Specifically, the bill:

### ***Citizens Property Insurance Corporation (“Citizens”) [s. 627.351(6), F.S.]***

- Revises the legislative findings for establishing Citizens, in order to support its tax exempt status, finding that the absence of affordable property insurance threatens the public health, safety, and welfare and that the state has a compelling public interest in assuring that property is insured at affordable rates.
- Prohibits any rate increase in Citizens until January 1, 2009. This extends for an additional year, the current prohibition against a rate increase until January 1, 2008.
- The rates in effect on December 31, 2006 shall remain in effect for 2007 and 2008 except for any rate change that results in a lower rate.
- Provides that if a new applicant to Citizens is offered coverage from an insurer at its approved rate, the applicant is not eligible for a Citizens policy unless the insurer’s premium is more than 15 percent greater than the premium for comparable Citizens’ coverage. (Current law has a 25 percent limitation). Also provides criteria for

determining when “comparable coverage” has been offered and allows an insurance agent to make this initial determination.

- Extends until January 1, 2009 (rather than July 1, 2008) the ineligibility of coverage in Citizens for personal lines residential structures that have a dwelling replacement cost of \$1 million or more (except for dwellings insured by Citizens on December 31, 2008, which may reapply and obtain coverage under certain conditions).
- Clarifies that the expanded Citizens assessment base (per HB 1-A in Special Session) applies only to deficits incurred after January 25, 2007.
- Permits a policyholder whose coverage with Citizens has been assumed by another insurer to continue to be eligible for Citizens coverage through the end of the assumption period regardless of any offer of coverage by the insurer.
- Deletes the requirement that by July 1, 2007, an application for new coverage with Citizens is subject to a 10-day waiting period before coverage is effective.
- Limits the post-employment restrictions on employees of Citizens to senior managers of Citizens.
- Provides that Citizens may be liable for attorney’s fees in an action for breach of contract for benefits.
- Requires a Citizens employee to notify the Citizens’ Office of the Internal Auditor and the Division of Insurance Fraud of suspected fraud by a Citizens employee.
- Authorizes the Office to establish a pilot program in one or more counties, to allow Citizens to exclude sinkhole coverage (and offer sinkhole coverage as an option) pursuant to the sinkhole coverage changes enacted in HB 1-A, without being required to give the policyholder a notice of non-renewal.
- Deletes the requirement that an insurer writing the ex-wind coverage must contract with Citizens to adjust the windstorm claims on behalf of Citizens.
- Allows for cross-collateralization of assets of the Personal Lines Account and the Commercial Lines Account for any bonds or other debt for new financing by Citizens, as current law allows for debt that Citizens inherited in the merger with the old Residential Property and Casualty Joint Underwriting Association.
- Creates the “Citizens Property Insurance Corporation Mission Review Task Force” to analyze and compile data for development of a report specifying the statutory and operational changes needed to return Citizens to its former role as a state created, noncompetitive residual market.
- The Task Force consists of 19 members: the Governor appoints four members, of which two must be consumer representatives; the President of the Senate appoints three members; and, the Speaker of the House of Representatives appoints three members. An additional six members are appointed as representatives of private insurance companies, of which three are appointed by the Governor, President, and Speaker, respectively. The Chief Financial Officer appoints three members representing insurance agents. The Task Force must submit its report to the Governor, President of the Senate, and Speaker of the House by January 31, 2008.
- Appropriates \$600,000 from the Insurance Regulatory Trust Fund of the Department

of Financial Services (DFS) to the Task Force, which may employ consultants. DFS must provide administrative support.

***Prohibition on New Florida Subsidiaries; Profits of Parent Company***

- Prohibits a new certificate of authority for the transaction of residential property insurance to any insurer domiciled in Florida which is a wholly owned subsidiary of an insurer authorized to do business in any other state. Effective December 31, 2008.
- Requires the rate filings of an insurer domiciled in Florida that is a wholly owned subsidiary of an insurer authorized to do business in any other state to include information relating to the profits of the parent company. Effective December 31, 2008.

***Payment of Claims [s. 627.70131, F.S.]***

Revises the requirement for a property insurer to pay or deny a claim within 90 days of receiving notice of a claim to:

- Apply this requirement to residential property insurance claims and to commercial property claims for structural or contents coverage if the structure is 10,000 sq. ft. or less. However, this would not apply to a policy covering commercial nonresidential structures or contents in more than one state.
- Alternatively requires the insurer to pay a “portion of the claim” within the 90-day period.
- Require an insurer to pay interest pursuant to s. 55.03, F.S. (as required for legal judgments) to a policyholder if the insurer fails to timely pay a claim within 90 days of receipt, or 15 days after circumstances that have reasonably prevented payment no longer exist, whichever is later.

***Florida Hurricane Catastrophe Fund (FHCF) [s. 215.555, F.S.]***

- Allows any insurer that qualifies as a limited apportionment company to purchase up to \$10 million of additional coverage from the FHCF.
- Exempts medical malpractice insurance from FHCF assessments through May 31, 2010.
- Deletes the June 1, 2007 expiration date of the provision that allows Citizens to mutually agree with the State Board of Administration on how to structure FHCF coverage for policies that Citizens assumes from an insolvent insurer.

***Policy Exclusions and Deductibles [ss. 627.701 and s. 627.712, F.S.]***

- Requires an insurer to make available a policy that excludes coverage for windstorm coverage (rather than hurricane or windstorm coverage), and requires that all property insurers (commercial and residential) offer this coverage.
- Excludes a tenant’s policy from the requirement for an insurer to offer an exclusion of contents coverage.
- Specifies that the policy exclusions for windstorm or contents coverage may only be implemented as of the date of a policy’s renewal.

- Specifies that a new deductible for residential property insurance may only be implemented as of the date of the policy's renewal.

***Rating Law [ss. 627.062 and 627.0655, F.S.]***

- Specifies that the temporary prohibition against making a “use and file” rate filing applies to property insurance (but not casualty insurance) rate filings and clarifies that it applies to a rate filing submitted after January 25, 2007 (the effective date of HB 1-A).
- Prohibits an insurer from recouping in its rates the interest payments the insurer makes for failure to pay or deny a property insurance claim within 90 days as required by statute.
- Clarifies that a multi-line discount may only be offered by an insurer to a consumer that has purchased another policy from the same insurer or insurer group.

***Insurance Capital Build-Up Incentive Program [s. 215.5595, F.S.]***

- Allows an insurer that exclusively writes manufactured housing to obtain a surplus note of up to \$7 million from the Insurance Capital Build-Up Incentive Program. (Current law allows such an insurer to have a total amount of surplus, new capital, and surplus note equal to \$14 million, rather than \$50 million.)
- Provides that an insurer is considered to be “writing only manufactured housing” if it is:
  1. a Florida domiciled insurer that began writing policies after March 1, 2007, removes at least 50,000 policies from Citizens without a bonus, and at least 25 percent of its policies cover manufactured housing; or,
  2. a Florida domiciled insurer that writes at least 40 percent of its policies covering manufactured housing in Florida.
- Between insurers writing manufactured housing policies, priority shall be given to the insurer writing the highest percentage of manufactured housing policies.

***Florida Insurance Guaranty Association (FIGA) [ss. 631.52, 631.57, and 631.695, F.S.]***

- Specifies that any kind of self-insurance fund, liability pool, or risk management fund is not covered by FIGA.
- Clarifies that FIGA's authority to levy emergency assessments of two percent of premium is for payment of covered claims (not just homeowners claims) of insurers rendered insolvent by the effects of a hurricane.
- Permits all municipalities and counties in the state to issue bonds to assist FIGA in expediting the handling and payment of covered claims of insolvent insurers.

***Surplus Lines Policies [ss. 626.914, 626.916, and 626.9201, F.S.]***

- Requires a retail agent to inform a policyholder that coverage may be available and less expensive from Citizens before export to the surplus lines insurance market. The notice must also include information that Citizens assessments are higher and that Citizens coverage may be less than the property's existing coverage.

- Requires only one rejection from an authorized insurer, rather than three rejections, in order for coverage for a \$1 million residential structure to be exported to the surplus lines market.
- If a policyholder pays for a surplus lines insurance policy with a bad check, or fails to maintain membership in an organization necessary to obtain insurance coverage, the policy may be cancelled for nonpayment of premium. If a bad check is the initial premium payment, the policy is retroactively void unless payment is tendered within the earlier of five days after actual notice by certified mail is received by the applicant, or 15 days after notice is sent to the applicant by certified or registered mail.

***Florida Building Code; Internal Pressure Option***

- Retains the internal design (pressure) options in the Florida Building Code (as an option to opening protections in the wind-borne debris region) until June 1, 2007, for a building permit application made prior to that date. This applies retroactively to January 25, 2007, the effective date of HB 1-A that repealed this option, and applies to any action taken on a building permit affected by that act.

***Other Provisions***

- Applies the \$50 million surplus requirement to a domestic residential property insurer if it is a subsidiary of an insurer domiciled (rather than “doing business”) in another state.
- Provides that the annual report card for insurers prepared by the Consumer Advocate regarding consumer complaints and the time it takes to pay claims applies to personal residential property insurers, rather than all property insurers, and requires the report to include the number of consumer complaints “as a market share ratio.”
- Provides that 100 days’ notice of non-renewal is required, rather than June 1, if earlier, for a nonrenewal effective during hurricane season, if the policy is being non-renewed for the sole purpose of revising the coverage for sinkhole losses; or if the policy is nonrenewed by Citizens for a policy assumed by an insurer that offers replacement or renewal coverage.
- Transfers and amends s. 627.7277(4), F.S., to s. 627.4133(7), F.S., to place in the proper section the requirement of HB 1-A that each residential property insurance renewal premium specify the amounts recouped for assessments, the dollar amount of a premium increase that is due to an approved rate increase, and the total dollar amount of increase due to coverage changes.
- Creates the Florida Catastrophic Storm Risk Management Center at Florida State University.

**Vote:** *Senate 38-0; House 106-10*

## **GENERAL INSURANCE**

### **CS/SB 2198 — Financial Statements**

by Banking and Insurance Committee and Senator Gaetz

The bill allows specified insurance administrators and viatical settlement providers to file specified financial statements with the Office on a fiscal year, rather than a calendar year, basis. Specifically, the bill provides that an authorized insurance administrator with an established fiscal year of July 1 through June 30, whose sole stockholder is a health care provider association which is not an affiliate of an insurer, to submit the preceding fiscal years audited financial statement to the Office on or before December 31. The bill also allows a viatical settlement provider to file its annual audited financial statement with the Office covering a 12-month period ending on a day falling during the last six months of the preceding calendar year.

These provisions take effect July 1, 2007.

**Vote:** *Senate 33-0; House 115-0*

### **CS/CS/HB 1381 — Insurance**

by Policy and Budget Council; Jobs and 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 DFS:

- 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 (NAIC). 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 licensee;
- 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 to do business in Florida.
- 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.

These provisions take effect July 1, 2007, except as otherwise expressly provided in this act.

**Vote:** *Senate 40-0; House 117-0*

### **HB 1549 — Examination of Insurers**

by Rep. Rivera (SB 2782 by Senator Posey)

Currently, an insurer is generally subject to a financial examination by the Office of its affairs, transactions, accounts, records, and assets, no less frequently than once every three years. This bill changes the frequency of the required examination to at least once every five years, with the exception of domestic insurers that have held a certificate of authority for less than three years. These domestic insurers would continue to be subject to an examination on an annual basis.

- The bill expands the specialists that qualify to conduct independent examinations. The current list comprised of independent certified public accountants, actuaries, and reinsurance specialists is expanded to also include investment specialists and information technology specialists.
- The bill allows the Office to unilaterally select the independent examining firm by removing the requirement that the insurer and the Office must agree to an independent examination, the rates and terms of the examination, and the selection of such an independent examiner.

- The bill also provides additional criteria for the selection of an independent examiner. Rates charged by such firms must be consistent with rates charged by other firms in similar professions, and the firm selected by the Office to conduct an examination may not have a conflict of interest that would preclude an independent examination.
- The bill also provides that if the Office contracts with an outside examiner for an examination of an insurer, the insurer must pay the Office, rather than the contract examiner, for the cost of the exam. Then, the Office would reimburse the examiner pursuant to a legislative appropriation. The bill eliminates the \$25,000 cap on the fee for the annual examination of a domestic insurer that has held a certificate of authority for less than three years.

These provisions take effect July 1, 2007.

**Vote:** *Senate 39-0; House 118-0*

### **CS/HB 111 — Title Insurance**

by Jobs and Entrepreneurship Council and Rep. Galvano

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 FSC 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 FSC adopt rules to establish a premium charged by a title agent for preparing and recording of an affidavit of release of a mortgage.

These provisions take effect October 1, 2007.

**Vote:** *Senate 39-0; House 109-0*

### **CS/HB 411 — Limited Insurance Licenses**

by Jobs and Entrepreneurship Council and Rep. Precourt

The bill provides changes to two limited insurance licenses issued by the DFS. It changes the license for personal accident insurance to “travel insurance,” and changes the license for baggage and motor vehicle excess liability insurance to “motor vehicle rental insurance.”

- The “travel insurance” license is expanded to cover 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; or medical, surgical, and hospital expenses related to illness or emergency of a traveler.
- The bill authorizes timeshare developers, sellers of travel, and their subsidiaries or affiliates to obtain a limited agent’s license to sell travel insurance. Such insurance policies or certificates may be issued for terms longer than 60 days, but each policy or certificate, other than a policy or certificate providing coverage for air ambulatory services only, must be limited to coverage for travel or use of accommodations of no longer than 60 days. Employee training is required and fingerprinting is mandated for specified officers of the licensed entity.
- The “motor vehicle rental insurance” license is expanded to include accidental personal injury or death of the lessee and passengers in a leased or rented motor vehicle. The bill authorizes licensure of only the “business entity” for a motor vehicle rental insurance license, rather than licensing each entity’s branch office, as under current law.
- The method used for calculating licensing fees is revised so the bill’s effect is revenue neutral. License applicants must furnish to the department specified information about each business entity’s branch office that is to be covered by the license. The bill expands the maximum time period for which insurance may be issued under limited license leases or rental agreements from 30 to 60 days.
- The bill also clarifies that limited insurance policies or certificates may only be sold by an authorized insurer or an eligible surplus lines insurer.

These provisions take effect January 1, 2008.

**Vote:** *Senate 40-0; House 105-0*

## **CS/HB 97 — Medicare Supplement Policies**

by Healthcare Council and Rep. Hays

The bill redefines the term “Medicare supplement policy” for purposes of the Florida Medicare Supplement Reform Act (ss. 627.671-627.675, F.S.), to exclude from regulation under this act, a policy or plan of one or more employers that have at least 50 employees at issue, or trustees of a fund established by one or more employers for employees or former employees, if, upon termination of eligibility, group members age 65 or older are offered continuation of coverage under the group plan or a conversion policy that has the same benefits as a Medicare Supplement policy.

By excluding policies or plans for Medicare supplement insurance provided to employers from the definition of “Medicare supplement policy” (whether the policy was issued in Florida or issued to an out-of-state group) the state Medicare supplement requirements of part VIII of chapter 627, F.S., would not apply to such policies or plans. However, if the Medicare supplement policy is issued to an employer in Florida, the provisions of the Insurance Code that apply to insurance policies in general and to “health insurance” policies in particular, other than those in ch. 627, part VIII, F.S., would continue to apply. For example, rates and policy forms for health insurance are subject to filing and approval by the Office pursuant to ss. 627.410 and 627.411, F.S. If the policy is issued to an employer outside of Florida, the DFS would not have regulatory authority to assist Florida insureds who have problems or complaints with the insurer. However, any policy issued to such an employer would still be required to comply with the applicable laws of the state where the master group policy is issued.

These provisions take effect July 1, 2007.

**Vote:** *Senate 19-14; House 110-1*

## **CS/SB 746 — Workers’ Compensation/First Responders**

by General Government Appropriations Committee and Senators Alexander, Atwater, Gaetz, Fasano, and Justice

The 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.

The bill defines “first responder” to include a law enforcement officer, a firefighter, an emergency medical technician or paramedic, and a volunteer firefighter. The bill provides the following changes in workers’ compensation for first responders:

- Lowers the standard of proof and other requirements for compensability for toxic substance exposure, occupational disease, and mental or nervous injury.

- Authorizes payment for medical benefits in cases involving a mental or nervous injury without an accompanying physical injury requiring medical treatment.
- Eliminates the six-month limitation on temporary total disability benefits for compensable mental or nervous injuries after a first responder reaches maximum medical improvement and the one percent limitation for permanent impairment benefits for psychiatric impairment.
- Provides that any adverse result or complication caused by a smallpox vaccination is deemed to be an injury arising out of work performed in the course and scope of employment.
- Extends the payment of permanent total disability supplemental benefits beyond age 62 for first responders that were employed by a public employer that did not participate in the social security program whether or not the employer provided an alternative retirement program.

These provisions take effect upon becoming law.

**Vote:** *Senate 40-0; House 109-2*

### **CS/CS/CS/SB 1894 — Joint Underwriting Plan/Workers' Compensation**

by General Government Appropriations Committee; Governmental Operations Committee; Banking and Insurance Committee; 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 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.
- 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 ch. 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.

### ***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 Office subsequently disapproves the rate. Also, the Office 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.

These provisions take effect July 1, 2007.

**Vote:** *Senate 40-0; House 117-0*

## **HB 7187 — Open Government Sunset Review of Exemption for Work Papers Held by the Office of Insurance Regulation and Department of Financial Services**

by Government Efficiency and Accountability Council and Rep. Atkisson

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 DFS or the Office and work papers and other information received from another governmental entity or the NAIC, for use by the DFS or the Office in performance of its examination or investigation duties.

- 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 NAIC with respect to the sharing of such information.

These provisions take effect October 1, 2007.

**Vote:** *Senate 40-0; House 117-0*

## HEALTH INSURANCE

### **CS/SB 590 — Health Maintenance Contracts**

by Health Regulation Committee and Senators Saunders, Atwater, and Lynn

This bill amends subsection (25) of section 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.

These provisions take effect July 1, 2007.

**Vote:** *Senate 37-0; House 117-0*

### **SB 666 — Fiscal Intermediary Services Organizations/Health Care**

by Senator Fasano

The laws regulating health maintenance organizations (HMOs) also provide for the regulation of fiscal intermediary services organizations (FISOs) by the Office. The law is designed to protect funds received from an HMO and held by these entities, which have an obligation to distribute those funds to health care providers who contract with the HMO.

- The bill revises the definition of entities that must be registered as a FISO by deleting the exemption for entities that are owned, operated, or controlled by certain licensed entities.
- Generally, under the provisions of the bill, only the licensed entities themselves would be exempt, including hospitals, authorized insurers, third-party administrators (TPAs), prepaid limited health service organizations, and HMOs. The current exemption for

physician group practices would be limited to group practices providing services under the scope of licenses of the members of that group practice.

- The bill exempts from the FISO registration and regulatory provisions not-for-profit corporations that provide health care services directly to patients through employed, salaried physicians and that are affiliated with an accredited hospital licensed in Florida from the FISO registration and regulatory provisions.
- The bill exempts FISOs owned by TPAs from the surety bond requirements; however, the FISO would be subject to the other FISO requirements in the bill.
- The bill further requires FISOs to comply with certain statutory requirements that apply to HMOs relating to payment of claims, including the prompt payment of claims; paying claims for which treatment authorization procedures have been followed; and requirements for adverse determinations of claims. In addition, the Office of Insurance Regulation would be required to periodically examine their operations and to take remedial action when necessary.

These provisions take effect October 1, 2007.

**Vote:** *Senate 37-0; House 113-3*

