

LEGISLATIVE SUMMARY 2015

FLORIDA OFFICE OF
INSURANCE REGULATION



KEVIN MCCARTY, INSURANCE COMMISSIONER



KEVIN M. McCARTY
COMMISSIONER



OFFICE OF INSURANCE REGULATION

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AGRICULTURE

July 2015

Dear Floridians,

I am pleased to present the *2015 Legislative Summary* prepared by the Florida Office of Insurance Regulation. The report provides a brief overview of insurance legislation passed by the Florida Legislature during the 2015 Regular Session and Special Session "A," with action taken by the Governor. It also includes a summary of the Office budget for Fiscal Year 2015-16. Additional information and legislative materials pertaining to these bills or any others can be found online at www.leg.state.fl.us.

While insurance always occupies a significant share of the legislative calendar, the 2015 Session was a relatively quiet one when it came to major legislative reform initiatives. However, the Legislature did address a broad range of issues affecting the insurance industry, such as flood insurance, insurance fraud, guaranty funds, and small group health insurance.

In this year's Session, the Legislature did not approve health insurance solvency legislation proposed by the Office. This bill, SB 1190 and its House companion, HB 1058, would have required companies to meet higher surplus standards to bolster their financial position.

Over the coming months, the Office will be responding to the changes these new laws will bring in a manner consistent with the Legislature's intent and within our scope of responsibility.

I encourage you to review this report and visit our website for more information about the Office's role in promoting a stable and competitive insurance market while safeguarding Florida consumers.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin M. McCarty".

Kevin M. McCarty
Insurance Commissioner
State of Florida

TABLE OF CONTENTS

Budget	4
General Appropriations Act (SB 2500-A)	4
Appropriations Proviso for the Office, Fiscal Year 2015-16	5
Insurance-Related Appropriations Proviso for Other Agencies, Fiscal Year 2015-16	5
General Appropriations Implementing Act (SB 2502-A)	6
State-Administered Retirement Systems (SB 2512-A)	6
General Insurance	7
Fraud (HB 157)	7
Insurance (SB 252)	7
Insurer Notifications (HB 273)	8
Florida Statutes (SB 702)	8
Florida Statutes (SB 704)	8
Insurance Fraud (HB 1127)	9
Division of Insurance Agent and Agency Services (HB 1133)	9
Insurer Solvency and Financial Oversight	11
Insurance Guaranty Associations (HB 189)	11
Florida Insurance Guaranty Association (SB 836)	11
Life and Health Insurance	12
Experimental Treatments for Terminal Conditions (HB 269)	12
Long-term Care Insurance (SB 520)	13
Limited Liability Companies (HB 531)	13
Employee Health Care Plans (HB 731)	13
Continuing Care Communities (HB 749)	14
Blanket Health Insurance Eligibility (HB 893)	15
Long-Term Care Ombudsman Program (SB 7018)	16
Property and Casualty Insurance	17
Construction Defect Claims (HB 87)	17
Property and Casualty Insurance (HB 165)	17
Eligibility for Coverage by Citizens Property Insurance Corporation (HB 715)	19
Title Insurance (HB 927)	19
Operations of the Citizens Property Insurance Corporation (HB 1087) - VETOED	21
Peril of Flood (SB 1094)	21
Motor Vehicle Insurance (HB 4011)	22
Office Administration and Operations	23
Agency Inspectors General (HB 371)	23
Emergency Management (SB 620)	24
Maintenance of Agency Final Orders (HB 985)	24
Administrative Procedures (HB 7023)	25

**Summary of Insurance, Administrative and Budget-Related Legislation
Enacted by the Florida Legislature during the 2015 Regular Session and Special Session "A"**

BUDGET

General Appropriations Act (SB 2500-A, 1st Eng., by Lee)

Action by Governor: Approved (Chapter No. 2015-232, Laws of Florida)

Effective date: July 1, 2015.

The Legislature approved the FY 2015-16 General Appropriations Act on June 19, 2015, during Special Session "A." The Governor signed it into law on June 23, 2015. Funds appropriated to the Office of Insurance Regulation (Office) are shown in Table 1.

Table 1. Appropriations Overview Fiscal Year 2015-16: Office of Insurance Regulation (Office)			
Positions	FY 2013-14	FY 2014-15	Over/(Under)
Full-time equivalent (FTE) positions	288	292	4
Funding (By Budget Category)	FY 2014-15	FY 2015-16	Over/(Under)
Salaries and Benefits	\$19,425,731	\$19,993,117	\$567,386
Other Personal Services*	\$265,169	\$265,169	0
Expenses	\$2,518,543	2,559,164	\$40,621
Operating Capital Outlay	\$35,000	\$35,000	0
Contracted Services	\$780,726	\$1,430,726	\$650,000
Financial Examination Contracts*	\$4,926,763	\$4,926,763	0
Florida Public Hurricane Loss Model	\$632,639	\$632,639	0
FIU Enhancements to the FL Public Model**	\$1,543,300	\$1,700,000	\$156,700
FIU Wall of Wind Enhancements**	\$300,000	0	(\$300,000)
Lease or Lease-Purchase of Equipment	\$27,403	\$27,403	0
Risk Management Insurance	\$162,559	\$181,293	\$18,734
DMS Human Resources Contract	\$95,221	\$97,841	\$2,620
TOTAL	\$30,713,054	\$31,849,115	\$1,136,061

**Budget authority for financial examinations of Property and Casualty, and Life and Health insurance companies. Insurance companies reimburse the Insurance Regulatory Trust Fund for the examination costs. The Trust Fund acts as a pass through. The transaction is revenue neutral.*

***Funds are nonrecurring and disbursed directly to Florida International University (FIU).*

Appropriations Proviso for the Office, Fiscal Year 2015-16

Public Hurricane Loss Model Collaboration (Specific Appropriation 2479). Funds provided in Specific Appropriation 2479 must be transferred to Florida International University (FIU) and used to promote and enhance collaborative research among state universities. The Florida Public Hurricane Loss Model located at FIU may consult with the private sector and the Florida Catastrophic Storm Risk Management Center located at Florida State University to enhance the marketability, viability, and applications of the Florida Public Hurricane Loss Model. The Office must have the ability to accurately calculate hurricane risk and project catastrophic losses, and nothing shall interfere with or supersede the authority of the Office to enter into agreements with FIU. (Continuation of current year proviso)

Public Hurricane Loss Model Enhancements (Specific Appropriation 2479A). Funds provided in Specific Appropriation 2479A must be transferred to Florida International University for the purpose of enhancing the capability of the Florida Public Hurricane Loss Model to include windstorm and flood damage resulting from hurricanes. Florida International University shall update the Florida Public Hurricane Loss Model in coordination with the Office of Insurance Regulation; the Division of Emergency Management; the Florida Catastrophic Storm Risk Management Center, the Center for Ocean-Atmospheric Prediction Studies, and the Meteorology Department at the Florida State University; the Civil and Coastal Engineering Department at the University of Florida; the Florida Institute of Technology; and the National Oceanic & Atmospheric Administration. (Continuation of current year proviso)

Insurance-Related Appropriations Proviso For Other Agencies, Fiscal Year 2015-16

Department of Financial Services (DFS):

- ***Prosecution of Insurance Fraud.*** Funds in Specific Appropriation 2424 (\$1,559,239) from the Insurance Regulatory Trust Fund are provided for transfer to the Justice Administrative Commission for the specific purpose of funding attorneys and paralegals dedicated solely to the prosecution of insurance fraud cases in Duval, Orange, Miami-Dade, Hillsborough, Palm Beach, and Broward counties. These funds may not be used for any purpose other than the funding of attorney and paralegal positions that prosecute crimes of insurance fraud. (Revised version of current year proviso)
- ***Prosecution of Workers' Compensation Fraud.*** Funds in Specific Appropriation 2468 (\$604,104) from the Workers' Compensation Administration Trust Fund are provided for transfer to the Justice Administrative Commission for the specific purpose of funding attorneys and paralegals in the Eleventh, Thirteenth, Fifteenth, and Seventeenth Judicial Circuits for the prosecution of workers' compensation insurance fraud. These funds may not be used for any purpose other than the funding of attorney and paralegal positions that prosecute crimes of workers' compensation fraud. (Continuation of current year proviso)

Division of Emergency Management (Division):

- **Hurricane Preparedness Campaign.** From the funds provided in Specific Appropriation 2564, \$250,000 is appropriated to the Division of Emergency Management to contract with a not-for-profit corporation to conduct a statewide public education campaign on television and radio to promote hurricane preparedness. Funds must be matched on a 3-to-1 basis. (Recurring proviso)
- **Hurricane Mitigation.** Funds in Specific Appropriation 2581 from the Grants and Donations Trust Fund reflect the transfer of \$3 million of mitigation funds from the Florida Hurricane Catastrophe Fund pursuant to s. 215.555(7)(c), F.S. These funds shall be used to retrofit existing facilities used as public hurricane shelters as specified in section 215.559(1)(b), F.S. (Recurring proviso)

General Appropriations Implementing Act (SB 2502-A, 1st Eng., by Lee)

Action by Governor: Approved (Chapter No. 2015-222, Laws of Florida)

Statutes Affected: Sections of Insurance Code—624.502

Effective date: July 1, 2015

This bill implements SB 2500-A, the General Appropriations Act for Fiscal Year 2015-16. Only one section of the Insurance Code is affected, that being a provision in section 40 of the bill to reenact s. 624.502, F.S., relating to the deposit of fees for service of process made upon the Chief Financial Officer or Office of Insurance Regulation, and providing for deposit of the fees into the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund. Section 85 reenacts without amendment, the state employees' prescription drug program.

State-Administered Retirement Systems (SB 2512-A by Lee)

Action by Governor: Approved (Chapter No. 2015-227, Laws of Florida)

Statute(s) Affected: 112.363, 121.052, 121.055, 121.071, 121.71, 121.74

Effective date: July 1, 2015

The Florida Retirement System (FRS) is the primary retirement plan for employees of the state of Florida and county government agencies, district school boards, and state colleges and universities. The FRS is also the retirement plan for employees of municipalities and independent special districts that have previously made an irrevocable election to participate. This bill conforms statutory law to the retirement and health insurance subsidy contributions included in the Fiscal Year 2015-16 General Appropriations Act. Beginning July 1, 2015, the bill increases the employer contribution for the Retiree Health Insurance Subsidy from 1.26 percent to 1.66 percent of employee gross compensation for each member and class of the FRS. The bill also adjusts the employer-paid contribution rates for normal cost and unfunded actuarial liability for the Florida Retirement System.

GENERAL INSURANCE

Fraud (CS/CS/CS/HB 157 by Passidomo)

Action by Governor: Approved (Chapter No. 2015-166, Laws of Florida)

Statute(s) Affected: 817.032, 817.15, 817.40, 817.411, 817.50, 817.568

Effective date: October 1, 2015

Chapter 817, F.S., contains a variety of statutes relating to fraudulent practices against individuals, corporations, and governments. The bill amends numerous sections of Chapter 817, F.S., to further protect businesses from fraud and business identity theft. Among its provisions, the bill:

- Requires business entities to release documents related to an identity theft incident to a victim after satisfying specified requirements;
- Provides protections for business entities releasing information related to an identity theft incident in good faith;
- Defines the term “business entity” to include the terms “corporation” and “firm”;
- Adds electronic advertisements to the definition of “misleading advertisements”; and,
- Increases the criminal penalty for fraudulently obtaining goods or services from a health care provider from a second degree misdemeanor to a third degree felony.

Insurance (CS/CS/CS/SB 252, 1st Eng., by Smith)

Action by Governor: Approved (Chapter No. 2015-42, Laws of Florida)

Statute(s) Affected: 408.909, 440.13, 624.413, 624.425, 627.211, 627.971

Effective date: July 1, 2015

The bill changes the due dates from January 1 to January 15, for the following reports prepared by the Office of Insurance Regulation: the Health Flex Plan Program Annual report, the Three-Member Panel Biennial report, and the Workers’ Compensation Annual report.

In applying for a certificate of authority, a foreign or alien insurer must provide a copy of the insurer’s most recent examination certified by the insurance regulator of the domiciliary state or state of entry into the United States. The examination must have been conducted within a three-year period preceding the date of application. The bill changes the timeframe from three years to five years.

Currently, property, casualty and surety insurance policies must be countersigned by a Florida-licensed and appointed agent. However, under the bill, the absence of a countersignature does not affect the validity of a policy or contract of insurance. In addition, the bill excludes from the definition of “financial guaranty insurance,” guarantees of higher education loans, unless written by a financial guaranty insurance corporation.

Insurer Notifications (CS/HB 273 by Perry)

Action by Governor: Approved (Chapter No. 2015-170, Laws of Florida)

Statute(s) Affected: 627.421, 627.43141

Effective date: July 1, 2015

Currently, insurance policies must be mailed, delivered, or electronically transmitted to the insured or the person entitled to the policy not later than 60 days after effecting coverage. Under the bill, an insurer may allow a policyholder of personal lines insurance to affirmatively elect delivery of the policy documents, including, but not limited to, policies, endorsements, notices, or documents, by electronic means in lieu of delivery by mail.

Under current law, a renewal policy may contain a change in policy terms. If a change occurs, the insurer must include written notice of the change with the notice of renewal premium. The notice must be entitled "Notice of Change in Policy Terms." The bill specifically requires the notice to be provided in advance, but gives the insurer the option of either providing it with the notice of renewal premium or sending it separately within the timeframe required for notifying a policyholder of nonrenewal. Regardless of the option chosen, the insurer must also provide a sample copy of the notice to the named insured's insurance agent before or at the same time notice is provided to the named insured.

In addition, the bill prohibits insurers from using the statutory Notice of Change in Policy Terms to add any optional coverage to a renewal policy that increases policyholder premium, unless the policyholder affirmatively agrees to adding the optional coverage and so indicates to the insurer or agent. The bill defines "optional coverage" to mean the addition of new insurance coverage not previously requested or approved by the policyholder but does not include any change to the base policy or a deductible or an insurance limit.

Florida Statutes (SB 702 by Simmons)

Action by Governor: Approved (Chapter No. 2015-2, Laws of Florida)

Statute(s) Affected: 624.523, 625.1212, 626.0428, 627.062, 627.745, 627.797

Effective date: On the 60th day after adjournment sine die of the 2015 regular legislative session

This is a general reviser's bill. It includes no substantive changes, only technical revisions such as deleting obsolete language; correcting cross references and grammatical errors; and removing inconsistencies and redundancies in various sections of Florida Statutes, including the Insurance Code.

Florida Statutes (SB 704 by Simmons)

Action by Governor: Approved (Chapter No. 2015-3, Laws of Florida)

Statute(s) Affected: 624.351, 624.352, 626.2815, 636.0145, 641.19, 641.225, 641.386

Effective date: On the 60th day after adjournment sine die of the 2015 regular legislative session

This is a general reviser's bill. It includes no substantive changes, only technical revisions such as deleting obsolete language; correcting cross references and grammatical errors; and removing inconsistencies and redundancies in various sections of Florida Statutes, including the Insurance Code.

Insurance Fraud (CS/CS/HB 1127, 1st Eng., by Sullivan)

Action by Governor: Approved (Chapter No. 2015-179, Laws of Florida)

Statute(s) Affected: 400.993, 400.9935, 626.9894, 626.9895, 921.0022

Effective date: October 1, 2015

Health care clinics are regulated under the Health Care Clinic Act. The purpose of the Act is to “provide for the licensure, establishment, and enforcement of basic standards for health care clinics and to provide administrative oversight by the Agency for Health Care Administration.

Charges and reimbursement claims made by a health care clinic required to be licensed but is not or is operating in violation of applicable statutes, are unlawful, noncompensable, and unenforceable. The bill applies this standard regardless of whether or not the claim is paid and expressly defines (clarifies) these charges or claims as theft.

Under Florida law, various offenses related to unlicensed clinic activities are punishable as a felony. For example, a person offering or advertising unlicensed health care services; performing unlicensed health care clinic services; or owning, operating, or maintaining an unlicensed health care clinic; commits a felony of the third degree. Also, a person knowingly filing false or misleading information in a license application or renewal application for health clinic licensure commits a third degree felony. The bill consolidates these existing criminal offense provisions into a single subsection of statute.

The bill creates a new third degree felony offense in the case of any person who knowingly fails to report a change in information contained in the most recent health care clinic license application or a change regarding the required insurance or bonds. Changes must be reported within 21 days of their occurrence.

Under current law, the Division of Insurance Fraud within the Department of Financial Services (DFS) is authorized to establish a direct-support organization to support the prosecution, investigation, and prevention of motor vehicle insurance fraud, known as the “Automobile Insurance Fraud Strike Force” (Strike Force). The bill repeals this authority. It removes cross-references related to the Strike Force and eliminates DFS rulemaking authority related to the Strike Force.

The bill amends the offense severity ranking chart to reflect the changes made by the bill. The titles of relevant offenses are updated consistent with the bill and additions are made to the chart consistent with the bill.

Division of Insurance Agent and Agency Services (CS/CS/HB 1133, 1st Eng., by Fant)

Action by Governor: Approved (Chapter No. 2015-180, Laws of Florida)

Statute(s) Affected: 626.015, 626.0428, 626.221, 626.241, 626.2817, 626.311, 626.732, 626.7351, 626.7354, 626.748, 626.753, 626.7851, 626.8311, 626.9541, 627.4553, 631.341

Effective date: July 1, 2015

The Department of Financial Services (DFS) is the state agency responsible for regulation and licensure of insurance agents and agencies. The bill amends the insurance agent and agency licensure laws. The following changes are among the major provisions of the bill:

Under current law, general lines agents may transact health insurance only when transacted by an insurer also represented by the same agent as to property or casualty or surety insurance. The bill removes this limitation.

Under current law, an agent-in-charge must be licensed and appointed to transact the lines of insurance being handled at the business location. The bill changes this requirement to at least two of the lines of insurance. However, if the business location only handles one line of insurance, then the agent-in-charge must hold the agent license necessary to transact that line of insurance.

The bill revises the examination requirements for various types of agent licenses. It repeals the examination requirement for licensure as a customer representative. Applicants for a customer representative license will qualify if they have achieved certain specified professional designations or a qualifying academic degree within four years prior to making application. Under current law, applicants for a general lines agent license are exempt from the examination requirement if they receive the Chartered Property Casualty Underwriter (CPCU) professional designation. The bill extends this exemption to personal lines agents and all-lines adjusters. It also specifies an additional designation qualifying an all-lines adjuster for an examination exemption. The bill also exempts general lines agents, personal lines agents, life agents, health agents, and all-lines adjusters from the examination requirement if they obtain a qualifying academic degree. It also eliminates the examination exemption limitations applicable to license transferees from other states. Non-resident agent applicants may also receive an examination exemption if they hold a comparable license in another state with similar examination requirements.

The bill requires attendees to complete 75 percent of the course hours in a DFS-approved pre-licensure course to receive credit. This replaces a DFS rule that was repealed for lack of rulemaking authority.

The bill revises knowledge, experience, or instruction requirements governing applicants for licensure as a service representative, general lines agent, personal lines agent, life agent, or health agent. The bill adds annuities to the subjects included on a life agent's licensure examination. It eliminates the 100-question requirement for licensure examinations for a personal lines agent.

Under current law, the DFS may not issue a customer service license to an applicant who has not completed certain specified coursework two years prior to filing an application. Under the bill, the time period is changed to four years and includes earning one of several specified professional designations as an alternative to the coursework requirement, or obtaining a qualifying degree. The bill permits a customer representative to share in an agent's commissions, if the customer representative is primarily paid by salary. It permits agents to divide commissions with customer representatives.

The bill establishes a mandatory five year records retention requirement for insurance agents. It eliminates a required form relating to an agent recommendation to surrender an annuity or life insurance policy and revises the minimum information that must be provided to a consumer prior to surrendering an annuity or life insurance policy surrendered upon agent recommendation. It defines the term "surrender." References to correspondence courses are deleted to allow a greater variety of instructional methods. Finally, the bill allows an agent to provide a policyholder with notice of the insolvency of a delinquent insurer by e-mail with delivery receipt required as an alternative to registered or certified mail.

INSURER SOLVENCY AND FINANCIAL OVERSIGHT

Insurance Guaranty Associations (CS/HB 189 by Cummings)

Action by Governor: Approved (Chapter No. 2015-167, Laws of Florida)

Statute(s) Affected: 625.012, 631.717, 631.737

Effective date: July 1, 2015

Five insurance guaranty funds operate in Florida. The bill amends provisions relating to the Florida Insurance Guaranty Association (FIGA)—which pays the covered claims of insolvent property and casualty insurers—and the Florida Life and Health Insurance Guaranty Association (FLAHIGA)—which pays the covered claims of most insolvent life and health insurers.

For FIGA, the bill clarifies the accounting treatment of FIGA assessments and mitigates the negative effect on insurer net worth resulting from a 2011 change to applicable statutory accounting principles. For FLAHIGA, the bill clarifies its statutory duty to review the policies, contracts, and claims of insolvent life and health insurers following both domestic and foreign liquidations or rehabilitations.

Florida Insurance Guaranty Association (CS/SB 836 by Latvala)

Action by Governor: Approved (Chapter No. 2015-65, Laws of Florida)

Statute(s) Affected: 627.727, 631.54, 631.55, 631.57, 631.64

Effective date: July 1, 2015

The Florida Insurance Guaranty Association (FIGA) is one of five insurance guaranty funds operating pursuant to Florida statutes. It pays the covered claims of insolvent property and casualty insurers. For this purpose, an “insolvent insurer” is a “member insurer authorized to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction if such order has become final by the exhaustion of appellate review.”

Generally, insurers must pay regular assessments within 30 days of the levy, and emergency assessments can be paid in a single payment, or over 12 months, at the option of FIGA. For both types of assessments, once an insurance company pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at policy issuance or renewal.

The bill amends statutory provisions relating to FIGA assessments against insurers, and insurer recoupment of these assessments from policyholders. It defines the term “assessment year.” It replaces insurer use of a separate recoupment percentage with use of the uniform assessment percentage levied by the Office of Insurance Regulation (Office).

The bill provides that assessments paid before policy surcharges are collected and which result in a receivable for future policy surcharge collections are an admissible asset for purposes of statutory accounting treatment. The asset must be established and recorded separately from the liability regardless of whether or not it is based on a retrospective or prospective premium-based assessment. The bill sets forth the required process

for levying assessments using this method. The Office must specify the annual percentage amount to be collected uniformly from all policyholders subject to the assessment and the date the assessment year begins. Insurers must make an initial payment to FIGA before the assessment year begins or the date set forth in the Order. The bill outlines the basis for the initial payment.

In the alternative, the bill authorizes FIGA to use a monthly installment method for the collection of emergency or regular assessments from insurers in addition to the current pay and recoup method, or a combination of both. Under the monthly method, the insurer remits assessments after policy surcharges are collected. An insurer that did not write insurance in the prior year is required to pay an assessment based on an estimate of premiums it will write in the assessment year. The bill streamlines the reconciliation of collections and eliminates a regulatory filing with the Office. The bill exempts regular assessments from the insurance premium tax.

LIFE AND HEALTH INSURANCE

Experimental Treatments for Terminal Conditions (CS/CS/HB 269 by Pilon)

Action by Governor: Approved (Chapter No. 2015-107, Laws of Florida)

Statute(s) Affected: 499.0295

Effective date: July 1, 2015

The U.S. Food and Drug Administration (FDA) has regulatory authority over what drugs are marketed and sold within the United States. Investigational or experimental drugs have not been approved by the FDA and are in the process of being tested for safety and effectiveness. Approval of an investigational drug by the FDA can take many years.

The bill creates the "Right to Try Act." It creates a framework for a manufacturer to provide a post-phase 1 investigational drug, biological product, or device to an eligible patient with a terminal condition, bypassing the FDA emergency use expanded access program. The bill requires certain information and attestations in an informed consent document, signed by the patient or the patient's parent, guardian, or health care surrogate and provided to the manufacturer, to receive the investigational drug, biological product, or device.

The bill protects a physician from disciplinary action for recommending an investigational drug. Health plans, third party administrators, or governmental agencies are allowed to pay for investigational drugs. It provides liability protection for manufacturers, persons, and entities involved in the use of the investigational drug and protection for hospitals against providing new or additional services associated with the investigational drug unless approved by the hospital or facility. The bill also removes liability for the heirs of an eligible patient for any outstanding debt associated with the use of the investigational drug.

The bill defines an "eligible patient" as a person documented by his or her physician as having a terminal condition attested to by the patient's physician and confirmed by a second independent evaluation by a board-certified physician in an appropriate specialty for that condition; considered all other treatment options currently approved by the FDA; and given written informed consent for the use of an investigational drug, biological product, or device. It also defines an "investigational drug, biological product, or device" as a drug,

biological product, or device that has successfully completed phase 1 of a clinical trial but has not been approved for general use by the United States FDA and remains under investigation in a clinical trial approved by the FDA.

Long-Term Care Insurance (SB 520 by Grimsley)

Action by Governor: Approved (Chapter No. 2015-21, Laws of Florida)

Statute(s) Affected: 627.94072

Effective date: July 1, 2015

Nonforfeiture protection provisions are contractual arrangements triggered when a long-term care policy ends, leaving the policyholder with some benefit from paying into the policy but never using it. Current law requires insurance companies to offer a nonforfeiture protection provision with long-term care policies in the form of “reduced paid-up insurance, extended term, shortened benefit period, or any other benefit approved by the [Office of Insurance Regulation] if all or part of a premium is not paid.” The policyholder may purchase a nonforfeiture provision for an additional premium. This bill creates an additional nonforfeiture protection provision the insurer may offer to the insured. The bill authorizes an insurer to offer a nonforfeiture protection provision in the form of a return of premium upon the death of the insured or upon the complete surrender or cancellation of the policy or contract.

Limited Liability Companies (CS/CS/CS/HB 531, 1st Eng., by McGhee, Spano)

Action by Governor: Approved (Chapter No. 2015-148, Laws of Florida)

Statute(s) Affected: Section 33—Section 636.204

Effective date: July 1, 2015, except as otherwise provided (Section 33 takes effect upon becoming a law and is effective retroactively to January 1, 2015)

The bill revises a cross-reference to the successor to the predecessor act regulating limited liability companies with the Revised Limited Liability Company Act.

Employee Health Care Plans (CS/CS/HB 731 by Plakon)

Action by Governor: Approved (Chapter No. 2015-121, Laws of Florida)

Statute(s) Affected: 627.6699, 627.66997, 627.642, 627.6475, 627.657, 627.6571, 627.6675, 641.31074, 641.3922

Effective date: July 1, 2015

The Florida Employee Health Care Access Act (Act) requires health insurers and HMOs in the small group market to offer coverage to all small employers. The Patient Protection and Affordable Care Act (PPACA) has made many fundamental changes affecting the small group market. The bill amends the Act to remove multiple provisions viewed as out of date or in conflict with PPACA such as requirements:

- that a small employer carrier offer standard, basic, and high deductible plans as a condition of transacting business in Florida.
- for an annual August open enrollment period for sole proprietors.

- for small employer carriers to submit a semiannual report to the Office concerning the use of rating factors to adjust premiums.
- to develop agent compensation standards for the sale of basic and standard health plans.
- for the Chief Financial Officer (CFO) to appoint the health benefit plan committee, as well as the duties of that committee.

It also repeals a provision that reinsurance premium rates be indexed to approximate gross premium rates of standard and basic health plans.

In a newly created section of Florida Statutes, the bill exempts small employer self-insured health benefit plans from the requirements of the Act and permits these plans to use a stop-loss insurance policy issued to the employer. The bill defines “stop-loss insurance policy.” The bill considers a stop-loss policy a health insurance policy subject to the Act if it has an aggregate attachment point lower than the greater of \$2,000 multiplied by the number of employees; 120 percent of expected claims, as determined by the stop-loss insurer; or \$20,000. The stop-loss policy must cover 100 percent of all claims in excess of the aggregate attachment point. In the case of a self-insured health benefit plan maintained by an employer with 51 or more covered employees, the bill considers it to be health insurance if the stop-loss coverage has an aggregate attachment point lower than the greater of 110 percent of expected claims, as determined by the stop-loss insurer; or \$20,000. Stop-loss insurance carriers are required under the bill to use a consistent basis for determining the number of covered employees. One basis permitted under the bill is the average number of employees employed annually or at a uniform time.

Continuing Care Communities (CS/HB 749 by Van Zant)

Action by Governor: Approved (Chapter No. 2015-122, Laws of Florida)

Statute(s) Affected: 651.055, 651.028, 651.071, 651.105, 651.081, 651.085, 651.091

Effective date: October 1, 2015

A continuing care retirement community (CCRC) is a retirement community offering a continuum of services and living arrangements at a single location. These include independent living apartments, assisted living, memory support care, and skilled nursing care. The Department of Financial Services, Agency for Health Care Administration and the Office of Insurance Regulation regulate the 71 CCRCs in Florida.

Upon contracting with a CCRC, residents must pay an entrance fee. The contract must specify the terms for receiving a refund of this fee. If the contract does not give the resident a transferable membership or ownership right in the facility, and the resident has occupied his or her unit, the refund must be calculated on a pro-rata basis with the facility retaining up to two percent per month of occupancy by the resident and up to a five-percent processing fee, the balance of which must be paid within 120 days after the resident gives notice of intent to cancel. Similarly, a contract may provide a one percent declining-scale refund, paid from the proceeds of the next entrance fees received by the provider for units for which there are no prior claims.

Among the many revisions, the bill:

- requires a CCRC contract paying a two percent refund to pay it within 90 days after contract termination and vacation of the unit, instead of 120 days after the notice of intent to cancel;
- requires a CCRC contract paying a one percent refund to pay it for the vacated unit, or a like or similar unit, whichever is applicable, by specified time frames;
- clarifies that CCRCs must be accredited without stipulation or condition before the Office may waive applicable statutory requirements;
- makes a CCRC contract a preferred claim in receivership or liquidation proceedings;
- requires the Office to notify the executive officer of the CCRC provider governing body of all deficiencies found during an examination;
- requires a CCRC to provide a copy of any final examination report and corrective action plan to the executive officer of the provider governing body within 60 days after the report is issued;
- requires all CCRCs to establish residents' councils to receive feedback on subjects affecting their quality of life and do so through an election by the residents (the bill provides mandatory attributes of a residents' council);
- authorizes the provider board of directors or governing board to allow a facility resident to be a voting member of the facility board or governing body; and
- requires all CCRCs to provide a copy of the most recent third-party financial audit to the chair or president of the residents' council within 30 days of filing the annual report with the Office.

Blanket Health Insurance Eligibility (CS/CS/HB 893 by Ingoglia)

Action by Governor: Approved (Chapter No. 2015-124, Laws of Florida)

Statute(s) Affected: 627.659

Effective date: July 1, 2015

Under current law, blanket health insurance is a form of health insurance covering special groups of individuals enumerated in Florida law such as a college, the Boy Scouts of America, or a volunteer fire department. The bill amends provisions which apply to the existing list of groups, and adds the following groups to the current list:

- a sports team, camp, or team or camp sponsor, covering members, campers, participants, employees, officials, or supervisors;
- a travel agency or other organization providing travel-related services, covering any or all persons for whom travel and travel-related services are provided;
- an association, if the association has a constitution and bylaws, has at least 25 individual members, and has been organized and maintained in good faith for at least one year for purposes other than obtaining insurance, covering all or any class of members; and
- a financial institution or parent holding company, or issued to the trustees or agents designated by one or more banks or financial institutions covering accountholders, cardholders, debtors, or guarantors.

Long-Term Care Ombudsman Program (CS/SB 7018, 1st Eng., by Children, Families & Elder Affairs)

Action by Governor: Approved (Chapter No. 2015-31, Laws of Florida)

Statute(s) Affected: 20.41, 400.006-400.235, 415.102-402.107, 429.02, 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, 429.85

Effective date: July 1, 2015

The bill revises the operating structure and internal procedures of the State Long-Term Care Ombudsman Program (State Program), housed in the Department of Elder Affairs (DOEA), to reflect current practices, maximize operational and program efficiencies, and conform to the federal Older Americans Act. The bill revises the appointment process for three at-large positions to the State Long-Term Care Council. These three appointments will no longer be made by the Governor, but instead by the DOEA Secretary.

Under the bill, the State Ombudsman, the employee of the state or district office certified as an ombudsman or an individual certified as an ombudsman serving on the state or a local council will be the statutorily designated representatives of the State Program. The bill transfers various duties currently assigned to the local councils to these representatives, and includes the additional duty of providing technical assistance for the development of resident and family councils at long-term care facilities.

The bill establishes districts. The State Ombudsman is made responsible for designating the districts and the districts for designating the local councils, rather than having the State Ombudsman designate the councils. A district may consist of one or more local councils. The bill also permits each local council to select a representative of its choice to serve on the state council, rather than having to choose from among council members as required under current law. It also requires the State Ombudsman to ensure that at least one DOEA employee is certified as a long-term care ombudsman and at least one local council is operating within each district. Each district must meet at least once quarterly.

The bill renders certain categories of individuals ineligible for appointment as an ombudsman. The State Ombudsman must approve or deny the appointment of individual ombudsmen. The bill extends the conflict of interest provisions to all representatives of the State Program. Under current law, local councils must conduct annual on-site administrative assessments of each nursing home, assisted-living facility and adult family-care home. The bill transfers this responsibility to a representative of the State Program and requires the assessment to be resident-centered. It also authorizes the DOEA to adopt rules for these procedures. Finally, the bill amends provisions relating to the resolution of complaints and the notification process in the event of imminent danger to the health, safety, welfare or rights of a resident, to conform to newly defined terms and to clarify complaint reporting procedures.

PROPERTY AND CASUALTY INSURANCE

Construction Defect Claims (CS/CS/CS HB 87 by Passidomo)

Action by Governor: Approved (Chapter No. 2015-165, Laws of Florida)

Statute(s) Affected: Section 3 of the bill—s. 558.004, F.S.

Effective date: October 1, 2015

Currently, in actions brought alleging a construction defect, the claimant must serve written notice of claim on the contractor, subcontractor, supplier, or design professional, at least 60 days before filing any action, or at least 120 days before filing an action involving an association representing more than 20 parcels. Within 15 days after serving the notice of claim, or within 30 days after serving the notice of claim involving an association representing more than 20 parcels, the contractor, subcontractor, supplier, or design professional must serve a written response to the person who served the notice of claim. Upon request, the claimant and any person served with notice must exchange various items such as reproductions, videos or photos of the construction defect. The bill expands this list to include maintenance records and other documents related to the discovery, investigation, causation, and extent of the alleged defect identified in the notice of claim and any resulting damages. However, the bill expressly authorizes a party to assert any claim of privilege recognized under Florida law regarding any of the specified disclosure obligations.

The notice of claim must describe the claim in reasonable detail sufficient to determine the general nature of each alleged construction defect and include a description of the damage or loss. As amended, the bill requires more specificity by requiring the claim to describe the nature of the defect, rather than the “general” nature of the defect as required under current law. Also, based upon at least a visual inspection by the claimant or its agents, the bill requires the notice of claim to identify the location of each alleged construction defect sufficiently to enable the responding parties to locate the alleged defect without undue burden. The claimant has no obligation to perform destructive or other testing to fulfill the requirements of this notice.

Under the bill, the response to the notice of claim must indicate whether or not the person served is willing to make repairs, settle the claim with a monetary offer, or both, or whether or not the contractor disputes the claim, or the contractor’s insurer will cover the claim. Under current law, providing a copy of the presuit notice to the contractor’s insurer does not constitute a claim for insurance purposes, unless permitted under the contractor’s insurance policy. Finally, the bill includes a “temporary” certificate of occupancy in the definition of “completion of a building or improvement.”

Property and Casualty Insurance (CS/CS/CS/HB 165, 1st Eng., by Santiago)

Action by Governor: Approved (Chapter No. 2015-135, Laws of Florida)

Statute(s) Affected: 627.062, 627.0628, 627.0645, 627.3518, 627.4133, 627.7074, 627.736, 627.744, 631.65

Effective date: July 1, 2015

This bill makes a number of technical and substantive revisions to various property and casualty insurance laws, from property insurance ratemaking to Personal Injury Protection (PIP) reimbursements.

With respect to property insurance rate filings, current law requires an insurer to use without modification or adjustment, actuarial methods, principles, standards, models, or output ranges found to be accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology (Commission) in determining hurricane loss factors. The bill extends this provision to Commission determination of probable maximum loss levels. The bill allows insurers to use hurricane loss projection models and estimates of probable maximum losses in a rate filing for 120 days following the stated expiration date of the model, rather than 60 days. The bill also clarifies that insurers writing commercial property and casualty insurance, other than commercial residential multi-peril, must make an annual base rate filing for each such line at least once annually, demonstrating that its rates are not inadequate. Under current law, both commercial multiple line and commercial motor vehicle are exempted from this filing frequency requirement.

Under current law, residential property insurers must give the first-named insured written notice of nonrenewal, cancellation, or termination at least 100 days in advance of the effective date. However, if the nonrenewal, cancellation or termination would take effect between June 1 and November 30, the insurer must notify the first-named insured at least 100 days in advance or by June 1, whichever is earlier. The June 1 notice requirement does not apply, but the 100-day notice requirement does apply, to a policy that is nonrenewed because of a revision in the coverage for sinkhole losses and catastrophic ground cover collapse. The bill replaces these notice provisions with a uniform 120-day advance notice requirement.

Currently, insurers must notify policyholders of their right to participate in a neutral evaluation program following the receipt of the sinkhole loss report or denial of a sinkhole claim. The bill requires the insurer to do this if there is coverage available under the policy and the claim was submitted within two years after the policyholder knew or reasonably should have known about the sinkhole loss.

For purposes of PIP coverage, the bill makes the applicable fee schedule or payment limitation under Medicare the fee schedule or payment limitation in effect on March 1 of the “service” year in which the services, supplies or care is rendered. The bill defines “service year” as the period from March 1 through the end of February of the following year. This change aligns the period in which PIP medical services were rendered with the year the applicable reimbursement fee schedule is in effect (i.e., the service year defined above).

Under current law, clinics must be licensed in order to receive reimbursement under the PIP law for services rendered. Certain specified entities are not subject to this licensure requirement as a condition of receiving reimbursement. The bill makes an additional facility exempt from the licensure requirement under the Florida Motor Vehicle No-Fault Law—clinics that are certified under federal law and exempt from state health care clinic licensure. Under federal law, these are clinics defined as being established primarily to furnish outpatient physician services in which the medical services are furnished by a group of three or more physicians practicing medicine together; and in which a physician is present during all hours of operation of the clinic to furnish medical services, as distinguished from purely administrative services.

Under current law, a private passenger motor vehicle insurance policy providing physical damage coverage, including collision or comprehensive coverage, may not be issued in this state unless the insurer has inspected the motor vehicle in accordance with Florida law. This requirement does not apply to a policy for a

policyholder insured without interruption for at least two years if the agent verifies the prior coverage. The bill revises current law to provide that the exception applies if the policy provides coverage for “any” vehicle.

The bill also exempts leased vehicles from motor vehicle pre-insurance inspections. Insurers may elect whether or not to require receipt of certain documents related to the vehicle. It adds the vehicle’s registration and removes the dealer’s invoice from the documents that the insurer may require at the time of insuring a new, unused motor vehicle and limits claim reimbursement and property damage coverage suspension based on the timing of document delivery, if the insurer elected to require the documents.

Finally, the bill retains current provisions allowing insurers to include Florida Insurance Guaranty Association (FIGA) coverage information in their advertising and sales efforts, but will now specifically require that they explain the limits of the FIGA coverage.

Eligibility for Coverage by Citizens Property Insurance Corporation (CS/HB 715 by Raschein)

Action by Governor: Approved (Chapter No. 2015-94, Laws of Florida)

Statute(s) Affected: 627.351, 627.712

Effective date: July 1, 2015

Under current law, Citizens Property Insurance Corporation (Citizens) may not provide coverage for a newly constructed or substantially improved “major structure,” as defined in s. 161.54(6)(a), located seaward of the coastal construction control line or within the federal Coastal Barrier Resources System. “Major structure” encompasses virtually all residential and commercial buildings. A substantial improvement generally encompasses any repair, reconstruction, rehabilitation, or improvement to a structure that costs 50 percent or more of the market value of the structure. A property owner who incurs a catastrophic loss would likely exceed the threshold in rebuilding the property.

The bill retains the current prohibition on coverage of a newly constructed major structure. However, it removes the prohibition on coverage for any major structure that is substantially improved pursuant to a building permit applied for on or after July 1, 2015, and replaces it with a prohibition on coverage for a major structure that is “rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by more than 25 percent” pursuant to a permit applied for after July 1, 2015.

Title Insurance (CS/HB 927, 1st Eng., by Hager)

Action by Governor: Approved (Chapter No. 2015-154, Laws of Florida)

Statute(s) Affected: 631.401

Effective date: July 1, 2015

Title insurance insures owners of real property or others having an interest in real property, such as lenders, against loss by encumbrance; defective title; invalidity; or adverse claim to title. The Office of Insurance Regulation (Office) licenses title insurers. The Department of Financial Services manages insolvent title insurers in its role as “receiver,” typically through rehabilitation.

As a condition of doing business in this state, each title insurer is liable for assessments to pay all unpaid title insurance claims and the expenses of administering and settling claims on real property in this state for any title insurer ordered into rehabilitation. Upon making any assessment, the Office must order a surcharge amount on each title insurance policy thereafter issued.

If additional surcharges become necessary because additional title insurers become impaired, the Office must order an increase in the amount of the surcharge to reflect the aggregate surcharge. Under the bill, if a surcharge is currently in effect, the Office must order an additional surcharge amount. Surcharges are retained by the insurer until they recover their assessment payments.

Under current law, the office must set the per transaction surcharge at an amount estimated to generate sufficient funds to recover the amount assessed over a period of seven years; however, the surcharge amount may not exceed \$25 per transaction for each impaired title insurer. The surcharge currently in force amounts to \$3.28 per policy.

Under current law, title insurers doing business in this state but not subject to a given assessment in the prior calendar year must nevertheless collect the same per transaction surcharge and pay it to the receiver within 60 days of receipt. The receiver must keep the funds in an excess surcharge account. Under the bill, these funds may only be used to reduce or eliminate the amount of a future assessment or the time that consumers are subject to surcharges by transferring excess surcharges to title insurers that have not fully collected surcharges equal to the amount of the aggregate assessments paid by title insurers. If the receiver has no active title insurer receiverships for 12 consecutive months, or if there have been no payable claims against any title insurer receivership for 60 consecutive months, all excess surcharges must be paid into the Insurance Regulatory Trust Fund (IRTF). Currently, all excess funds are immediately deposited into the IRTF.

Excess surcharges are paid to the IRTF under current law and under the bill. Excess surcharge collections do not reduce future assessments or assist insurers that are slow to recover their payments. The surcharges cease once all insurers recover their assessment payment. Under current law, a title insurer may not retain more in surcharges than the assessment paid by that insurer. The bill permits a title insurer to retain the amount of aggregate assessments paid by the insurer. Also, the bill provides that any surcharges collected in excess of the amount of the aggregate assessments paid by a title insurer must be paid quarterly to the receiver to be maintained in the excess surcharge account. The term "aggregate assessments" means the total amount of all assessments ordered by the Office. The bill authorizes the Financial Services Commission (FSC) to adopt rules specifying procedures for the collection, use, and transfer of surcharges, including excess surcharges. Finally, the bill removes language limiting the surcharge to one per insolvent company, permitting the receiver to adjust the surcharge amount related to a particular company; requires transaction settlement statements to specify that the surcharge amount is a "surcharge" and not premium; and allows the Office to end surcharges once all actively writing title insurers recover the assessment.

Operations of the Citizens Property Insurance Corporation (CS/CS/HB 1087, 1st Eng., by Bileca)

Action by Governor: **VETOED** (June 2, 2015)

Statute(s) Affected: 627.351

Effective date: July 1, 2015

Under current law, Citizens Property Insurance Corporation (Citizens) must appoint as agents only those with an appointment from an insurer authorized to write and who is writing or renewing residential or nonresidential property coverage. The bill amends this requirement by making it apply throughout the length of the appointment by Citizens.

It also restricts general lines insurance agent use of Citizens' underwriting and confidential claims files to the development of a take-out plan to be submitted to the Office of Insurance Regulation (Office) for approval or otherwise analyzing the underwriting of a risk or risks insured by Citizens on behalf of the private insurance market. The agent receiving this information may not use it for the direct solicitation of policyholders. An entity that has obtained a permit to become an authorized insurer, a reinsurer, a reinsurance broker, or a modeling company may receive the information available to a licensed general lines agent for the sole purpose of analyzing risks for underwriting in the private insurance market and must also maintain the confidentiality of the information received.

Under the bill, after January 1, 2016, for a policy to be removed from Citizens, Citizens will be required to inform policyholders if one or more insurers demonstrate an interest in taking out that policy. This demonstration of interest must include the amount of the estimated premium, a description of the coverage, including an explanation of differences, and a comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the Citizens. Citizens must develop a uniform format for the estimated premium and coverage information.

A policyholder may elect not to be solicited for take-out offers more than once in a six-month period. In addition, the bill treats a policyholder whose policy was taken out by an insurer in the previous 36 months as a renewal policyholder for purposes of the Citizens clearinghouse program, if the corporation determines the insurer continues to insure the policyholder and the initial premium of the insurer exceeded its estimated premium by more than 10 percent or the insurer increased the rate on the policy in excess of the increase allowed for Citizens.

Peril of Flood (CS/CS/CS/SB 1094, 2nd Eng., by Brandes)

Action by Governor: Approved (Chapter No. 2015-69, Laws of Florida)

Statute(s) Affected: 163.3178, 472.0366, 627.715

Effective date: July 1, 2015

The bill addresses the peril of flood from a land use and insurance standpoint. It requires the redevelopment component of the coastal management element of local comprehensive plans to: include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas;

encourage the use of best practices; identify site development techniques to reduce flood losses; be consistent with or more stringent than flood-resistant construction techniques in the Florida Building Code and applicable federal flood plain management regulations; and encourage local governments to participate in the federal flood insurance program community rating system.

Beginning January 1, 2017, the bill requires surveyors and mappers to provide the Division of Emergency Management with a copy of each federal flood insurance program elevation certificate completed within 30 days of completion. They may redact the name of the property owner. The bill also amends provisions adopted as part of the flood insurance legislation enacted during the 2014 Session. Under current law, flood insurance policies may be issued on a standard, preferred, customized or supplemental basis. The bill provides a fifth—flexible flood insurance. Flexible flood insurance must cover losses from the peril of flood and may also include coverage for losses from water intrusion originating from outside the structure not otherwise covered by the definition of flood. Flexible flood insurance must include one or more of the following provisions:

- limiting flood coverage to a specified amount, such as an outstanding mortgage
- requiring a deductible in an amount authorized under s. 627.701, F.S.
- requiring flood loss to a dwelling be adjusted on the basis of actual cash value
- limiting flood coverage to the principal building defined in the policy
- including or excluding coverage for additional living expenses
- excluding coverage for personal property or contents as to the peril of flood

The bill repeals a provision providing that supplemental flood insurance does not include excess flood coverage.

Under current law, any restrictions on policy limits must be prominently noted on the policy declarations page or face page. The bill specifically includes deductibles in this requirement. In addition, if the Office of Insurance Regulation (Office) finds flood rates are excessive or unfairly discriminatory, the bill requires the Office to appropriately credit existing policyholders or refund those not still insured by the insurer.

Finally, under the bill, insurers may ask the Office to certify the flood coverage meets or exceeds that provided under the federal program. Before the Office can do so, the insurer must include a policy provision stating that it meets private flood insurance requirements established under applicable federal law. The insurer or agent may reference this certification in its advertising or communications with private lenders and specified others. The bill makes it an unfair or deceptive act under Florida law for an insurer or agent to knowingly misrepresent the certification status of a policy, contract or endorsement.

Motor Vehicle Insurance (CS/HB 4011 by Goodson)

Action by Governor: Approved (Chapter No. 2015-158, Laws of Florida)

Statute(s) Affected: 627.041, 627.728

Effective date: July 1, 2015

Private passenger motor vehicle insurance is not written for automobiles used for commercial purposes. Current law limits private passenger motor vehicle policies to no more than four vehicles per policy. If there

are more than four such vehicles in the household, the consumer must purchase and the insurer must underwrite multiple policies. According to the legislative analysis for this bill, an estimated 51,408 households in the state have five or more vehicles available.

The bill removes the four vehicle maximum from the definition of “motor vehicle insurance” in the insurance rating law, and from the definition of “policy” for motor vehicle insurance regulatory purposes, to allow vehicle owners to purchase, and insurers to issue, single policies covering any number of private passenger motor vehicles, rather than just four or fewer vehicles per policy.

OFFICE ADMINISTRATION AND OPERATIONS

Agency Inspectors General (CS/CS/CS/HB 371 by Raulerson)

Action by Governor: Approved (Chapter No. 2015-173, Laws of Florida)

Statute(s) Affected: 14.32, 20.055

Effective date: July 1, 2015

The agency head or, for agencies under the jurisdiction of the Governor, the Chief Inspector General:

- must initiate a national search for an inspector general and set the salary of the inspector general within 60 days after a vacancy occurs or is anticipated to occur.
- may appoint other office of inspector general management personnel as interim inspector general until such time as a successor inspector general is appointed, in the event of a inspector general vacancy.

A former or current elected official may not be appointed inspector general within five years after the end of the official’s period of service. This restriction does not prohibit the reappointment of a current inspector general.

For state agencies under the jurisdiction of the Governor, the bill provides the general supervision the agency head exercises over the inspector general is for administrative purposes. For agencies under the jurisdiction of the Governor, the inspector general must be selected on the basis of integrity, leadership capability, and experience in accounting, auditing, financial analysis, law, management analysis, program evaluation, public administration, investigation, criminal justice administration, or other closely related field. The inspector general is subject to a level two background screening. The inspector general shall have a four-year degree from an accredited institution of higher learning or have at least five years of experience in at least one of several specified areas. An advanced degree in law, accounting, public administration, or other relevant field may substitute for one year of required experience.

The bill requires the inspector general to possess at appointment, or obtain within the first year after appointment, a certification from the Association of Inspectors General as a certified inspector general. The inspector general must have one or more other professional certifications specified in the bill. The inspector general may not hold, or be a candidate for, an elective office of the state or a municipality, county, or other political subdivision of the state while inspector general, and a current officer or employee of an office of

inspector general may not hold, or be a candidate for, an elective office of the state or a municipality, county, or other political subdivision of the state. The inspector general may not hold office in a political party or political committee. An employee of an office of inspector general may not hold office in a political party or political committee while employed in the office of inspector general.

The bill makes it the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. Beginning July 1, 2015, each contract, bid, proposal, and application or solicitation for a contract must contain a statement that the corporation, partnership, or person understands and will comply with this requirement.

As specified in the bill, the Chief Inspector General or his or her designee may hire or retain legal counsel; issue and serve subpoenas and subpoenas duces tecum, for agencies under the jurisdiction of the Governor, to compel the attendance of witnesses and the production of documents, reports, answers, records, accounts, and other data in any medium; and require or permit a person to file a statement in writing, under oath or otherwise, as to all the facts and circumstances concerning the matter to be audited, examined, or investigated. In the event of noncompliance with a subpoena, the Chief Inspector General may petition the circuit court of the county in which the person subpoenaed resides or has his or her principal place of business for an order requiring the subpoenaed person to appear and testify and to produce documents, reports, answers, records, accounts, or other data as specified in the subpoena.

Emergency Management (CS/SB 620 by Richter)

Action by Governor: Approved (Chapter No. 2015-55, Laws of Florida)

Statute(s) Affected: 252.921, 252.9335

Effective date: Upon becoming a law

Florida is a member of the Emergency Management Assistance Compact (s. 252.921, F.S.). The Compact provides a mechanism for mutual assistance among the states in managing any state-declared emergency or disaster from a variety of enumerated sources. It also provides for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies.

The bill provides State of Florida travel expense reimbursement limits do not apply to a state or political subdivision employee traveling under the Compact when these expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

Maintenance of Agency Final Orders (CS/HB 985 by Eisnagle)

Action by Governor: Approved (Chapter No. 2015-155, Laws of Florida)

Statute(s) Affected: 119.021, 120.53, 120.533, 213.22

Effective date: July 1, 2015

State agencies have been permitted to satisfy the requirement that final agency orders be publicly accessible by electronically transmitting a copy of its final orders to the Division of Administrative Hearings (DOAH) for

access through the DOAH website. The bill requires all agencies to use the DOAH website for publication of final orders required to be maintained for public access. Other methods of maintaining and accessing pre-existing orders will continue indefinitely. The bill also provides expanded rulemaking authority to the Department of State to coordinate and set standards on transmittal of certified copies of final orders and to assure integrity of the online documents and satisfactory operation of storage and retrieval functions assigned to DOAH.

Administrative Procedures (HB 7023, 1st Eng., by Rulemaking Oversight & Repeal Subcommittee)

Action by Governor: Approved (Chapter No. 2015-162, Laws of Florida)

Statute(s) Affected: 120.54, 120.74, 120.745, 120.7455

Effective date: July 1, 2015

Agencies are required to review their existing rules to identify and correct deficiencies, improve efficiencies, reduce paperwork and costs, clarify and simplify text, and revise or delete rules that become obsolete, or are unnecessary or redundant per statute. Biennially, each agency head is required to file a report with the Speaker of the House of Representatives, President of the Senate, and the Legislature's Joint Administrative Procedures Committee (JAPC) summarizing the results of this review and revision, suggesting certain legislative changes, and addressing the economic impact of the rules on small business.

In 2011, the Legislature suspended biennial reporting for that year and required all agencies to review and report on the economic effect of all then-existing rules by the end of 2013. In the same act, the Legislature required agencies to file a separate annual "regulatory plan" outlining all rulemaking the agency intended to implement in the next fiscal year, except emergency rulemaking.

When a new statute requires an agency to adopt new or amend current administrative rules for proper implementation, the agency charged with enforcing that law must formally propose the rules within 180 days of the effective date of the law.

The bill replaces the current reporting with an expanded, annual regulatory plan requiring each agency to determine whether new laws will require new or amended agency rules. If so, the agency must initiate rulemaking by a specific time. If not, the agency must state concisely why the law may be implemented without additional rulemaking. The regulatory plan also must state each existing law on which the agency will initiate rulemaking in the current fiscal year. The plan must be certified by the agency head and general counsel and published on the agency's internet website, with a copy of the certification filed with JAPC. The existing 180-day requirement is revised to coincide with the specific publishing requirements.

The bill requires agencies to respond in writing within 15 days to any request from JAPC or any legislative committee chair seeking an explanation when the agency fails to comply with the new planning and rulemaking requirements. The bill also rescinds any rulemaking sanctions inadvertently resulting from a recently repealed rule study and repeals a law pertaining to an online regulatory survey. Finally, the bill exempts educational units from the new requirements.



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