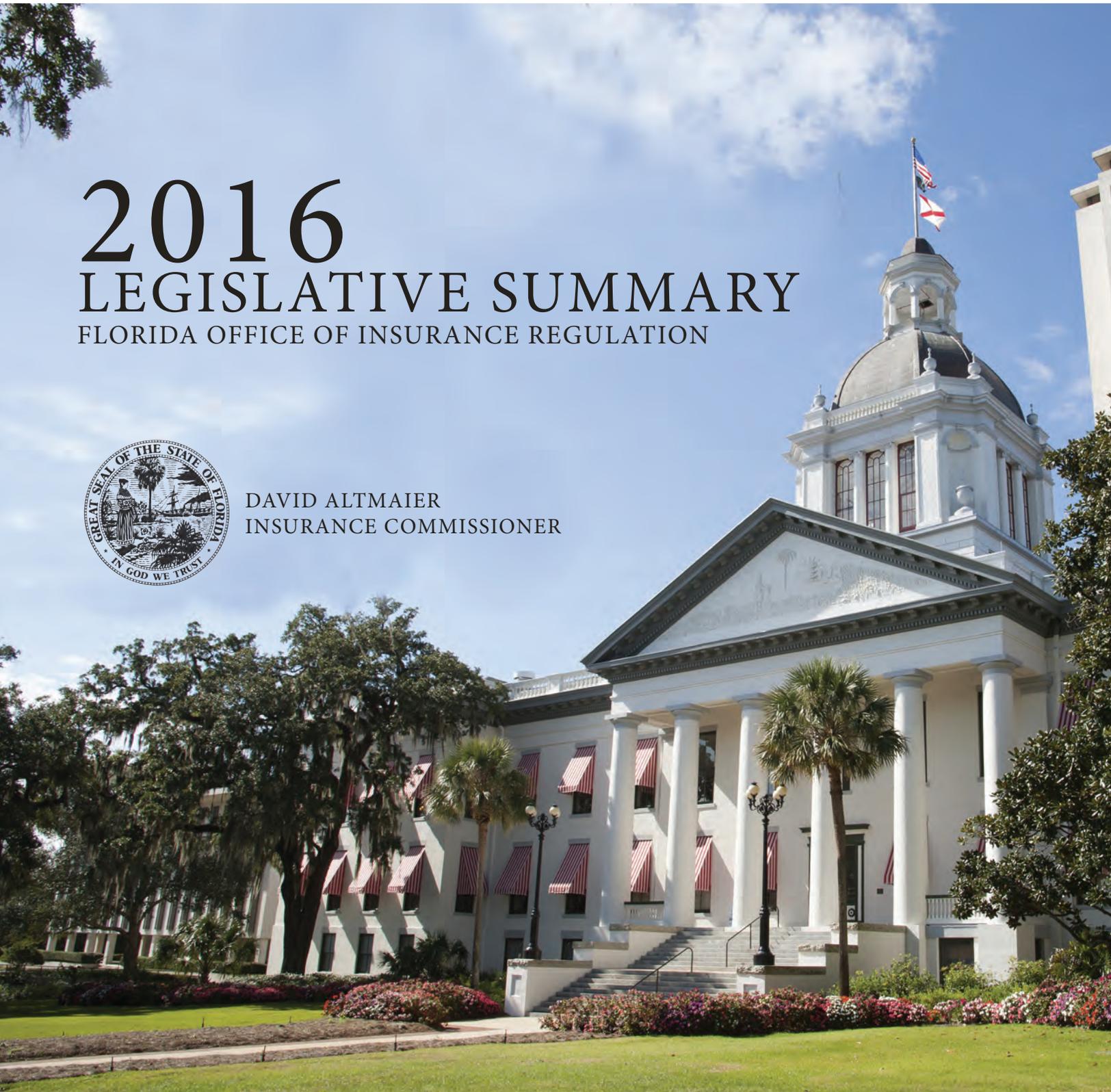


2016 LEGISLATIVE SUMMARY

FLORIDA OFFICE OF INSURANCE REGULATION



DAVID ALTMAIER
INSURANCE COMMISSIONER





FINANCIAL SERVICES
COMMISSION

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JEFF ATWATER
CHIEF FINANCIAL OFFICER

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COMMISSIONER OF
AGRICULTURE

OFFICE OF INSURANCE REGULATION

DAVID ALTMAIER
COMMISSIONER

September 2016

Dear Floridians,

I am pleased to present the *2016 Legislative Summary* prepared by the Florida Office of Insurance Regulation (Office). The report provides a brief overview of insurance legislation passed by the Florida Legislature during the 2016 Regular Session with action taken by the Governor. It also includes a summary of the Office budget for Fiscal Year 2016-17. Additional information and legislative materials pertaining to these bills or any others can be found online at www.leg.state.fl.us.

Insurance occupies a significant share of the legislative calendar and the 2016 Session was no exception. The Legislature addressed a broad range of issues affecting the insurance industry, such as title insurance, auto insurance, and the many changes to statute as a result of the Affordable Care Act. More specifically, the Legislature considered and approved many of the Office's priorities including a fix to the "balance billing" problem, unclaimed property, and the implementation of the Own Risk and Solvency Assessment requirement, as well as, the Corporate Governance Annual Disclosure requirement.

However, in this year's Session, the Legislature did not approve health insurance solvency legislation proposed by the Office. This bill, SB 638 and its House companion, HB 465, would have required companies to meet higher risk based capital standards and tighter writing ratios 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,

David Altmaier

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**Summary of Insurance, Administrative and Budget-Related Legislation
Enacted by the Florida Legislature during the 2016 Regular Session**

BUDGET

General Appropriations Act (HB 5001 by Appropriations Committee & Corcoran)

Action by Governor: Approved (Chapter No. 2016-66, Laws of Florida)

Effective date: July 1, 2016.

The Legislature approved the FY 2016-17 General Appropriations Act on March 11, 2016, during Regular Session. The Governor signed it into law on March 17, 2016. Funds appropriated to the Office of Insurance Regulation (Office) from the Insurance Regulatory Trust Fund are shown in Table 1.

Table 1. Appropriations Overview Fiscal Year 2016-17: Office of Insurance Regulation (Office)			
Positions	FY 2015-16	FY 2016-17	Over/(Under)
Full-time equivalent (FTE) positions	292	292	0
Funding (By Budget Category)	FY 2015-16	FY 2016-17	Over/(Under)
Salaries and Benefits	\$19,993,117	\$19,959,767	(\$33,350)
Other Personal Services*	\$265,169	\$290,169	\$25,000
Expenses	\$2,559,164	\$2,481,072	(\$78,092)
Operating Capital Outlay	\$35,000	\$98,000	\$63,000
Contracted Services	\$1,430,726	\$1,430,726	\$0
Financial Examination Contracts*	\$4,926,763	\$4,926,763	\$0
Florida Public Hurricane Model (Maintenance)**	\$632,639	\$632,639	\$0
Florida Public Hurricane Model (Enhancements)**	\$1,700,000	\$850,000	(\$850,000)
Lease or Lease-Purchase of Equipment	\$27,403	\$27,403	\$0
Risk Management Insurance	\$181,293	\$112,446	(\$68,847)
DMS Human Resources Contract	\$97,841	\$97,856	\$15
TOTAL	\$31,849,115	\$30,906,841	(\$942,274)
*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 2016-17

From the funds provided in Specific Appropriations 2462 through 2477, the Office of Insurance Regulation shall submit quarterly reports on all travel related to training, seminars, workshops, conferences, or similarly purposed travel that was completed by senior management employees and division or program directors. Each quarterly report shall include the following information: (a) employee name, (b) position title, (c) purpose of travel, (d) dates and location of travel, (e) confirmation of agency head authorization if required by HB 5003, and (f) total travel cost. The report shall be submitted to the chair of the Senate Committee on Appropriations, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget. The first report shall be submitted on July 15, 2016, for the period of April 1, 2016, through June 30, 2016, and quarterly thereafter.

Line #2466 – Existing Proviso (Public Hurricane Model - Maintenance) \$632,639

Funds in Specific Appropriation 2466 shall be transferred to Florida International University and utilized to promote and enhance collaborative research among State Universities. The Florida Public Hurricane Loss Model located at Florida International University may consult with the private sector and the Florida Catastrophic Storm Risk Management Center located at The Florida State University to enhance the marketability, viability, and applications of the Florida Public Hurricane Loss Model. The Office of Insurance Regulation (Office) shall have the ability to accurately calculate hurricane risk and project catastrophic losses; nothing interferes with or supersedes the Office's authority to enter into agreements with Florida International University.

Line #2466A – Existing Proviso (Public Hurricane Model – Enhancements) \$850,000

Funds in Specific Appropriation 2479A shall be transferred to the 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 Hurricane Storm Risk Management Center and the Center for Ocean-Atmospheric Prediction Studies at Florida State University, the Civil and Coastal Engineering Department and the Meteorology Department at the University of Florida, the Florida Institute of Technology and the National Oceanic & Atmospheric Administration.

GENERAL INSURANCE

Administrative Procedures (CS/CS/CS/HB 183 by Adkins)

Action by Governor: Approved (Chapter No. 2016-116, Laws of Florida)

Statute(s) Affected: 120.54, 120.55, 120.56, 120.57, 120.68, 120.695, 403.8141

Effective date: July 1, 2016

The bill revises requirements of the Administrative Procedure Act (APA), which provides uniform procedures for the exercise of specified administrative authority. The bill amends provisions of the APA to enhance the opportunities for substantially affected parties to challenge rules. These changes include, but are not limited to:

- Revising rulemaking procedures based on petitions to initiate rulemaking alleging an unadopted rule;
- Expanding the listing of information that must be published on the Florida Administrative Register to include rules filed for adoption in the previous seven days and a listing of all rules filed for adoption but awaiting legislative ratification;
- Revising the pleading requirements and burden of going forward with evidence in challenges to proposed and unadopted rules;
- Clarifying which rule validity decisions may be appealed; and
- Requiring agencies to identify and certify all of the rules the violation of which would be a minor violation.

In addition, the bill specifies that administrative challenges to any proposed regulatory permits related to special events are subject to the APA's summary hearing procedures, with certain exceptions.

Administrative Procedures (HB 981 by Richardson)

Action by Governor: Approved (Chapter No. 2016-232, Laws of Florida)

Statute(s) Affected: 120.541

Effective date: July 1, 2016

The bill revises the requirements for preparing a Statement of Estimated Regulatory Costs to clarify for agencies the time frame for which costs must be evaluated so that decision makers and affected constituencies may understand the economic and policy impacts of proposed rules. The bill creates s. 120.541(5), F.S., to specify that adverse impacts and regulatory costs likely to occur within five years after implementation of a rule include adverse impacts and regulatory costs estimated to occur within five years after the effective date of the rule. The bill also specifies that if any provision of a rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with such provision must be adjusted to include any additional adverse impacts and regulatory costs estimated to occur within five years after implementation of such provision.

INSURER SOLVENCY AND FINANCIAL OVERSIGHT

Reciprocal Insurers (SB 812 by Diaz de la Portilla)

Action by Governor: Approved (Chapter No. 2016-168, Laws of Florida)

Statute(s) Affected: 629.271

Effective date: July 1, 2016

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

Public Records/Own Risk and Solvency Assessment/Corporate Governance Annual Disclosure (CS/CS/SB 1416 by Simmons)

Action by Governor: Approved (Chapter No. 2016-205, Laws of Florida)

Statute(s) Affected: 624.4212

Effective date: October 1, 2016

The National Association of Insurance Commissioners has adopted two new insurance model acts that give state insurance regulators like the Office of Insurance Regulation (OIR) new solvency regulatory tools – the Own Risk and Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure (CGAD). CS/CS/SB 1422 implements the new ORSA and CGAD requirements in the Insurance Code. This bill, which is linked to the passage of CS/CS/SB 1422, amends s. 624.4212, F.S., to provide that the following information held by the OIR is confidential and exempt from public records requirements:

- An ORSA summary report or a substantially similar ORSA report;
- A CGAD; and
- Supporting documents. The exemption does not apply to information obtained by the OIR that would otherwise be subject to public inspection.

The bill provides for repeal of the exemption on October 2, 2021, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Insurer Regulatory Reporting (CS/CS/SB 1422 by Simmons)

Action by Governor: Approved (Chapter No. 2016-206, Laws of Florida)

Statute(s) Affected: 624.4212, 628.8015, 628.803

Effective date: October 1, 2016

The Office of Insurance Regulation (OIR) is responsible for solvency oversight over insurers and other risk-bearing entities, in order to protect policyholders against the risk that insurers will not be able to meet their financial responsibilities. Additionally, the OIR is a member of the National Association of Insurance Commissioners (NAIC), an organization of state insurance regulators that establish standards and best

practices, conduct peer reviews, and coordinate their regulatory oversight. As a member of the NAIC, the OIR is required to participate in the organization's accreditation program, which is a certification that legal, regulatory, and organizational oversight standards and practices are being fulfilled by a state insurance department.

The OIR has identified two NAIC model acts as critical solvency regulation tools - the Own Risk Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure (CGAD):

- ORSA requires insurers to analyze all reasonable foreseeable and relevant material risks potentially affecting their ability to meet policyholder obligations. This will provide the OIR with an effective early warning mechanism and provides a group-level perspective on risk and capital. Effective January 1, 2018, ORSA is an NAIC accreditation standard.
- CGAD will provide the OIR with a detailed narrative describing governance practices to promote market stability and to deter unethical behavior.

The bill creates s. 628.8015, F.S., to implement the ORSA and CGAD model acts, and:

- Provides criteria for the OIR to exempt certain insurers and insurance groups and to provide waivers of ORSA requirements, and provides a delayed compliance date for CGAD filings, with certain exceptions;
- Provides that ORSA and CGAD filings and related documents are privileged and not subject to subpoena or discovery directly from the OIR, and are not admissible in evidence in any private civil action;
- Authorizes the OIR to retain third-party consultants to assist in its administration of the bill and specifies requirements for such third-party consultants;
- Authorizes the Financial Services Commission to adopt rules to implement the ORSA and CGAD requirements;
- Authorizes the OIR to impose sanctions, for failure to submit ORSA summary reports or CGADs; and
- Provides for the contingent repeal of these changes, if the linked public records bill is not reenacted.

The bill has a positive, yet indeterminate fiscal impact on state revenues. In addition, the bill has an insignificant negative fiscal impact to state expenditures of the OIR related to enhancements to the technology systems utilized by the OIR. The bill has no fiscal impact on local government. The bill has an indeterminate fiscal impact on the private sector, in that it requires new regulatory reporting duties from insurers and will subject them to third-party consultant regulatory costs and other sanctions for violations. However, these insurer regulatory reports may reduce regulatory redundancies with other states and may enhance the OIR's solvency oversight.

LIFE AND HEALTH INSURANCE

Continuing Care Facilities (CS/HB 127 by Cummings)

Action by Governor: Approved (Chapter No. 2016-17, Laws of Florida)

Statute(s) Affected: 400.235

Effective date: March 8, 2016

The Gold Seal Program (Program) is an award program administered by the Agency for Health Care Administration (AHCA) and the Governor's Panel on Excellence in Long-Term Care, for nursing homes that demonstrate excellence in long-term care over a sustained period of time. Recipients of the Gold Seal Award (Award) may use the designation in their advertising and marketing. Of the 684 currently licensed nursing homes in Florida, 32 nursing homes hold the award.

Among other requirements, a nursing home must provide evidence of financial soundness and stability during the 30 months preceding the application by submitting certain financial documentation.

A nursing home that is part of the same corporate entity as a continuing care facility licensed under Chapter 651, F.S., can meet the financial soundness and stability requirement if:

- The facility meets the minimum liquid reserve requirements in s. 651.035, F.S.; and
- The facility is accredited by an organization recognized under statute and OIR rule, as long as the accreditation is not provisional.

CS/HB 127 provides two additional options for a nursing home to satisfy the financial soundness and stability requirement of the Program. First, the bill permits a nursing home which is part of an unaccredited continuing care facility to demonstrate that the facility, in its entirety, meets AHCA financial standards as proof of financial soundness and stability for purposes of qualifying for the Program. Second, the bill allows a nursing home that is part of a corporate entity that operates nursing homes, assisted living facilities, or independent living facilities to satisfy the financial soundness and stability requirement by submitting a consolidated corporate financial statement to AHCA and demonstrating that the corporate entity, in its entirety, meets the financial standards established by AHCA.

Out-of-Network Health Insurance Coverage (HB 221 by Trujillo)

Action by Governor: Approved (Chapter No. 2016-222, Laws of Florida)

Statute(s) Affected: 395.003, 395.301, 408.7057, 456.072, 458.331, 459.015, 626.9541, 627.42392, 627.64194, 627.6471, 627.662, 627.6686, 641.31098

Effective date: July 1, 2016

The bill prohibits out-of-network providers from balance billing members of a Preferred Provider Organization (PPO) or Exclusive Provider Organization (EPO) for emergency services or for nonemergency services when the nonemergency services are provided in a network hospital and the patient had no ability and opportunity to choose a network provider. The bill establishes standards for determining reimbursement to the providers and authorizes providers and insurers to settle disputed claims under the statewide provider and health plan claim dispute resolution program.

Finally, the bill requires all PPOs to publish a list of their network providers on their websites, and to update the list monthly; requires all PPOs to give subscribers notice regarding the potential for balance billing when using out-of network providers; subjects certain facilities and licensed health care practitioners to disciplinary action for violations of the prohibition on balance billing; requires hospitals to publish information on their websites regarding their contracts with plans and providers of hospital-based services; expands a mandate for large group health insurers and large group HMOs to cover treatment of Down syndrome; and readopts a section of law to correct a drafting error in a separate bill.

Vision Care Plans (SB 340 by Latvala)

Action by Governor: Approved (Chapter No. 2016-69, Laws of Florida)

Statute(s) Affected: 627.6474, 636.035, 641.315

Effective date: July 1, 2016

The bill prohibits health insurers, PLHSOs, and HMOs from requiring an ophthalmologist or optometrist to join a network solely for the purpose of credentialing the licensee for another insurer's, PLHSO's, or HMO's vision network. The bill also prohibits health insurers, PLHSOs, and HMOs from restricting an ophthalmologist, optometrist, or optician to specific suppliers of materials or use of specific laboratories. The bill makes a violation of these prohibitions an unfair insurance trade practice, subject to civil and administrative penalties.

Additionally, the bill requires health insurers, PLHSOs, and HMOs to update their online vision care network provider directories on a monthly basis to reflect current participating providers.

Health Insurance Coverage for Opioids (SB 422 by Benacquisto)

Action by Governor: Approved (Chapter No. 2016-112, Laws of Florida)

Statute(s) Affected: 627.64194

Effective date: January 1, 2017

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

Access to Health Care Services (HB 423 by Pigman)

Action by Governor: Approved (Chapter No. 2016-224, Laws of Florida)

Statute(s) Affected: 110.12315, 310.071, 310.073, 310.081, 395.0191, 456.072, 456.44, 458.3265, 459.0137, 458.347, 464.003, 464.012, 464.013, 464.018, 627.42392, 766.1115, 893.02, 948.03, 458.348, 459.025, 458.331, 459.015, 459.022, 465.0158, 466.02751, 458.303, 458.3475, 459.023, 456.041, 464.0205, 320.0848, 464.008, 464.009, 775.051, 944.17, 948.001, 948.101

Effective date: January 1, 2017

The bill authorizes ARNPs to prescribe, dispense, order, and administer controlled substances, but only to the extent authorized under a supervising physician's protocol. The bill establishes a committee to recommend a formulary of controlled substances that an ARNP may not prescribe or may only prescribe for a specific use or in limited quantities. The Board of Nursing must adopt the recommended formulary by rule by October 1, 2016, along with any revisions recommended by the Board of Medicine, Board of Osteopathic Medicine, or Board of Dentistry. The bill designates s. 464.012, F.S., as the "Barbara Lumpkin Prescribing Act."

The bill also authorizes PAs to prescribe controlled substances but limits the prescribing of Schedule II controlled substances to a 7-day supply and restricts prescribing psychiatric mental health controlled substances for children under the age of 18.

The bill subjects ARNPs and PAs to administrative disciplinary actions, such as fines or license suspensions, for violating standards of practice in law relating to prescribing and dispensing controlled substances. The bill adds specific prohibited acts related to the prescribing of controlled substances, which constitute grounds for denial of license or disciplinary action, into the Nurse Practice Act. The bill requires ARNPs and prescribing PAs to complete three hours of continuing education on the safe and effective prescribing of controlled medications each biennial licensure renewal.

The bill also expands the health care practitioners who are exempt from the registration requirements for prescribing controlled substances to treat nonmalignant chronic pain to certain board eligible or board certified physicians. Additionally, the bill provides that only a physician may dispense medication or prescribe controlled substances on the premises of a registered pain-management clinic.

The bill requires, on or after January 1, 2017, health insurers or pharmacy benefits managers to use a standardized prior authorization form adopted in rule by the Financial Services Commission, if an electronic prior authorization form is not used. An electronic prior authorization approval does not preclude an insurer from performing a benefit verification or medical review.

The bill permits a free clinic to receive an appropriation or grant from a governmental entity or nonprofit corporation to support the delivery of contracted services by uncompensated, volunteer health care providers without jeopardizing its sovereign immunity under the Access to Health Care Act.

Transfers of Structured Settlement Payment Rights (CS/SB 458 by Richter)

Action by Governor: Approved (Chapter No. 2016-45, Laws of Florida)

Statute(s) Affected: 626.99296

Effective date: March 10, 2016

A structured settlement agreement is an arrangement for the periodic payment of damages for personal injuries in connection with a personal injury claim or lawsuit. Payees under such arrangements sometimes wish to forgo future payments in favor of an immediate cash payout. Current law requires certain disclosures and court approval before a payee may transfer his or her rights under a structured settlement. The bill:

- Repeals the requirement to disclose the quotient;

- Requires the petition to the court for approval of the transfer to be filed in the county where the payee lives, or to the circuit where the underlying tort occurred if the payee is not a state resident;
- Allows a court to reach the merits of a petition for approval of transfer notwithstanding a nonassignment clause;
 - Requires the payee to attend the hearing;
- Declares that transfers pursuant to s. 626.99296, F.S., are not authorized if such transfer is in contravention of applicable law;
- Requires additional information to be included in the petition for authority to transfer; and
- Makes other technical and style changes and other clarifications to the statute.

Unclaimed Property (CS/SB 966 by Benacquisto)

Action by Governor: Approved (Chapter No. 2016-219, Laws of Florida)

Statute(s) Affected: 717.107

Effective date: April 12, 2016

The bill amends the Florida Disposition of Unclaimed Property Act to codify regulatory settlement agreements to retroactively require life insurers, for all life policies, annuity contracts and retained asset accounts that were in-force on or after January 1, 1992, to conduct a match of all such policies against the Social Security Administration's Death Master File, with specified exemptions. Within four months of the insurer gaining knowledge that an insured has died while covered, the insurer must take certain due diligence efforts to locate the beneficiary, unless the presumed death is rebutted by competent, substantial evidence. If the benefits are unclaimed for more than five years after the death of the insured, annuitant, or account holder, the insurer must report and remit the benefits to the Department of Financial Services Bureau of Unclaimed Property, and such benefits remain claimable in perpetuity in accordance with the Act. The bill requires insurers to conduct a similar match of all in-force policies and contracts on at least an annual basis for subsequent matches in accordance with specified methods. It prohibits insurers from charging fees associated with the due diligence process to recipients in the course of obtaining funds they are owed. The legislation clarifies that life insurance proceeds may become unclaimed property, even if the beneficiary of the policy has not yet filed a claim for the death benefits with the insurer and that the dormancy period for life insurance commences upon the date of death of the insured.

Health Plan Regulatory Administration (CS/CS/SB 1170 by Detert)

Action by Governor: Approved (Chapter No. 2016-194, Laws of Florida)

Statute(s) Affected: 112.08, 408.909, 409.817, 624.123, 626.88, 627.402, 627.411, 627.6011, 627.602, 627.642, 627.6425, 627.6487, 627.64871, 627.6512, 627.6513, 627.6561, 627.6562, 627.65626, 627.6699, 627.6741, 641.31, 641.31071, 641.31074, 641.312

Effective date: July 1, 2016

The federal Patient Protection and Affordable Care Act (PPACA) has made significant changes to the U.S. health care system. PPACA imposes many insurance requirements including required benefits, rating and underwriting standards, required review of rate increases, establishing and reporting of medical loss ratios and payment of rebates, coverage for adult dependents, internal and external appeals of adverse benefit determinations, and other requirements on individual and group coverage. In adopting PPACA Congress

expressed that the federal law preempts state law only to the extent that it prevents the application of a provision of PPACA. PPACA effectively allows states to adopt and enforce laws that do not directly conflict with PPACA, but preempts any state law that does. Thus, provisions in Florida law that are in conflict with PPACA are preempted; whereas provisions that merely duplicate PPACA continue to be viable and enforceable by the Florida Office of Insurance Regulation.

The adoption of PPACA has resulted in regulatory requirements that are sometimes conflicting or duplicative of Florida law. The bill makes numerous changes throughout the statutes repealing and, in some cases, revising state law requirements to reflect current federal law. Specifically, the bill repeals: the medical loss ratio standard for major medical health insurance policies; the requirement for insurers to issue a certificate of creditable coverage; and the requirement for certain insurers to provide an outline of coverage. In addition, the bill revises numerous cross-references and transfers certain provisions that are tied to continuing requirements.

The bill also exempts local government associations acting as third party administrators of local government self-insurance programs from licensing requirements under part VII of ch. 626, F.S.

Transparency in Health Care (CS/CS/HB 1175 by Sprowls)

Action by Governor: Approved (Chapter No. 2016-222, Laws of Florida)

Statute(s) Affected: 20.42, 110.123, 381.026, 395.107, 395.301, 395.602, 395.6025, 408.05, 408.061, 408.07, 408.18, 409.967, 456.0575, 465.0244, 627.6385, 641.54

Effective date: July 1, 2016

The bill ensures greater consumer access to health care price and quality information by requiring certain health care providers, insurers and health maintenance organizations (HMOs) to give that information to patients. The bill requires the Agency for Health Care Administration (AHCA) to contract with a vendor for an all-payer claims database (APCD), which provides an online, searchable method for consumers to compare provider price and quality, and a Florida-specific data set for price and quality research purposes. The bill requires insurers and HMOs to submit data to the APCD, under certain conditions.

The bill creates pre-treatment transparency obligations for hospitals, ambulatory surgery centers, health care practitioners providing non-emergency services in these facilities, and insurers and HMOs. Facilities must post online the average payments and payment ranges received for bundles of health care services defined by AHCA. This information must be searchable by consumers. Facilities must provide, within 7 days of a request, a written, good faith, personalized estimate of charges, including facility fees, using either bundles of health care services defined by AHCA or patient-specific information. Failure to provide the estimate results in a daily licensure fine of \$1,000, up to \$10,000. Facilities must inform patients of health care practitioners providing their nonemergency care in hospitals and these practitioners must provide the same type of estimate, subject to a daily fine of \$500, up to \$5,000. Facilities and facility practitioners must publish information on their financial assistance policies and procedures. Insurers and HMOs must create online methods for patients to estimate their out-of-pocket costs, both using the service bundles established by AHCA and based on patient-specific estimates using the personalized estimate the patient obtains from facilities and practitioners. In

addition, diagnostic-imaging centers owned by a hospital but located off of the premises must publish and post charges for services pursuant to s. 395.107, F.S., which currently requires urgent care centers to do the same.

Post-treatment, facilities must provide an itemized bill within 7 days of discharge or request, whichever is later, meeting certain requirements for comprehension by a layperson, and identifying any providers who may bill separately for the care received in the facility.

Finally, the bill makes several changes to the Florida Center for Health Information and Policy Analysis, which is the health care data collection unit of AHCA. The bill changes the Center's name, and streamlines the Center's functions by eliminating obsolete language, redundant duties, and unnecessary functions.

Telehealth (CS/CS/HB 7087 by Sprowls)

Action by Governor: Approved (Chapter No. 2016-240, Laws of Florida)

Statute(s) Affected: 456.47, 636.202

Effective date: July 1, 2016

The bill requires the Agency for Health Care Administration (AHCA), with assistance from the Department of Health (DOH) and the Office of Insurance Regulation (OIR), to survey health care practitioners, facilities and insurers on telehealth utilization and coverage. AHCA must submit a report on the survey findings to the Governor, Senate President and Speaker of the House of Representatives by December 31, 2016. The bill also creates a 15-member Telehealth Advisory Council, and requires it to submit a report with recommendations based on the survey findings to the Governor, Senate President and Speaker of the House of Representatives by October 31, 2017. The section of law requiring these reports expires June 30, 2018.

The bill excludes from the definition of discount medical plan under s. 636.202, F.S., medical services provided through a telecommunications medium that are not provided at a discount to a plan member. This ensures that such medical services are not regulated as a discount medical plan.

The bill reenacts s. 409.975(6), F.S., notwithstanding changes to that subsection in HB 5101, to preserve the minimum Medicaid managed care hospital payment rates in current law.

PROPERTY AND CASUALTY INSURANCE

Title Insurance (CS/CS/HB 413 by Hager)

Action by Governor: Approved (Chapter No. 2016-82, Laws of Florida)

Statute(s) Affected: 627.778

Effective date: July 1, 2016

The bill increases the limit that a single title insurer can assume, whether as a primary risk or as assumed reinsurance or coinsurance, from one half of the dollar value of its surplus to the full amount of its surplus. It also allows the title insurer to purchase reinsurance for any amounts underwritten in excess of their statutory risk limitation from any eligible reinsurer. This expands the number of insurers that may provide title insurance reinsurance from only Florida's title insurers to the many reinsurers participating in the Florida market.

Workers' Compensation System Administration (CS/HB 613 by Sullivan)

Action by Governor: Approved (Chapter No. 2016-56, Laws of Florida)

Statute(s) Affected: 440.021, 440.05, 440.107, 440.13, 440.185, 440.42, 440.49, 440.5, 440.52, 624.4626

Effective date: October 1, 2016

The bill contains a variety of changes to the workers' compensation law. The changes include:

- Providing for a 25 percent penalty credit for certain employers;
- Establishing a deadline for employers to file certain documentation to receive a penalty reduction;
- Reducing the imputed payroll multiplier related to penalty calculations from 2 times to 1.5 times the statewide average weekly wage;
- Requiring employers to simply notify their insurers of their employee's coverage exemption, rather than requiring that a copy of the exemption be provided;
- Eliminating a 3-day response requirement applicable to employer held exemption information;
- Removing the requirement that construction employers maintain written exemption acknowledgements;
- Deleting a requirement that exemption revocations be filed by mail only;
- Removing unnecessary information from the exemption application;
- Relieving employers of the obligation to notify the DFS by telephone or telegraph within 24 hours of any work related death and relying instead on other existing reporting requirements;
- Removing insurers and employers from the medical reimbursement dispute provision since they meet their adjustment, disallowance and provider violation reporting duties through other provisions of law;
- Eliminating fees collected by the DFS related to new insurer registrations and Special Disability Trust Fund notices of claim and proofs of claim;
- Revising the method for selecting an expert medical examiner; and
- Eliminating the Preferred Worker Program, which has not been used in over ten years.

Department of Financial Services (CS/CS/CS/HB 651 by Beshears)

Action by Governor: Approved (Chapter No. 2016-132, Laws of Florida)

Statute(s) Affected: 48.151, 110.1315, 112.215, 137.09, 215.555, 215.97, 322.142, 374.983, 509.211, 624.307, 624.423, 624.502, 626.854, 626.907, 626.921, 626.931, 626.9892, 627.7074, 633.102, 633.107, 633.135, 633.208, 633.408, 633.412, 633.414, 633.426, 717.138, 627.062, 627.0645

Effective date: July 1, 2016

The bill creates and amends duties and responsibilities of the Department of Financial Services (DFS), including:

- Authorizing the DFS to create an Internet-based system for the electronic transmission of service of process documents served on the Chief Financial Officer (CFO) and revising the requirements for service of process on insurers;
- Clarifying the eligibility requirements for participation in the State's deferred compensation plan;
- Revising requirements for the approval of certain surety bonds;
- Extending the exemption of medical malpractice insurance premiums from Florida Hurricane Catastrophe Fund emergency assessments from May 31, 2016, to May 31, 2019;
- Amending the Florida Single Audit Act to conform to new federal standards, defining the term "higher education entity," and adding specific provisions applicable to higher education entities;
- Authorizing the DFS to access the digital photographs of driver licenses from the Department of Highway Safety and Motor Vehicles to investigate alleged violations of the insurance code by licensees and unlicensed persons;
- Revising safety regulations for carbon monoxide detectors in public lodging establishments;
- Exempting licensed health insurance agents from licensure as a public adjuster for specified activities;
- Amending the appointment procedures for the Florida Surplus Lines Service Office board of governors;
- Exempting surplus lines agents from the quarterly reporting requirement to the Florida Surplus Lines Service Office when business has not been transacted in that quarter;
- Revising the criteria for the Anti-Fraud Reward Program;
- Providing additional grounds for the disqualification of a neutral evaluator in sinkhole insurance claims disputes;
- Creating procedures to grant exemptions to persons disqualified from licensure or certification by the Division of State Fire Marshal (DSFM);
- Creating the Firefighter Assistance Grant Program to provide financial assistance in the form of training and equipment for volunteer and combination fire departments;
- Amending the requirements for obtaining a firefighter certificate of compliance;
- Providing for the expiration of firefighter and volunteer firefighter certificates of compliance and completion four years after the date of issuance unless renewed, and amending the requirements to renew firefighter certifications;
- Repealing the statute requiring the DSFM to suspend or revoke a firefighter's certification under certain conditions;
- Providing the DFS with rulemaking authority relating to all unclaimed property reported and remitted to the CFO; and

- Exempting certain travel insurance products with premiums less than \$30 for each covered trip from the Office of Insurance Regulation’s rate filing requirements.

Automobile Insurance (CS/CS/HB 659 by Santiago)

Action by Governor: Approved (Chapter No. 2016-133, Laws of Florida)

Statute(s) Affected: 627.0651, 627.311, 627.7283, 627.7295, 627.744, 627.736

Effective date: July 1, 2016

The bill makes the following changes regarding automobile insurance:

- Motor vehicle insurance rating – The bill allows single zip code rating territories if they are actuarially sound and the rate is not excessive, inadequate or unfairly discriminatory.
- The Florida Automobile Joint Underwriting Association (Auto JUA) – The bill authorizes the Auto JUA to cancel policies within the first 60 days for non-payment and prohibits insureds from cancelling coverage in the first 90 days, except in certain circumstances.
- Return of unearned premium – The bill allows the policyholder to apply the unearned premium to any other policies issued by the insurer or the insurer’s group.
- Prepayment of premium – The bill creates an exception to the requirement for insurers to collect two months of premium prior to issuing a private passenger motor vehicle policy or binder for Personal Injury Protection (PIP) and property damage liability coverage.
- Methods of payment – The bill adds payments by a “draft” to the list of acceptable payment methods for motor vehicle insurance contracts.
- Insufficient funds fee – The bill authorizes motor vehicle insurers to charge \$15, pursuant to policy terms, if an electronic premium payment fails due to insufficient funds (this is in addition to any fees charged by their financial provider).
- Preinsurance Inspection Data Report – The bill requires the Department of Financial Services to report preinsurance inspection data, including certain specified data elements, to the Governor and the presiding officers of the Legislature by December 1, 2016.
- Medical diagnosis coding manuals – The bill replaces the International Classification of Diseases, 9th Revision, for coding of PIP medical services with the International Classification of Diseases, 10th Revision.
- PIP Eligible Health Care Clinics –The bill allows medical clinics that are managed by a licensed health care practitioner (who has certain specified responsibilities) and owned, directly or indirectly, by a publicly traded corporation that has \$250 million or more in total annual sales of health care services to receive reimbursement from insurers for PIP medical services without having to be separately licensed under the Health Care Clinic Act.

Title Insurance (CS/HB 695 by Boyd)

Action by Governor: Approved (Chapter No. 2016-57, Laws of Florida)

Statute(s) Affected: 625.111

Effective date: July 1, 2016

The bill allows a title insurer that is a member of an insurance holding company system that has \$1 billion or more in surplus to set its guaranty fund reserve in the same manner as a title insurer that on its own has \$50 million or more in surplus. However, this exception will only be available if the insurance holding company

system has a financial strength rating of “superior,” “excellent,” “exceptional,” or an equivalent financial strength rating by a rating agency acceptable to the OIR. This allows a smaller title insurer with access to capital from its holding company to set the reserve in the same way as a larger title insurer. This sets lower guaranty fund reserve amounts on higher value policies and allows the reserve to be released earlier. Also, the bill requires title insurers that move their domicile to Florida to reset the guaranty fund reserve that they bring into Florida to the amount that would have been required if the reserve was always held in Florida, rather than maintaining and releasing the newly domesticated reserve pursuant to the law of their former state.

Insurance Guaranty Association Assessments (CS/CS/SB 828 by Bean)

Action by Governor: Approved (Chapter No. 2016-170, Laws of Florida)

Statute(s) Affected: 631.194

Effective date: July 1, 2016

Revisions to the Florida Workers’ Compensation Insurance Guaranty Association (FWCIGA) assessment process proposed by the bill include:

- Moving order authority and recommendations related to insurer financial conditions from DFS to OIR.
- Increasing the assessment cap for self-insurance funds from 1.5 percent of direct written premium to 2 percent.
- Changing the basis of the assessment from the prior year’s net direct written premium to the calendar year of the assessment.
- Establishing two assessment payment methods, as follows:
 - o Single assessment payment – in this method, the insurer pays the assessment and then recovers it through policy surcharges. It is subject to an end of period reconciliation and a possible corrective payment or refund.
 - o Installment method – in this method, the insurer collects the surcharges and then remits them quarterly to the FWCIGA.
- Changing the assessment recovery process from a component of premium to a policy surcharge. Surcharges begin 90 days after the FWCIGA certifies the need for an assessment and are collected at a uniform rate on new and renewed policies issued and in force during the 12 months beginning the calendar quarter after the order is issued. Insurers are not liable for uncollectible surcharges.
- Exempting assessments from the insurance premium tax.

Motor Vehicle Service Agreement Companies (CS/HB 875 by Stark)

Action by Governor: Approved (Chapter No. 2016-60, Laws of Florida)

Statute(s) Affected: 634.011

Effective date: July 1, 2016

Motor vehicle service agreement companies are one type of warranty association and are governed by the provisions in Part I, Chapter 634, Florida Statutes. Motor vehicle service agreements generally provide vehicle owners with protection when the manufacturer’s warranty expires. While a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). The OIR’s regulatory authority

of warranty associations includes licensure, investigation of complaints, and monitoring of reserve requirements, among other duties. However, the OIR is not required to approve forms or rates for warranties.

Under current law, motor vehicle service agreements indemnify the agreement holder against loss caused by failure of any mechanical or other component part, or any mechanical or other component part of the motor vehicle that does not function as it was originally intended. The term “motor vehicle service agreement” also includes any contract that provides: for coverage which is issued in conjunction with an additive product applied to the motor vehicle that is the subject of such agreement; for payment of vehicle protection expenses (such as meeting applicable deductibles and providing for temporary replacement vehicle rental expenses); and for the payment for paintless dent-removal services.

As defined in statute, “additive product” means any fuel supplement, oil supplement, or any other supplement product added to a motor vehicle for the purpose of increasing or enhancing the performance or improving the longevity of such motor vehicle. The bill modifies this definition to indicate the term does not include a product applied to the exterior or interior surface of a motor vehicle to protect the appearance of the motor vehicle. The bill also deletes the definition of “paintless dent-removal” but still allows the process to be considered part of a motor vehicle service agreement.

The bill also changes and expands coverage provided in a motor vehicle service agreement to include: a) repair or replacement of tires or wheels on a motor vehicle damaged as a result of encountering a road hazard (and defines the term); b) removal of dents, dings, or creases on a motor vehicle that may be repaired using the process of paintless dent removal without affecting the existing paint finish and without using replacement body panels, or sanding, bonding, or painting; and c) replacement of a motor vehicle key or key fob if the key or key fob is inoperable, lost, or stolen.

Operations of Citizens Property Insurance Corporation (CS/CS/HB 931 by Passidomo)

Action by Governor: Approved (Chapter No. 2016-229, Laws of Florida)

Statute(s) Affected: 627.351

Effective date: July 1, 2016

The bill changes the current depopulation procedures by requiring that take-out offers be communicated by Citizens and not the take-out company. Notice of a take-out offer must include standardized information that compares the coverage and estimated premium of each take-out offer to the coverage and premium provided by Citizens and must advise policyholders that they may accept or reject any offer. The reforms must be in place by January 1, 2017.

Current law allows Citizens to share confidential underwriting and claims files with an insurer that is contemplating underwriting a risk insured by the corporation, provided the insurer executes a notarized agreement to retain their confidentiality. Citizens may also make specified information from the underwriting and claims files available to general lines insurance agents. The law requires the agent to keep the information confidential.

The bill expands the list of who may receive information from the confidential underwriting and claims files to include an entity that has obtained a permit to become an authorized insurer, a reinsurer, a licensed reinsurance broker, a licensed rating organization, or a modeling company. The information may be used by these entities only for the purpose of developing a take-out plan or rating plan or analyzing risks for underwriting in the private insurance market. In addition, the bill expressly prohibits an insurance agent from using the data to solicit policyholders.

Citizens operates under the direction of a nine-member Board of Governors (board). By law, board members with the required insurance expertise can maintain employment in the private sector in jobs involving business with Citizens without violating the conflict of interest statute because the board member is required by law to have insurance expertise in order to sit on the board. There is also a consumer representative on the board who is appointed by the Governor. The bill provides the consumer representative on the Citizens' board with the same exemption from the conflict of interest statute as is provided in current law to the board members with insurance expertise.

In addition, the bill requires an insurance agent to have at least one appointment with an insurer in order to retain eligibility to write insurance with Citizens, and allows Citizens to use the public hurricane loss projection model results in combination with the results of private models to calculate windstorm rates.

Limited Sinkhole Insurance Coverage (CS/CS/SB 1274 by Latvala)

Action by Governor: Approved (Chapter No. 2016-197, Laws of Florida)

Statute(s) Affected: 624.407, 624.408, 627.7151

Effective date: July 1, 2016

The bill creates a new type of sinkhole coverage. Among its key features, the bill:

- Permits an authorized insurer to issue a "limited sinkhole coverage insurance" policy providing personal lines residential coverage for the peril of sinkhole loss on any structure or the contents of personal property;
- Covers only losses from the perils of sinkhole loss as the term "sinkhole loss" is currently defined in law;
- Prohibits Citizens Property Insurance Corporation from issuing limited sinkhole coverage insurance;
- Does not require coverage of loss of personal property or contents; coverage may be limited to stabilization of the building and repair of the foundation; coverage of land stabilization is not required;
- Allows policy limits, subject to a minimum limit, and deductibles as agreed by the insurer and insured;
- Requires the insured's signed acknowledgement of reading and understanding the policy limitations, including a notice, with prescribed text;
- Does not apply to commercial lines residential coverage, commercial lines nonresidential coverage, or excess coverage for the peril of sinkholes;
- Provides specific conditions on the payout of policy limits on claims where the cost of recommended repairs exceed the policy limits;
- Requires insurer payment of repairs to be issued jointly to the insured and repair contractor;
- Does not require form filing;
- Establishes surplus requirements; and
- Until October 1, 2019, these limited sinkhole coverage insurers will not be subject to file and use rate review by the Office of Insurance Regulation.

OFFICE ADMINISTRATION AND OPERATIONS

Public Records (CS/HB 273 by Beshears)

Action by Governor: Approved (Chapter No. 2016-20, Laws of Florida)

Statute(s) Affected: 119.0701

Effective date: March 8, 2016

This bill requires a public agency contract for services with a contractor to include a statement in large, boldface font informing the contractor of the contact information of the public agency's custodian of public records (records custodian) and instructing the contractor to contact the records custodian concerning any questions the contractor may have regarding the contractor's duties to provide public records relating to the contract.

The bill repeals the requirement that each contract for services require the contractor to transfer its public records to the public agency upon termination of the contract. Instead, the contract must address whether the contractor will retain the public records or transfer the public records to the public agency upon completion of the contract.

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

The bill provides that if a civil action is filed to compel production of public records, the court must assess and award against the contractor the reasonable costs of enforcement, including attorney fees, if the court determines that a contractor unlawfully refused to comply with the public records request within a reasonable time, and the plaintiff provided written notice of the public records request to the public agency and the contractor. The notice must be sent at least 8 business days before the plaintiff files the civil action. The bill specifies that a contractor who complies with the public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

Public Records/State Agency Information Technology Security Programs (CS/SB 624 by Hays)

Action by Governor: Approved (Chapter No. 2016-14, Laws of Florida)

Statute(s) Affected: 282.318

Effective date: March 25, 2016

The bill creates additional public record exemptions within the IT Security Act. It provides that the following records are confidential and exempt from public records requirements:

- Records held by a state agency that identify detection, investigation, or response practices for suspected or confirmed IT security incidents; and
- Portions of risk assessments, evaluations, external audits, and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency.

Such records, and portions thereof, are only confidential and exempt if disclosure would facilitate the unauthorized access to or the unauthorized modification, disclosure, or destruction of physical or virtual data or information or IT resources.

The bill authorizes the release of the confidential and exempt records, and portions thereof, to certain entities. The bill provides for retroactive application of the public record exemptions.

It also provides that the exemptions repeal on October 2, 2021, unless reviewed and saved from repeal by the Legislature. Finally, the bill provides a statement of public necessity as required by the Florida Constitution.

Public Records/Agency Inspector General Personnel (CS/CS/SB 752 by Abruzzo)

Action by Governor: Approved (Chapter No. 2016-164, Laws of Florida)

Statute(s) Affected: 119.071

Effective date: March 30, 2016

The bill creates a public record exemption for the home addresses, telephone numbers, dates of birth, and photographs of current or former employees of an agency's OIG or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline. It also creates a public record exemption for the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such employees. In addition, the names and locations of schools and day care facilities attended by the children of such employees are exempt from public records requirements.

The bill provides for repeal of the exemption on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

Information Technology Security (CS/CS/CS/HB 1033 by Artiles)

Action by Governor: Approved (Chapter No. 2016-138, Laws of Florida)

Statute(s) Affected: 20.61, 282.318, 282.0051

Effective date: July 1, 2016

The bill requires cybersecurity to be addressed in the standards and processes for information technology (IT) security established by the Agency for State Technology (AST) and provides that the AST is responsible for adopting rules that mitigate risks. Additionally, it requires the AST to develop and publish guidelines and processes for an IT security framework that includes establishing agency computer security incident response teams and establishing an IT security incident reporting process for notifying the AST and the Department of Law Enforcement (FDLE) of IT security incidents.

The bill requires the AST, in collaboration with the Cybercrime Office of FDLE, to provide training annually for state agency information security managers and computer security incident response team members. It also requires each state agency head to establish an agency computer security incident response team to respond

to an IT security incident and to conduct IT security and cybersecurity awareness training for new employees within their first 30 days of employment.

The bill requires one of the Governor's appointments to the Technology Advisory Council established within the AST to be a cybersecurity expert.

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

- Establish an IT policy for all IT-related state contracts;
- Evaluate vendor responses for state term contract solicitations and invitations to negotiate;
- Answer vendor questions on state term contract solicitations; and
- Ensure that the established IT policy is included in all solicitations and contracts that are administratively executed by DMS.

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.



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