LEGISLATIVE SUMMARY 2013

Florida Office of Insurance Regulation

Kevin McCarty, Insurance Commissioner

Dear Floridians:

Given its economic significance and affect on the day-to-day lives of millions of Florida consumers, insurance always occupies a key place in legislative deliberations. As you will see in reviewing this *2013 Legislative Summary*, this year was no different: the 2013 Regular Session of the Florida Legislature was an especially active one for companies and consumers alike. Virtually every insurance line experienced change.

Health Insurance: With federal market-based reforms slated to take effect on January 1, 2014, under the Patient Protection and Affordable Care Act (PPACA), the Legislature approved transitional legislation. Because the federal regulatory environment for insurance rates is expected to remain fluid and uncertain for the next several years, SB 1842 temporarily suspends state rate approval for health insurance plans in favor of federal review. However, the Office will continue to monitor rate filings and exercise approval authority over insurance forms containing important consumer protections.

Property Insurance: In SB 1770, the Legislature approved reforms to Citizens Property Insurance Corporation designed to reduce the size and exposure of the corporation, and ensure operational accountability by adding an Inspector General.

Life Insurance: In HB 167, annuity purchasers will enjoy added consumer protections. Florida also elected to join the Interstate Insurance Product Regulation Compact, contingent upon Compact Commission acceptance of provisions that preserve consumer protections important to Floridians purchasing annuities, life insurance, and long-term care and disability income insurance products.

Auto Insurance: In one of the most talked-about bills expected to have a positive effect on driving safety and auto insurance rates, the Legislature banned texting while driving. Also, in the wake of a circuit court decision temporarily enjoining implementation of 2012 legislative reforms to Personal Injury Protection (PIP) coverage, legislation to replace PIP with mandatory bodily injury coverage was introduced but ultimately tabled.

The Office will act on the many regulatory changes from this session in a manner consistent with the Legislature's intent and within our scope of responsibility. And, despite all the new laws and the change it brings, one thing will not change—my commitment to providing fair and prompt professional service to consumers and insurance companies.

Sincerely,

Kevin M. McCarty, Commissioner
Office of Insurance Regulation

TABLE OF CONTENTS

Summary of Insurance, Administrative and Budget-Related Legislation Passed During the 2013 Session of the Florida Legislature

BUDGET

General Appropriations Act (SB 1500, 2nd Eng.)
Action by Governor: Approved (Chapter 2013-40)

Appropriations Overview for the Office of Insurance Regulation for Fiscal Year 2013-2014

Budget Category	2012-2013 Funding	2013-2014 Funding	Difference Over/(Under)
Positions	283	288	5
Salaries and Benefits	$17,813,158	$18,259,213	$446,055
Other Personal Services	$125,000	$375,000	$250,000
$250,000 is held in Reserve (Non-Recurring). Funds may be released upon submission of a detailed operation and spending plan.			
Expenses	$2,745,917	$2,512,782	($233,135)
Operating Capital Outlay	$2,000	$35,000	$33,000
Contracted Services	$805,726	$805,726	
SPECIAL CATEGORIES			
Financial Examination Contracts	$4,926,763	$4,926,763	
Budget Authority for financial examinations of Property & Casualty and Life & Health insurance companies. Insurance companies reimburse the Insurance Regulatory Trust Fund for the examination costs. The Trust Fund acts as a pass through and the transaction is revenue neutral.			
Florida Public Hurricane Loss Model	$588,639	$588,639	
FIU Enhancements to the FL Public Model	$0	$1,543,300	$1,543,300
New Category *- Funds are Non-Recurring and are disbursed directly to FIU.*			
Lease or Lease-Purchase of Equipment	$27,403	$27,403	
Risk Management Insurance	$262,960	$262,960	
DMS Human Resources Contract	$99,553	$101,323	$1,770
TOTAL	**$27,397,119**	**$29,438,109**	**$2,040,990**
Disclaimer: The Appropriations above represent funds allocated to the Office of Insurance Regulation (Office) as approved by the Legislature for the annual fiscal period beginning July 1, 2013 and ending June 30, 2014. The Office is entirely funded by the Insurance Regulatory Trust Fund.			

Appropriations Proviso for the Office of Insurance Regulation for Fiscal Year 2013-14

Rate Filings (Specific Appropriations 2450 – 2465). The Office of Insurance Regulation is directed to prepare a detailed report of all personal lines residential property insurance rate filings submitted during FY 2012-2013. For each filing, the report must identify the: (1) company name; (2) date submitted; (3) rate change requested; (4) review period; (5) disposition of the filing and any rate change approved, if any, or reason for a denial, if denied; and (6) the actuary reviewing the filing. The report

shall be submitted to the Senate and House budget committee chairs by September 1, 2013. (Continuing proviso)

Secondary Life Insurance Market (Specific Appropriation 2450 - 2465). The Office of Insurance Regulation is directed to submit a report to the Legislature by December 1, 2013, evaluating the adequacy of protections under Florida law for purchasers of life insurance policies in the secondary market. (New proviso)

OPS Reserve Funds (Specific Appropriation 2451). The Office of Insurance Regulation may submit budget amendments to have up to $250,000 in reserve funds released upon presenting a detailed plan demonstrating the workload increase and statutory requirements to be accomplished. (New proviso)

Public Hurricane Loss Model Collaboration (Specific Appropriation 2454). Funds in Specific Appropriation 2454 may be used to promote and enhance collaborative research among state universities. Florida International University (FIU) 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. However, nothing interferes with or supersedes the authority of the Office of Insurance Regulation to enter into agreements with FIU to accurately calculate hurricane risk and project catastrophic losses. (Continuing proviso)

Public Hurricane Loss Model Enhancements (Specific Appropriation 2454A). Funds in Specific Appropriation 2454A must be transferred to the Florida International University (FIU) for the purpose of enhancing the capability of the Florida Public Hurricane Loss Model (model) to include windstorm and flood damage resulting from hurricanes. In updating the model, FIU is directed to coordinate 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 and Atmospheric Administration. (New proviso)

INSURANCE CONTRACTS

Deceptive and Unfair Trade Practices (CS/CS/HB 55, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-186)
Statute(s) Affected: 501.975, 501.98

Under the bill, claimants under the Florida Deceptive and Unfair Trade Practices Act will now be required to give an automobile dealer a written demand letter at least 30 days prior to filing suit or arbitration for an alleged violation of the act. If, within 30 days after receipt of the demand letter, the dealer pays the claimant the amount sought in the demand letter, plus a surcharge equal to $500 or 10 percent of the damages claimed, whichever is less, then the individual may not file suit or arbitration. This requirement does not apply if the dealer fails to notify the customer of this requirement at the time of the transaction. (Effective date: July 1, 2013.)

Electronic Delivery of Insurance Policies (CS/HB 157)
Action by Governor: Approved (Chapter No. 2013-190)
Statute(s) Affected: 627.421

Currently, insurers must mail policies to policyholders or others entitled to receive a policy within 60 days after effectuating coverage. Insurers will now have the additional option of delivering policies electronically. Specific to commercial risks, insurers may deliver policies electronically unless the policyholder, after being informed of the right to receive the policy by mail, objects to electronic transmission. The insurer must then provide the insured with a paper copy of the policy. (Effective date: July 1, 2013.)

Posting Policies on Insurer Websites (CS/HB 223)
Action by Governor: Approved (Chapter No. 2013-191)
Statute(s) Affected: 627.421

Currently, insurers must mail policies to policyholders or others entitled to receive a policy within 60 days after effectuating coverage. Insurers will now be allowed to post property and casualty insurance policies not containing any personally identifiable information on their website instead of mailing the policy to the policyholder. The posted policy and endorsement must be easily accessible for as long as it remains in force; capable of being printed and saved using a free and widely available program or application; and clearly and specifically identified on the declarations page. In addition, the insurer must archive all expired policies and endorsements and make them available upon request of the policyholder for up to five years after expiration of the policy or endorsement. Upon issuance of the initial policy or renewal, or changing any policy form or endorsement, the insurer must notify the insured, in the manner the insurer customarily uses to communicate with the insured, that the insured may request and obtain a free paper or electronic copy of the policy and endorsements. (Effective date: July 1, 2013.)

INSURER SOLVENCY & FINANCIAL OVERSIGHT

Mutual Insurance Corporations (SB 356, 1st Eng.)
Action by Governor: Approved (Chapter No. 2013-125)
Statute(s) Affected: 617.01401, 627.971, 627.972, 628.371, 628.703, 628.707, 628.715, 628.727

A mutual insurer is an incorporated insurer owned by its policyholders that does not have permanent capital stock. Financial guaranty insurance is a surety bond, insurance policy, an indemnity contract issued by an insurer, or a similar guaranty.

Under the bill, a mutual property and casualty insurer will now be able to become a financial guaranty insurance corporation and transact financial guaranty insurance business in Florida. The bill also declares that a dividend or distribution by a not-for-profit insurance company to its mutual holding company subsidiary directly or indirectly through one or more intermediate holding companies: 1) is not a "distribution" for purposes of the "Florida Not For Profit Corporation Act"; and 2) is permitted if it complies with the requirements for dividends to stockholders under the Insurance Code.

A not-for-profit insurance company or health care plan in which a majority of the voting membership is owned by a mutual insurance holding company (entitling it to elect a majority of the board of the

company or plan) will qualify as a mutual holding company "subsidiary," as a stock insurance company can now qualify under similar circumstances. Similarly, the bill expands the definition of an "intermediate holding company" to include a not-for-profit corporation and a subsidiary of a mutual insurance company, in which the mutual insurance company owns a majority of the voting membership of the corporation, directly or through a subsidiary intermediate holding company. Mutual insurance holding companies will also be able to acquire the membership interests of a not-for-profit insurance company or health care plan or acquire a not-for-profit insurance company or health plan through a merger with a mutual insurance company or the not-for-profit insurance company subsidiary of the mutual insurance or intermediate holding company.

Finally, under the bill, a mutual holding company is allowed to have multiple membership classes and restrict the voting rights of a class of policyholders of a nonprofit health plan or rights to receive distributions if the assets cannot be treated as assets available for distribution. (Effective date: January 1, 2014, for sections 3 through 8; all others are effective upon the bill becoming a law—June 7, 2013.)

Ed. Note: Despite the reference to not-for-profit insurance companies in SB 356, 1st Eng., not-for-profit insurance companies do not now exist, and are not expressly authorized, under Florida law.

Captive Insurance (CS/HB 1191, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-209)
Statute(s) Affected: 628.901, 628.905, 628.907, 628.909, 628.9142, 628.915, 628.917, 628.919

Captive insurance is a form of self-insurance in which one or more parent companies create, own and control an insurer. Unlike traditional self-insurance, the parent owner does not retain specific underlying risks, but instead transfers these risks to the wholly-owned captive insurer in exchange for payment of premiums. Captives may take many forms, varying in corporate structure, capital and surplus, underwriting risks, and ownership. Companies generally pursue this alternative risk transfer arrangement because of availability or cost considerations.

This bill makes several changes intended to remedy the unintended consequences of captive insurance legislation in 2012. For instance, the bill restores the law as it existed prior to 2012, permitting an industrial insured captive insurance company with unencumbered capital and surplus of at least $20 million to write workers' compensation and employer's liability insurance in excess of $25 million in the annual aggregate. It also expands the type of entities an industrial insured captive insurance company will be allowed to insure, including industrial insured and affiliate stockholders or members, or the stockholders or affiliates of the captive insurance company's parent corporation. The term "qualifying reinsurer parent company" is redefined to require a reinsurer to possess a certificate of authority (a letter of eligibility no longer being an acceptable alternative) or, as a new option, meet the statutory requirements to qualify for credit for reinsurance, in addition to satisfying the current statutory net worth and debt-to-capital ratios.

The bill permits the signature of an Office of Insurance Regulation (Office) representative, rather than that of the commissioner or designee as currently required, to be the signature authenticated by the Office.

Finally, the bill corrects an inconsistency in current insurance law by exempting captive insurance companies from deposit requirements that now exceed the surplus required to form a captive.

Under current law, pure captive insurance companies are responsible for adopting risk management standards for controlled unaffiliated business. They will now be required to submit these standards to the Office for approval. This approach will provide pure captive insurers with more flexibility than under current law, which requires the Financial Services Commission to adopt these standards by rule. (Effective date: July 1, 2013.)

LIFE AND HEALTH INSURANCE

Annuities (CS/CS/SB 166)

Action by Governor: Approved (Chapter No. 2013-163)
Statute(s) Affected: 627.4554, 626.99

This bill updates Florida annuities law by adopting the 2010 Suitability in Annuity Transactions Model Regulation developed by the National Association of Insurance Commissioners. The updates extend certain consumer protections such as the 21-day unconditional refund period to all annuity purchasers without regard to age. The bill requires insurance companies and agents recommending the purchase or exchange of an annuity to have reasonable grounds for believing it is suitable for the consumer. The bill replaces the "*objectively* reasonable" standard with a "reasonable" standard that expressly requires the use of specific forms and criteria to collect suitability information. Agents and agent representatives must record their recommendations to consumers and not dissuade them from truthfully responding to the insurer's request for suitability information, filing a complaint, or cooperating with the investigation of a complaint. In addition to preserving the existing statutory limitation on surrender charges or deferred sales charges in annuity contracts issued to senior citizens, the law will now require insurers to reduce these charges so that no surrender or deferred sales charges exist at the end of the 10th policy year or 10 years after the premium is paid, whichever is later.

The Department of Financial Services (DFS) will be authorized to order corrective action, including monetary restitution and appropriate penalties and sanctions on insurers, agents, managing general agencies, or insurance agencies for violations of this law. Consumers whose funds are misappropriated, converted, or unlawfully withheld will be entitled to payment of restitution by the agent. Insurers will be subjected to liability for violations made by contract workers in a departure from current law.

In addition to provisions from the model regulation, the bill repeals the ability of the Office to require additional disclosures and information by rule, but codifies the inclusion of certain disclosures on the cover page of annuity contracts such as the unconditional refund period, long-term commitment of annuities, contractual bonus features, interest rates, and right to a buyer's guide. (Effective date: October 1, 2013.)

Pharmacy (CS/CS/HB 365, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-102)
Statute(s) Affected: 465.019, 465.0252

In 2010, Congress enacted the Biologics Price Competition and Innovation Act (Biologics Act) as part of the federal Patient Protection and Affordable Care Act (PPACA). The Biologics Act creates a pathway for federal Food and Drug Administration (FDA) approval of biosimilar biological products. A biological product is a virus, therapeutic serum, vaccine, protein, blood component, or other product used to prevent, treat, or cure human disease and medical conditions. A biosimilar biological product is highly similar to another biological product, known as a reference product, with minor differences in clinically

inactive components. Biosimilar biological products have been approved and sold in Europe since 2006. Currently, there is no biosimilar biological product market in the United States.

Under this bill, Florida pharmacists will be permitted to dispense a substitute biological product for a prescribed biological product if the FDA has determined that the substitute biological product is "biosimilar to and interchangeable with" the prescribed biological product. Pharmacists, including those practicing in a class II institutional pharmacy (i.e., typically a hospital), will have to notify the prescribing health care provider of the substitution within a specific time frame and in a specific manner. The pharmacist will be required to maintain for at least two years a written or electronic record of the substitution. (Effective date: July 1, 2013.)

Interstate Insurance Product Regulation Compact (CS/CS/HB 383, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-140)
Statute(s) Affected: Unspecified

The bill adopts the Interstate Insurance Product Regulation Compact (Compact), with Florida joining effective July 1, 2014, subject to the terms of this enabling legislation. The Compact is governed by a Commission. The Commission develops uniform standards for life insurance, annuity, disability income, and long-term care insurance product lines, and reviews filed products for approval against these adopted standards. The Commission did not become operational until May 2006. Today, the Commission has 41 member states, representing two-thirds of the nationwide premium volume.

In joining the Compact under the enabling legislation, Florida opts out of all standards for long-term care products and, for all other products, all new standards adopted by the Commission after March 1, 2013, that substantially change existing state standards upon joining the Compact. In addition, with respect to existing standards, Florida specifically opts out of standards providing a 10-day period for the unconditional refund of premiums, plus any fees or charges; underwriting criteria limiting the amount, extent, or kind of life insurance based on past or future travel in a manner inconsistent with Florida law; and any other that conflicts with consumer protections under Florida statutes or rules. In addition, under the bill, Florida's standards will not be limited or rendered inapplicable by the absence of a Compact standard. Therefore, notwithstanding the provision in the Compact stating that the rules and uniform standards of the Compact are the exclusive provisions applicable to the content, approval, and certification of such products, Florida's standards will continue to apply to products in this state.

The Office will work with the Commission to handle public records requests from Florida residents in accordance with Florida public records law. Finally, the Office will examine the extent to which Compact standards provide consumer protections equivalent to those under Florida law and the Florida Administrative Procedure Act, and submit a report to the presiding officers of the Legislature and the Financial Services Commission by January 1, 2014. (Effective date: July 1, 2014, except as otherwise provided.)

Health Insurance Marketing Materials (CS/SB 648, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-174)
Statute(s) Affected: 120.541, 627.6699, 627.9407

Insurers will no longer be required to submit small group health plan marketing communications to the Office prior to use. Similarly, insurers may begin using long-term care advertising materials immediately upon filing with the Office, subject to subsequent disapproval or withdrawal of approval. Previously, insurers had to wait at least 30 days after filing to use these advertising materials. In addition, the bill

exempts rules adopted by the Financial Services Commission which establish the format for the notice of estimated premium impacts from the federal Patient Protection and Affordable Care Act as required under CS/SB 1842, from statutory provisions requiring legislative ratification of proposed rules having an adverse impact on economic growth or business competitiveness, or increasing regulatory costs, in excess of $1 million in the aggregate over five years. (Effective date: July 1, 2013.)

Medicaid Recoveries (CS/CS/HB 939, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-150)
Statute(s) Affected: 409.907, 409.91, 409.913, 409.92, 624.351, 624.352

The Medicaid and Public Assistance Fraud Strike Force, created by the 2010 Legislature to craft a coordinated statewide strategy to combat fraud, is repealed under the bill. Prior to the June 14, 2014, repeal date, designees may serve in the same capacity as the designating member. In addition, Florida's Chief Financial Officer will no longer be required to prepare model interagency agreements with designated entities ("Strike Force" agreements) for achieving a coordinated response to fraud. This requirement is also repealed effective June 14, 2014. (Effective date: July 1, 2013.)

Health Care Accrediting Organizations (CS/HB 1071, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-93)
Statute(s) Affected: 154.11, 394.741, 395.002, 395.3038, 397.403, 400.925, 400.9935, 402.7306, 408.05 430.80, 440.13, 486.102, 627.645, 627. 668, 627.669, 627.736, 641.495, 766.1015,

Numerous sections of statute are amended to incorporate a uniform interpretation and application of the term "accrediting organizations." Specific accrediting organizations are referenced in current law, affecting a variety of providers regulated by several state agencies and departments, including the Office. Where, under current law, accreditation is required for particular facilities such as mental health facilities, stroke centers, and health care clinics, or specific programs, or health maintenance organizations, the bill removes references to specific accrediting organizations and refers instead to "organizations whose standards incorporate comparable licensure regulations required by this state." Finally, the bill expands the entities that will be recognized as an accrediting agency for physical therapist assistant educational programs. (Effective date: July 1, 2013.)

Health Flex Plans (HB 1157, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-94)
Statute(s) Affected: 408.909

First established in 2002, health flex plans offer affordable basic benefit health care plans to low-income uninsured state residents. Starting as a pilot program in Indian River County, subsequent legislation has expanded program availability statewide. As of early 2013, these plans enrolled over 12,000 individuals in six counties. Currently, to be eligible for enrollment, individuals must be at or below 300 percent of the federal poverty level. Under the federal Patient Protection and Affordable Care Act, premium tax credits, and subsidies will be available to qualified individuals with income between 100 and 400 percent of the federal poverty level who obtain coverage in an Exchange. Individuals below 100 percent of the federal poverty level will not be eligible for premium tax credits or subsidies through an Exchange. Under current law, the Health Flex Plan program would have ended on July 1, 2013. With this bill, the program will now be continued indefinitely through the elimination of the currently scheduled statutory repeal date. The bill also revises the definition of "health flex plan coverage" to include excepted

benefits, such as hospital indemnity or other fixed indemnity insurance, and limited scope dental or vision effective January 1, 2014. (Effective date: June 30, 2013.)

Healthcare Facilities (Cancer Treatment) (CS/CS/HB 1159, 2nd Eng.)

Action by Governor: Approved (Chapter No. 2013-153)
Statute(s) Affected: 395.003, 395.4001, 395.401, 395.4025, 400.9905, 408.036, 627.42391, 641.313

Included within this health care bill is the Cancer Treatment Fairness Act (Cancer Act). Under the Cancer Act, individual and group health insurance policies and health maintenance organization contracts covering cancer treatment medications will be required to cover oral medications in a manner no less favorable than those provided intravenously or infused. The bill exempts grandfathered health plans under the federal Patient Protection and Affordable Care Act and supplemental limited benefit plans. Also, there is a $50 per month threshold for certain oral cancer treatment cost sharing responsibilities. This portion of the bill affects policies issued or renewed on or after July 1, 2014. The Financial Services Commission is directed to adopt necessary implementing rules. As background, intravenous medications are typically administered in a physician's office or outpatient hospital setting and covered as a medical benefit, while oral medications are typically dispensed as a prescription drug benefit through a pharmacy. (Effective date: July 1, 2013.)

Medical Negligence Actions (SB 1792, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-108)
Statute(s) Affected: 381.028, 456.057, 766.102, 766.106, 766.1065

Laws relating to disclosure of patient information, communications with health care providers and practitioners, and qualifications of expert medical witnesses in medical negligence actions are revised by this bill.

Under the bill, information disclosed by a patient to a health care practitioner or provider, or records created by a practitioner or provider during the course of care or treatment may be disclosed in a medical negligence action or administrative proceeding if: 1) the practitioner or provider is, or reasonably expects, to be named as a defendant; 2) in accordance with the pre-suit notice phase prior to a medical negligence action; 3) as provided for in the release of protected health information; or, 4) if the practitioner or provider reasonably expects to be deposed, during a consultation with their attorney.

The health care practitioner's or provider's insurer will not be allowed to contact the practitioner or provider to recommend they retain legal counsel and may not select an attorney for them. The insurer will only be permitted to recommend an attorney if the practitioner's or provider's insurer contacts them relating to their involvement in the matter. The practitioner's or provider's attorney may not disclose any information related to the attorney's representation other than the categories of work performed and the amount of time worked for billing purposes. These limitations will not apply under the following circumstances: 1) if the attorney reasonably expects the practitioner or provider to be named as a defendant and they agree with the attorney's assessment; 2) if the practitioner or provider receives a pre-suit notice for a medical negligence action; or 3) they are named as a defendant.

Concerning the requirements for expert testimony offered by a specialist against a provider, the law will no longer allow a person to testify as an expert on the basis of specializing or practicing or instructing students in a "similar" specialty. Their experience must be in the same specialty. The bill arguably limits the discretion of the trial court to qualify or disqualify expert witnesses in medical negligence actions by

repealing a current statutory provision permitting a trial court to disqualify or qualify an expert witness on grounds other than those expressly enumerated.

The changes related to expert testimony apply to causes of action accruing on or after July 1, 2013. All other changes, other than a technical cross-reference change, apply to causes of action accruing before, on, or after July 1, 2013 (i.e., the effective date of the act).

The bill allows a defendant or his attorney to interview the claimant's treating health care provider and provides a process for this to occur. It also revises the statutory form authorizing the release of protected health information. (Effective date: July 1, 2013.)

Health Insurance (PPACA Implementation) (CS/SB 1842, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-101)
Statute(s) Affected: 624.25-624.26; 624.34; 626.995- 626.9958; 627.402; 627.41-627.411, 627.6425; 627.648-627.6486; 627.64872- 627.6499; 627.6571; 627.6675; 627.6699; 641.31; 641.3922

This bill amends the Florida Insurance Code in response to the requirements of the federal Patient Protection and Affordable Care Act (PPACA).

The bill bifurcates health insurance form and rate review in Florida, authorizing the Office to enter into a collaborative arrangement with the Department of Health and Human Services for form review and market conduct examinations or investigations, while suspending Office rate review of nongrandfathered individual and small group health plans for plan years 2014 and 2015. While rate review will now occur at the federal level for the first two plan years, insurers operating in Florida must nonetheless continue to file rates and rate changes with the Office prior to use.

The bill also directs the Division of Consumer Services within the Department of Financial Services (DFS) to respond to PPACA-related consumer complaints.

In addition, the bill incorporates the PPACA preemption standard for conflicting state regulations and requires insurers and health maintenance organizations (HMO) to notify policyholders of nongrandfathered individual and small group health plans of the estimated monthly premium impacts resulting from the PPACA. The Financial Services Commission (FSC) will establish the required format of the notice by rule. By October 1, 2013, the DFS and the Office must post a summary of the estimated premium impacts contained in the notices on their respective websites.

Other provisions of the bill will enable insurers to preserve the status of grandfathered health plans. For example, if a policy form covers both grandfathered and nongrandfathered health plans, insurers will be permitted to non-renew coverage for just the nongrandfathered health plans, subject to certain conditions. Insurers will also be required to separate the claims experience of grandfathered and nongrandfathered plans for rating purposes. In addition, insurers may discontinue non-PPACA compliant policy forms without being subject to the current prohibition on selling a new, similar policy form after a policy form has been discontinued.

The PPACA definition of "small employer" is incorporated into the bill, resulting in two different definitions of "small employer"—one for grandfathered plans (the current statutory definition) and another for nongrandfathered plans (the PPACA definition). Like the current statutory definition, the number of employees for purposes of qualifying as a "small employer" under the PPACA is capped at 50

as authorized under PPACA until 2016, when it will increase to 100. A key difference between the Florida and PPACA definitions is that "small employer" under the Florida Employee Health Care Access Act includes sole proprietors and other individuals not considered small employers under the PPACA. For nongrandfathered plans, state laws applicable to small group coverage will continue to apply to coverage for a small employer as defined under the PPACA, but will no longer apply to an employer who does not qualify as a small employer under the PPACA.

As a consumer protection, the DFS will register "navigators," the federal designation for individuals assisting applicants with enrollment in a qualified health plan through an Exchange. In addition, health insurers and HMOs will be allowed to nonrenew individual conversion policies if the individual is eligible for other similar coverage.

Finally, the bill dissolves the Florida Comprehensive Health Association (FCHA), the state's high risk pool for those unable to obtain coverage, effective September 1, 2015. Coverage for the approximately 170 FCHA policyholders will end by June 30, 2014. The FCHA will be required to assist each policyholder in obtaining health insurance coverage. It also repeals statutory provisions establishing the never-implemented Florida Health Insurance Plan. (Effective date: except as otherwise provided, upon becoming a law—May 31, 2013.)

Florida Health Choices Program (CS/SB 1844, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-110)
Statute(s) Affected: 408.91

The Florida Health Choices Program (FHCP) is a private, non-profit, corporation under Florida law designed as a centralized marketplace for purchasing health products including, health insurance and HMO plans, and flexible spending accounts. The bill expands eligibility to individuals and employers meeting FHCP criteria. Products sold in the marketplace will not be limited to risk-bearing products. Under the bill, the specific timeframe for open enrollment is removed, giving the program and employers more flexibility. It also conforms criteria for product pricing guidelines to federal. Finally, the bill provides that standard forms, website designs, or marketing communications developed by the FHCP or any vendor participating in the FHCP are not subject to the Florida Insurance Code. (Effective date: July 1, 2013.)

PROPERTY AND CASUALTY INSURANCE

Wireless Communications Devices While Driving (CS/CS/CS/SB 52, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-58)
Statute(s) Affected: 316.305, 322.27

This bill prohibits texting while driving. Specifically, the bill prohibits an individual from operating a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other text in a handheld wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication. Exceptions exist for emergency workers, reporting emergencies or suspicious activities, and receiving various types of other information. The prohibition will be enforceable as a secondary offense (i.e., the operator has been stopped for an alleged violation of another motor vehicle violation). A first violation will be punishable as a nonmoving violation ($30 fine plus court costs). A second violation committed within five years after the first will be a moving violation ($60 fine plus court costs). If an accident occurs

involving death or injury, records for the device may be entered as evidence. The bill also imposes six points for the unlawful use of a wireless communications device that results in a crash and an additional two points for a moving violation that occurs in conjunction with the unlawful use of a wireless communications device, if the violation occurs in a school zone. (Effective date: October 1, 2013.)

Low-Speed Vehicles (CS/CS/SB 62)

Action by Governor: Approved (Chapter No. 2013-161)
Statute Affected: 319.14

Under Florida law, a "low-speed vehicle" is any four-wheeled vehicle (typically one resembling a golf cart) whose top speed is between 20 and 25 miles per hour. The vehicle operator must possess a valid driver's license and the vehicle must not be operated on any road with a speed limit exceeding 35 miles per hour. In addition, it must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers, and must be registered, titled and insured. For safety reasons, the Florida Department of Transportation and local governments will be allowed to prohibit their use on specific roads.

The bill establishes procedures for the owner of a registered low-speed vehicle to administratively convert it to a golf cart. Once converted, the owner will no longer be required to register, title and insure it, and the operator will no longer have to possess a valid driver's license to operate it. (Effective date: July 1, 2013.)

Condominiums(CS/CS/SB 73, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-188)
Statute(s) Affected: 399.02, 718.111, 718.112, 718.113, 718.115, 718.303, 718.403, 718.406, 718.5011, 719.104, 719.1055, 719.106, 719.303, 719.501, 720.303, 720.305, 720.306

Any portion of condominium property that must be insured by the association against property loss which, under the bill, is damaged by an insurable event, shall be reconstructed, repaired, or replaced as necessary by the association as a common expense. This limits the association's responsibility for reconstruction or repair to damage caused by insurable events. The bill also provides that the cost of reconstruction work undertaken by the association may be collected as an assessment under Florida law. Finally, the bill extends provisions of the condominium code pertaining to hurricane shutters and windows to "other types of code-compliant hurricane protection," such as impact glass and code-compliant doors.

Finally, under the bill, the Phase II Firefighter's Service requirements for existing elevators in condominiums or multifamily residential buildings may not be enforced until an elevator is replaced or the elevator requires major modification. The bill removes the alternative requirement that these standards be enforced no later than July 1, 2015. This requirement permits the operation and exclusive control of an elevator by firefighters for evacuating the physically disabled in occupied buildings and for moving firefighters and equipment during an emergency. (Effective date: July 1, 2013.)

Uninsured Motorist Insurance Coverage (CS/HB 341)

Action by Governor: Approved (Chapter No. 2013-195)
Statute(s) Affected: 627.727

Under current law, uninsured motorist policies are "stacked" by default. "Non-stacked" coverage must be affirmatively selected by the insured by signing a waiver of any rights to combine policy limits from multiple vehicles. Florida's First District Court of Appeal recently held that a resident relative who occupied an insured's vehicle during an accident could still claim "stacked" benefits despite any waiver signed by the named insured. This bill restores the general effectiveness of a "non-stacking" waiver for uninsured motorist coverage where the person buying the coverage elects stacking or non-stacking coverage that is binding on the family. The result returns current insurance law to the status quo prior to the court decision. (Effective date: upon becoming a law—June 14, 2013.)

Property and Casualty Rates, Fees, and Forms (CS/CS/SB 468, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-66)
Statute(s) Affected: 215.555, 627.062, 627.41, 627.4102

The bill expands the kinds of commercial lines risks exempt from product rate filing and review by the Office, to include medical malpractice for a facility that is not a hospital, nursing home, or assisted living facility (examples of such facilities to which the exemption will apply: laboratories, imaging facilities, dialysis centers, drug and alcohol rehabilitation facilities and hospice facilities); and medical malpractice for a health care practitioner that is not a licensed dentist, physician, osteopathic physician, chiropractic physician, or podiatric physician; or a licensed pharmacist or registered pharmacy technician (examples of such health care practitioners to whom the exemption will apply include: occupational and physical therapists, nurses, audiologists, social workers, counselors, physician assistants, pharmacists, medical testing technicians, and medical lab and pharmacy technicians). Insurers will be exempt from the requirement to file rates, rating schedules, or rating manuals via the "file and use" method (at least 90 days prior to the proposed effective date) or the "use and file" method (within 30 days after the effective date of the filing) with the Office for these types of medical malpractice insurance. Also under the bill, insurers will no longer be required to notify the Office of the total premium written during the prior year and will only be required to retain actuarial data in support of a rate filing for two years from the effective date of the filing. The Office will be expressly authorized to recover the costs of the examination from the insurer. Also, insurers will be able to file property and casualty forms (other than workers' compensation and personal lines) on an informational basis, and begin using the forms immediately upon filing by certifying that the forms comply with Florida law. A form subsequently found to be non-compliant will be disapproved for use. (Effective date: July 1, 2013.)

Workers' Compensation System Administration (CS/CS/HB 553)

Action by Governor: Approved (Chapter No. 2013-141)
Statute(s) Affected: 440.02, 440.05, 440.102, 440.107, 440.11, 440.13, 440.15, 440.185, 440.20, 440.211, 440.385, 440.491

The bill includes numerous changes to the workers' compensation system. Stop-work orders and penalties assessed against a limited liability company will continue in force against successor companies to the same extent (and under the same conditions) that they remain in force against successor companies of corporations, partnerships, and sole proprietors. The process for allowing out-of-state corporate officers to electronically apply for an exemption from coverage requirements is clarified.

Concerning medical care, workers' compensation health care providers will no longer have to be certified by the Department of Financial Services (DFS). Additional time (nearly twice as much time) will be provided for them to file medical reimbursement disputes with the DFS, carriers to respond to the petition, and the DFS to issue written determinations. The requirement that DFS remove physicians found to have engaged in professional misconduct or exceeded their professional competence or engaged in other prescribed conduct, from lists of those authorized to provide medical care, is repealed. Administrative fines for health care providers engaged in a pattern or practice of overutilization are reduced from $5,000 per incident to $5,000 in total. Fines for employers who fail to timely file a notice of injury or death is reduced from $1,000 for each failure to $500. The bill repeals the authority of the Office to audit insurers and group self-insurance funds to determine if they are paying medical bills in compliance with Florida law, and to assess fines for noncompliance.

With regards to catastrophic temporary total disability benefits, the workers' compensation law provides for increased indemnity benefits (80% of the employee's average weekly wage) for up to six months from the date of injury. However, under current law, these benefits are capped at $700 per week. Since 2007, the maximum compensation rate in Florida's workers' compensation system has been greater than $700. The bill removes the $700 weekly cap on temporary total disability benefits.

Finally, the DFS will no longer be required to approve the advance payment of workers' compensation benefits in certain circumstances and serve as custodian of certain collective bargaining agreements; carriers will no longer be required to submit reemployment status reports to the DFS for review; and vocational evaluations will not be required in every case prior to the DFS authorizing training and education for injured employees. (Effective date: July 1, 2013.)

Coverage for Manufactured/Mobile Homes through Citizens (CS/CS/HB 573, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-158)
Statute(s) Affected: 627.351, 723.06115

By underwriting rule, Citizens Property Insurance Corporation (Citizens) had imposed a $6,000 minimum coverage limit for mobile and manufactured homes. This bill reduces this minimum coverage limit, requiring Citizens to make coverage available for a minimum insured value of at least $3,000. Also, under the bill, Citizens must now cover screened enclosures and carports that are aluminum/aluminum framed or screened enclosures and carports that are not covered by the same or substantially the same materials as that of the primary dwelling; and patios that have a roof covering constructed of materials that are not the same or substantially the same materials as that of the primary dwelling. Citizens had stopped covering these structures in 2012. The bill also amends provisions governing the disbursement of funds from the Florida Mobile Home Relocation Trust Fund to the Florida Mobile Home Relocation Corporation. (Effective date: upon becoming a law—June 12, 2013.)

Workers' Compensation Drug Repackaging (CS/SB 662)

Action by Governor: Approved (Chapter No. 2013-131)
Statute(s) Affected: 440.13

This compromise bill caps reimbursement rates for physicians dispensing repackaged or relabeled drugs to workers' compensation claimants at 112.5 percent of the average wholesale price (AWP), plus a dispensing fee of $8.00. Prescription medications for workers' compensation claimants currently are reimbursed at the AWP (undefined in Florida Statutes), plus a dispensing fee of $4.18. As a result, workers' compensation insurance costs are projected to decrease by 0.7 percent—approximately $20 million. As provided in the bill, the "average wholesale price" is the number of units dispensed multiplied by the per-unit AWP, which is set by the original manufacturer of the underlying drug dispensed based on the Medi-Span Master Drug Database as of the date of dispensing. The employer or carrier, or a third party acting on their behalf, will be exempt from the reimbursement schedule when they contract directly with a provider seeking reimbursement at a lower rate. Finally, a dispensing practitioner will now be prohibited from possessing repackaged or relabeled medications unless payment has been made to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the date the dispensing practitioner takes possession of the medication. (Effective date: July 1, 2013.)

Wrap-Up Insurance Policies (CS/CS/SB 810)

Action by Governor: Approved (Chapter No. 2013-175)
Statute(s) Affected: 627.4138

A wrap-up insurance policy is an insurance policy purchased by one party (e.g., the project owner or general contractor) to cover itself and all of its subordinate contractors and subcontractors for operations at a specific project site. They are most commonly used to provide workers' compensation and general liability coverage.

Under the bill, a wrap-up insurance policy for a nonpublic construction project will be able to have a workers' compensation deductible of $100,000 or more if the workers' compensation minimum standard premium calculated on the combined payrolls for all entities covered by the wrap-up policy exceeds $500,000); the estimated cost of construction at each specified worksite is $25 million or more; the insurer pays the first dollar of a workers' compensation claim without a deductible (as required for a large deductible policy); the reimbursement of the deductible by the insured does not affect the insurer's obligation to pay claims; the insurer complies with specified workers' compensation filing requirements; and the insurer has a program to have the first-named insured whether the owner, the general contractor, or a combination thereof, reimburse the insurer for losses paid within the deductible. (Effective date: July 1, 2013.)

Property Insurance/Citizens Property Insurance Corporation (CS/SB 1770, 3rd Eng.)

Action by Governor: Approved (Chapter No. 2013-60)
Statute(s) Affected: 215.555; 624.155; 626.752; 627.062; 627.0628; 627.0629; 627.351; 627.3518; 627.3519; 627.352; 627.41; 627.706

This comprehensive Citizens Property Insurance Corporation (Citizens) reform bill is designed to accelerate the depopulation of Citizens, reduce the potential assessment burden, and increase the accountability and integrity of the corporation by creating the Office of the Inspector General within Citizens and bringing Citizens under state laws governing state agency procurement of commodities and contractual services.

The bill reduces eligibility thresholds for personal lines residential coverage through Citizens from the current dwelling replacement cost of $2 million to $1 million, with further reductions of $100,000 a year down to $700,000 by January 1, 2017. The limit remains at $1 million where the Office finds there is not a reasonable degree of competition. Citizens also will no longer be able to insure "major" structures (e.g., houses, mobile homes, apartment buildings, condominiums, motels, restaurants) commencing construction or substantial improvement on or after July 1, 2014, seaward of the coastal construction control line or in the Coastal Barrier Resources System.

Citizens will be precluded from renewing personal and commercial lines residential coverage if a private insurer offers comparable coverage for a premium equal to or less than Citizens. Agents will also be required to obtain an additional acknowledgement from Citizens applicants relating to potential surcharge liability. In addition, the Legislature requires Citizens to establish a clearinghouse program to place personal residential risks with private insurers. The Legislature further directs Citizens to develop appropriate procedures for diverting existing commercial residential policyholders into the private insurance market and submit these to the Legislature by January 1, 2014.

As part of the program, Citizens may require new and renewal applications to be submitted to the clearinghouse before the corporation can bind or renew coverage, during which time offers of coverage may be received from authorized insurers. The bill authorizes insurers taking policies out of Citizens to use Citizens policy forms or endorsements for three years without obtaining Office approval. Citizens is also exempted from statutory "exchange of business" restrictions to facilitate the operations of the clearinghouse.

Citizens will be required to prepare and post on its website an annual report of its statewide average and county-specific residential non-catastrophe loss ratios. The statutorily required annual report of probable maximum loss for the Florida Hurricane Catastrophe Fund Finance Corporation (Cat Fund) and Citizens will no longer be submitted by the Office, but separately by the Cat Fund and Citizens directly to the Financial Services Commission.

The Cat Fund is renamed and it's authority to offer additional reinsurance coverage to qualifying insurers is repealed. The exemption from Cat Fund assessments for medical malpractice insurance is also extended for three years. The bill adds a structural engineer to the Florida Commission on Hurricane Loss Projection Methodology and a consumer representative to the Citizens board. The Governor will make both appointments. Finally, public adjusters are required to communicate with insurers to resolve claims and may not acquire any interest in salvaged property, except with the written consent of the insured. The 10 percent fee cap on public adjuster compensation for claims filed under a Citizens' policy is repealed. (Effective date: July 1, 2013.)

Citizens Clearinghouse/Public Records Exemption (SB 1850, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-61)
Statute(s) Affected: 627.3518

This bill is linked to CS/SB 1770, 3rd Engrossed, which, in pertinent part, creates a clearinghouse program within Citizens. Under the clearinghouse program, all new and renewal applications, excluding commercial residential, must be submitted to the clearinghouse before the corporation can bind or renew coverage. Under this public records exemption, underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the clearinghouse

which are used to identify and select risks from the clearinghouse are made confidential and exempt from public records requirements. This exemption will be repealed on October 2, 2018, unless reenacted by the Legislature. (Effective date: July 1, 2013.)

OIR ADMINISTRATION/OPERATIONS

Public Meetings (CS/CS/SB 50)

Action by Governor: Approved (Chapter No. 2013-227)
Statute(s) Affected: 286.0114

This bill requires state and local boards or commissions to provide the public with a reasonable opportunity to be heard on pending propositions. The opportunity does not have to occur at the meeting where the body takes official action if there is an opportunity provided during the decision making process and that opportunity is reasonably close in time to the meeting at which official action is taken. A state or local board does not have to provide the public with an opportunity to be heard if it is an emergency situation, involves a ministerial decision, is a meeting not subject to the open meetings law, or if acting in a quasi-judicial capacity. The bill sets forth the kind of rules or policies boards may establish for providing an opportunity to be heard. Finally, the bill grants the circuit court the jurisdiction to issue an injunction to enforce this requirement and the authority to assess attorney fees. However, failure of the public body to comply with this act does not void the underlying action. (Effective date: October 1, 2013.)

Filing False Documents Against Real or Personal Property (CS/CS/CS/SB 112)

Action by Governor: Approved (Chapter No. 2013-228)
Statute(s) Affected: 817.535, 843.0855, 921.0022

This bill makes it a criminal offense punishable as a third-degree felony to file or direct another to file, with the intent to defraud or harass another, a document in an official record which contains materially false, fictitious, or fraudulent statements or representations that affect the owner's interest in property described in the document. Second or subsequent offenses are a second degree felony. If the property owner subject to the false instrument is a public officer or employee or incurs financial loss as a result of the false instrument, or the defendant is incarcerated or under supervision, the offenses are reclassified as second-degree and first-degree felonies, respectively. In addition, the bill creates a parallel civil cause of action for this conduct. Upon a finding of intent to defraud or harass, the court or jury must award actual damages and punitive damages to the adversely affected person. The court may also levy a civil penalty of $2,500 for each instrument found to be in violation and grant any other just and proper relief. The prevailing party will be entitled to recover costs and reasonable attorney fees. Any person filing a fraudulent construction lien will be subject to penalties under the Construction Lien Law, not the newly-created offense in the bill.

The existing criminal offense of deliberately impersonating or falsely acting as a public officer or employee under color of law relating to any legal process or action against another is extended to acts purporting to supersede or override any legislation or statute of this state, or to supersede or override any action of any court of this state. The definition of "public officer or employee" is revised. Under current law, any person who falsely and under color of law attempts in any way to influence, intimidate, or hinder public officers or law enforcement officers in the discharge of their official duties commits a

third degree felony. The bill expands this to include virtually any public employee and also acts of harassment and retaliation. For purposes of sentencing, the bill assigns severity rankings in the Criminal Punishment Code to the new offenses. (Effective date: October 1, 2013.)

Paper Reduction (CS/CS/HB 247, 2nd Eng.)

Action by Governor: Approved (Chapter No. 2013-192)
Statute(s) Affected: 903.14, 903.26, 903.27, 903.31

Among the many provisions in the bill promoting paper reduction through electronic filing, a surety will now be able to file the affidavit filed with a bail bond either in person or electronically. Clerks of court will also be allowed to furnish certain documents (e.g., judgment docket, executed certificate of cancellation) and notices (e.g., bond forfeiture, nonpayment of judgment), either by mail or electronically. (Effective date: October 1, 2013.)

Complaint of Misconduct Filed with Agency/Public Records Exemption (CS/HB 1075)

Action by Governor: Approved (Chapter No. 2013-248)
Statute(s) Affected: 119.071

State law provides limited exemptions from public record requirements for information relating to complaints alleging misconduct and ensuing investigations carried out by agencies in various contexts. However, there is no general exemption for information obtained pursuant to an investigation following a complaint of misconduct filed against a public employee.

Under this bill, a complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct is confidential and exempt, until the investigation is no longer active, or until the agency provides written notice to the employee who is the subject of the complaint that the agency has concluded the investigation and either will or will not proceed with disciplinary action or file charges. The bill stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment. (Effective date: July 1, 2013.)

State-Owned or State-Leased Space (CS/CS/CS/HB 1145)

Action by Governor: Approved (Chapter No. 2013-152)
Statute(s) Affected: 110.171, 216.0152, 253.031, 253.034, 255.248, 255.249, 255.25, 255.252, 255.254, 255.257, 985.682

This bill makes numerous revisions to inventory, sales, lease, and reporting requirements applicable to state-owned and state-leased property. Included among its many provisions, the bill revises reporting requirements applicable to the annual inventory of state-owned facilities, and various reporting and notice requirements applicable to surplus property and requires state agencies, universities, and colleges to submit a plan for the proposed use of any surplus building or parcel the entity seeks to lease.

It also modifies notice requirements for occupying state-owned and state-leased facilities and authorizes the Department of Management Services (DMS) to require certain agencies to occupy or relocate to space in a state-owned office building. The DMS will be required to include the strategic leasing plan in the master leasing report, and submit the report annually by October 1. The bill requires the report to include recommendations for using capital improvement funds to consolidate state agencies into state-

owned office buildings. Finally, the bill allows DMS approval of emergency acquisition of space without competitive bids in certain circumstances and revises energy performance analysis requirements. (Effective date: July 1, 2013, except as otherwise provided.)

Procurement of Commodities and Contractual Services (CS/CS/HB 1309, 2nd Eng.)

Action by Governor: Approved (Chapter No. 2013-154)
Statute(s) Affected: 381.028, 456.057, 766.102, 766.106, 766.1065

This bill makes numerous changes to state agency contracting and procurement, including the creation of new duties for the Chief Financial Officer (CFO) in this process.

Each state agency and local government contract for services in which the contractor is acting on behalf of the governmental entity must require the contractor to comply with public records laws, and enforce the contract provisions if the contractor does not comply with a public records request.

The bill imposes additional requirements on agency agreements funded with federal or state assistance, to include provisions specifying: 1) the financial consequences that apply for failure to perform at the minimum level of service required by the agreement, and 2) that a recipient or subrecipient may only expend funds for allowable costs resulting from obligations incurred during the agreement period and must refund any balance of unobligated funds which have been advanced or paid and any excess funds received. Agencies must appoint grant managers for all such agreements.

In addition, grant managers for all agreements exceeding the Category Two threshold ($35,000) must complete contract and grant management accountability training conducted by the CFO. Effective December 1, 2014, both grant and contract managers responsible for agreements in excess of $100,000 will be required to become certified contract managers and annually complete grant or contract management training, respectively. The CFO will establish uniform procedures for grant and contract management against which grants and contracts will be evaluated before paid.

Under the bill, the CFO is directed to audit executed state and federal grant agreements and records and those for contracts, as applicable, to make sure adequate internal controls are in place to comply with the terms and conditions of the agreements. CFO staff will discuss the audit with the appropriate agency official.

The DMS will no longer be required to maintain a vendor list. Provisions related to state procurement, including the addition of a definition for “governmental entity” and a requirement that a contract pursuant to an invitation to bid must be awarded to the responsible and responsive vendor who submits the lowest responsive bid are revised. The requirement that agencies seek DMS approval of single source purchases exceeding the Category Four threshold (i.e., $195,000) is repealed. The requirement that extensions of contracts for services be in writing and not exceed six months is also applied to contracts for commodities. The contract will be required to specify a performance measure for each deliverable. (Effective date: July 1, 2013, except as otherwise provided.)

State Employee Health Insurance (HB 1802, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-52)
Statute(s) Affected: 110.123, 110.131

Effective January 1, 2014, the bill extends eligibility for state group health insurance coverage to those full-time state employees that are employed, or expected to be employed, for at least 30 hours per week and paid with Other-Personal-Services funds (OPS). The bill establishes the measurement periods used to determine the average number of hours worked. In addition, employee premium contributions will no longer be pro-rated for permanent employees working more than 30 hours per week because they will now be considered full-time employees.

Part-time OPS employees (i.e., those employed for less than 30 hours per week) and seasonal employees paid from OPS funds are not eligible to participate in the program. All entities participating in the state group insurance program must provide the Department of Management Services (DMS) with the name of each OPS employee, and number of hours worked, whether or not they actually participate in the program. The state is authorized to continue the current level of contributions into health savings accounts for employees participating in the high deductible health insurance plans.

Also under the bill, the DMS is authorized to adopt emergency rules to modify the eligibility requirements of OPS employees. These rules must be limited to mitigating state exposure to potential liability under PPACA penalty provisions and will expire on June 30, 2014. (Effective date: July 1, 2013, except as otherwise provided.)

Florida Retirement System (HB 1810, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-53)
Statute(s) Affected: 112.363, 121.052, 121.055, 121.071, 121.71

Beginning July 1, 2013, the employer contribution for the Retiree Health Insurance Subsidy will increase from 1.11 percent to 1.20 percent of employee gross compensation for each member and class of the Florida Retirement System. The bill also adjusts the employer-paid contribution rates for normal cost and unfunded actuarial liability for the Florida Retirement System, based on the 2012 Actuarial Valuation. (Effective date: July 1, 2013.)

Transparency in State Contracting (HB 5401, 1st Eng.)

Action by Governor: Approved (Chapter No. 2013-54)
Statute(s) Affected: 215.985

The bill amends the Transparency Florida Act. Under the Act, the Governor's Office is required to establish and maintain a single website. The bill will require four additional websites, all of which must be accessible from the single website established and maintained by the Governor's Office, to include:

- the approved operating budgets of each state agency and branch of state government;
- the fiscal planning of the state; and
- positions, titles and salaries of state officers and employees.

The bill further requires that these websites provide an intuitive user experience, consistent virtual design, and be compatible with all major web browsers. The Governor's Office is required to create the operating budget and fiscal planning sites, and the DMS the officer and employee site.

Specific to the website for approved operating budgets, the bill expands the type of available information to include allotments for planned expenditures of state appropriations, trust fund balance reports, general fund balance reports, fixed capital outlay project data, 10-year appropriations history by agency, and links to state audits and program or activity descriptions. Disbursement data currently required of the single website will now be available through this new website. Specific to the website for fiscal planning, the bill requires access to the long-range financial outlook and program plans, agency budget instructions, legislative budget requests, capital improvement plans, and Governor's budget recommendations. Specific to the website for state officers and employees, the bill requires access to the name of each officer and employee; and their position, title and salary. The DMS will develop this site. The bill requires website data to be publicly accessible for 10 years and includes specific search criteria for each of the additional sites.

Under current law, the CFO is required to provide public access to a state contract management system. The bill changes it to a "contract tracking system," specifically requiring public access to contracts and procurement documents for all executive and judicial branch entities. It also provides exemptions and requires redaction of confidential or exempt information. "Contract" is defined under the bill to mean a written agreement or purchase order for goods or services or receipt of state or federal financial assistance. Each state entity must post the required information for contracts executed prior to July 1, 2013, and paid after July 1, 2013. The bill points out that posting does not dispense with the duty of the state entity to respond to a public records request or subpoena. The CFO is granted authority to adopt rules to administer this system.

Website managers will be required to notify the Joint Legislative Auditing Committee (Committee) of website cost and traffic. The Committee must provide the presiding officers of the Legislature with any recommended additions to currently required information by November 1, 2013.

Finally, the bill creates the "User Experience Task Force" to develop and recommend a design for consolidating existing state-managed transparency websites into one website. (Effective date: July 1, 2013.)

Office of Insurance Regulation
200 East Gaines Street
Tallahassee, FL 32399-0326
850-413-3140 (Office) 850-488-2348 (facsimile)
www.floir.com