

# Legislative Summary 2010



Prepared by The Office of Insurance Regulation  
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**OFFICE OF INSURANCE REGULATION**

**KEVIN M. McCARTY**  
COMMISSIONER

July 9, 2010

Dear Friends:

During the 2010 Legislative Session, the Legislature passed several bills that will greatly impact the Office of Insurance Regulation (Office), the insurance industry, and the insurance buying public. The Office's priorities this year focused on preventing drastic budget cuts, streamlining the regulation of specialty products and addressing "cost-drivers" in the property insurance marketplace. For your reference, attached is the Office's 2010 Legislative Summary, which will provide you with a thorough review of the major bills and legislative appropriations affecting the Office.

One significant bill that passed this year was SB 2176, by Senator Peaden, which impacts every business unit within the Office. Among the various provisions contained in this bill is a streamlining of the regulation of specialty products and certain commercial insurance lines. In addition, this bill also implements several suggestions of the "Safeguard our Seniors Task Force", on which the Office participated. The Office and insurance industry representatives were called upon to testify during the several weeks of committee meetings to present information relating to the unique Florida marketplace.

The Legislature also faced the daunting task of attempting to fulfill the Constitutional obligation to balance the state budget. Because of substantial cuts sustained over the past few years, I was concerned that any further reduction in Office personnel could have a deleterious impact on our ability to fulfill our statutory obligations. Fortunately, the Office fared reasonably well, receiving an increase in salary and benefits and maintaining all positions that are currently filled. I continue to be concerned that future budget cuts may threaten the Office's regulatory effectiveness.

As always, I am committed to implementing all the statutory changes made during the session in a manner that is consistent with the Legislature's intent, keeping in mind that the fundamental goal of the Office remains unchanged. We will continue to offer fast, fair and professional service to the people of Florida.

Sincerely,

A handwritten signature of Kevin M. McCarty in black ink.

Kevin M. McCarty

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## **FY 2010-2011 Budget Overview**

### **2010 General Appropriations Act**

**HB 5001 - Approved by the Governor May 28, 2010**

Issue	2009-2010 Funding	2010-2011 Funding	Difference Over/(Under)
<b>Positions</b>	300	290	(10)
<b>Salaries and Benefits</b>	\$18,334,987	\$18,595,072	\$260,085
<b>Other Personal Services</b>	\$175,000	\$150,000	(\$25,000)
<b>Expenses</b>	\$3,021,102	\$2,976,102	(\$45,000)
<b>Operating Capital Outlay</b>	\$2,000	\$2,000	
<b>Contracted Services</b>	\$845,726	\$845,726	
<b>Special Categories</b>	\$4,701,763	\$4,701,763	
Budget authority for financial examinations of insurance companies. Insurance companies reimburse the Insurance Regulatory Trust Fund for exam costs.			
<b>Special Categories -</b> Public Hurricane Model	\$623,512	\$623,512	

Disclaimer: The Appropriations above represent funds allocated to the Office of Insurance Regulation as approved for the annual period beginning July 1, 2010 and ending June 30, 2011. The Office is funded entirely by the Insurance Regulatory Trust Fund.

## **Property and Casualty**

### **HB 159 Guaranty Associations by Finance and Tax; Insurance, Business, and Financial Affairs Policy Committee; and Rep. Legg**

Insurance guaranty associations provide a mechanism for the payment of covered claims of insolvent insurance companies. Insurance companies are required by law to participate in guaranty associations as a condition of transacting business in Florida.

#### ***Florida Insurance Guaranty Association (FIGA)***

- Consolidates the two automobile accounts in FIGA and streamlines the assessment recoupment process insurers use to recover FIGA assessments from their policyholders. Exempts the recoupment of regular assessments from the imposition of commissions and fees.

#### ***Florida Life and Health Insurance Guaranty Association (FLAHIGA)***

- Increases the coverage limits for some types of claims covered by FLAHIGA, permits insurance agents to provide information about FLAHIGA with potential or current policy holders or annuity purchasers, and makes numerous statutory changes to conform the FLAHIGA statutes to the National Association of Insurance Commissioners (NAIC) model act.

#### ***Florida Workers' Compensations Insurance Guaranty Association (FWCIGA)***

- Designates FWCIGA, rather than FIGA, responsible for covering employment liability claims of insolvent workers' compensation insurers.

*EFFECTIVE DATE: July 1, 2010. {Chapter Law 2010-49}*

### **HB 545 Residential Property Sales by Rep. Patterson and others**

~~Vetoed~~ Repeals the second part of a “two-part phase-in” established in 2008 legislation requiring the sellers of homes located in the state’s windborne debris region to disclose the home’s windstorm mitigation rating.

This uniform rating system was adopted by the Financial Services Commission in 2007. The first part of the phase-in was repealed in 2009 before it could take effect. This bill repeals the second part of the phase-in that would take effect on January 1, 2011.

- Sellers of homes located in the windborne debris region will not be required to disclose the home’s windstorm mitigation rating.

- Saves sellers of homes located in the windborne debris region the cost of a windstorm mitigation inspection, which averages between \$150 and \$250.

*EFFECTIVE DATE: Upon becoming law. Vetoed by the Governor on June 1, 2010.*

**HB 661 Surplus Requirements/Mortgage Guaranty Insurers by Rep. Nelson**

Grants the Commissioner of the Office of Insurance Regulation discretion to grant temporary exception to mortgage guaranty insurers with regard to the current minimum capital surplus requirements.

Mortgage guaranty insurance companies may request such an exception and the Commissioner of Insurance Regulation, at his discretion, will determine whether to grant the temporary exception.

*EFFECTIVE DATE: July 1, 2010. {Chapter Law 2010-56}*

**SB 1196 and 1222 Community Associations by Judiciary Committee; Military Affairs and Domestic Security Committee; Regulated Industries Committee; and Senators Fasano, Ring, Gaetz, Lynn, Crist, and Rich**

Revises laws related to community associations, including condominium, homeowners', and cooperative associations. The bill permits condominium, cooperative, and homeowners' associations to demand payment of any future regular assessments from the tenant of a unit or parcel owner.

**Insurance-Related Provisions:**

- Revises and clarifies the property insurance requirements of condominium associations and condominium unit owners under chapter 718, F.S.
- Repeals the requirement that condominium unit owners must maintain property insurance coverage and the requirement that the condominium association must be an additional named insured and loss payee on policies issued to unit owners.
- Repeals the provision that a condominium association may purchase property insurance at the expense of the owner when the unit owner does not provide proof of insurance.
- Requires that residential condominium unit owner policies issued or renewed on or after July 1, 2010, include loss assessment coverage of \$2,000, for certain assessments with a deductible of no more than \$250 per direct property loss.

*EFFECTIVE DATE: July 1, 2010. {Chapter Law 2010-174}*

**SB 1460 Florida Hurricane Catastrophe Fund/ Contract Year by Banking and Insurance Committee and Senator Richter**

- Corrects the “transitional” 2010 contract year problem by changing the Florida Hurricane Catastrophe Fund’s (FHCF) contract year back to June 1<sup>st</sup> through May 31<sup>st</sup> thereby eliminating the acceleration of an insurer’s expenses for purchasing FHCF reinsurance.
- Provides legislative intent language which emphasizes the importance of providing residential property insurers with more time to negotiate and purchase private reinsurance and a greater degree of certainty regarding the coverage provided by the fund.
- Requires the FHCF’s aggregate coverage and aggregate retention to be published in the Florida Administrative Weekly by January 1 of each year, The FHCH’s reimbursement contract to be adopted by February 1 of each year, and insurers to execute their FHCF reimbursement contract by March 1 of each year (with an effective date of June 1).
- Changes the retention multiple formula in calculating an insurer’s retention, by using exposure from “two years” prior (as opposed to “one year” provided under current law) in calculating the retention factor.
- Caps the FHCF’s mandatory layer at \$17 billion, unless the FHCF has capacity to pay \$17 billion in one year and \$17 billion in the subsequent year. This provision accomplishes the objective of making the FHCF’s mandatory layer more of a certain or known benefit for insurers.

*EFFECTIVE DATE: Upon becoming law; approved by the Governor on April 15, 2010.  
{Chapter Law 2010-10}*

**SB 2044 Insurance by General Government Appropriations Committee; Banking and insurance Committee and Senators Richter and Gaetz**

***Insurer Solvency***

- Requires new residential property insurers, meaning those insurers who do not have a certificate of authority before July 1, 2010, to have a minimum surplus as to policyholders of \$15 million.
- For residential property insurers having a certificate of authority prior to July 1, 2010, the minimum surplus requirement will be \$5 million until July 1, 2015, \$10 million after July 1, 2015, and \$15 million after July 1, 2020. The bill allows the Office of Insurance Regulation (Office) to reduce this surplus requirement if the insurer is not writing new business, has premiums in force of less than \$1 million per year in residential property insurance, or is a mutual insurance company.

- Allows an insurer to file a plan with the Office to cancel or nonrenew property insurance policies in 45 days upon a finding by the Office that the insurer needs to reduce exposure for solvency purposes.

### ***Insurer Affiliates and Managing General Agents***

- Provides the Office with additional authority to monitor residential property insurer funds going to affiliates when an insurer's surplus falls below certain levels.
- If the insurer's risk based capital level drops below 200 or when an insurer loses 15 percent of its surplus, the Office may require the insurer to file a detailed report identifying financial information, including remunerations paid to its affiliates.
- Allows the Office to examine a managing general agent (MGA) even when the entity represents only one insurer.
- Requires an insurer to notify the Office of its intent to enter into contracts with its affiliates within 30 days of such contracts being executed.

### ***Public Adjusters (Certain provisions become effective January 1, 2011)***

- Prohibits public adjusters from making certain statements in advertisements or solicitations.
- Institutes a 3 year claims filing deadline for new, supplemental, or reopened claims under a personal lines residential insurance policy from the date of a hurricane or windstorm.
- Caps public adjusters' fees in supplemental or reopened cases at 20 percent of the reopened or supplemental claim payment.
- Clarifies that after one year of a declaration of emergency, the compensation cap that applies to non-emergencies goes into effect.
- Requires persons acting on behalf of an insurer to provide at least 48 hours notice to an insured or claimant, public adjuster, or legal representative prior to scheduling a meeting with the claimant or an onsite inspection of the insured property.
- Requires a public adjuster to ensure prompt notice of property loss claims to the insurer.
- Prohibits an insurer from excluding the public adjuster from in-person meetings with the insured.
- Prohibits a public adjuster from restricting or preventing an insurer, or other person acting on behalf of the insurer, from having reasonable access at reasonable times to any insured or claimant or to the insured property that is the subject of the claim.

- Prohibits a public adjuster from acting or failing to reasonably act in a manner that would obstruct or prevent an insurer or insurer's adjuster from timely gaining access to conduct an inspection of the insured property.
- Provides restrictions for licensed contractors and subcontractors.
- Mandates that certain information be included in all public adjuster contracts.
- Requires public adjuster apprentices to complete additional hours of continuing education.

### ***Rate Standards***

- Prohibits the Office from, directly or indirectly, impeding an insurer's right to acquire policyholders, advertise, or appoint agents, including the amount of agent commissions.
- Under current law, property insurers are prohibited from using the "use and file" option for filing rate increases with the Office until December 31, 2010. The bill extends the prohibition to December 31, 2011.
- Allows insurers, under the expedited rate filing procedure which was implemented last year, to include a rate adjustment for reinsurance costs, financing products used to replace reinsurance, and applicable inflation trend factors published annually by the Office. Specifies that the increases from this filing and any other rate filing combined cannot exceed 10 percent for any individual policyholder, excluding coverage changes and surcharges, within the same policy year.
- Allows the Office to develop or contract for development of a website that will allow consumers to compare prices, complaints, financial information and other useful data regarding insurers and includes a \$310,700 appropriation.
- During the rate filing procedure, an insurer may provide the Office with additional information, upon request by the Office, without having its initial certification rendered false.

### ***Mitigation Discounts***

- Allows insurers to apply "debits", as well as the currently allowed credits to base rates for the purposes of reflecting mitigated and non-mitigated features in rates.
- Establishes Legislative intent to provide that implementation of mitigation discounts not result in a loss of income to the insurers granting the discounts, so that the aggregate of mitigation discounts should not exceed the aggregate of the expected reduction in loss that is attributable to the mitigation efforts for which the discounts are granted.

### ***Correlation of Mitigation Discounts to the Home Grading Scale***

- Repeals the requirement that the Office develop the method, by February 1, 2011, for insurance companies to establish mitigation discounts, credits, or other rate differentials for hurricane mitigation measures that correlate to the home's rating calculated by the uniform home grading scale.

### ***Mitigation Verification Inspectors***

- Eliminates mitigation inspectors certified by the My Safe Florida Home program from the list of persons who can sign a mitigation verification form (form). Adds a "home inspector," licensed under s. 468.8314, F.S., to the list of persons who can sign such forms.
- Provides that an insurer may accept a form from any other person possessing qualifications and experience acceptable to the insurer.
- Requires that the person signing the form must inspect the structure personally and not through an employee or another person; however, an exception is allowed for general building contractors who do not have to personally inspect the structure, but may have a "direct employee" conduct the mitigation verification inspection.
- Defines "misconduct" as to when a mitigation inspector signs a uniform mitigation verification form and provides penalties for same.
- Provides that persons obtaining evidence of the mitigation inspection fraud must report such incidences to the Division of Insurance Fraud (Division). Such persons receive immunity from liability for any statements made to the Division.
- Requires the Division to issue an investigative report if it finds probable cause that mitigation inspectors made intentionally false or fraudulent statements in the inspection form. Mandates that the Division send its report to the Office and the agency responsible for the professional licensure of the mitigation inspector.
- Allows insurers to have mitigation verification forms verified by quality assurance providers.

### ***Citizens Property Insurance Corporation (Citizens)***

- Changes the name of the Citizens' "high risk" account to the "coastal account" and directs the Division of Statutory Revision to prepare a reviser's bill for introduction next regular session to change the term to conform the Florida Statutes to this requirement.
- Provides a date of attachment of Citizens' surcharges to ensure that assessments are fully collected from Citizens' policyholders.

- Clarifies that board members of Citizens, who are appointed for having expertise in insurance, are within the scope of the code of ethics. Clarifies conditions for board members to abstain from voting when an issue “would inure to his or her special private gain or loss.”
- Extends by two years, to December 1, 2012, the requirement that the Citizens’ board reduce the boundaries of the high risk account (wind-only coverages) if the 100-year probable maximum loss is not reduced by at least 25 percent from the benchmark provided under law.
- Provides that insurers offering Citizens’ policyholders replacement coverage must give notice of nonrenewal to such policyholders at least 45 days prior to the effective date of the nonrenewal.

### ***Notice of Change in Policy Terms***

- Allows an insurer offering personal lines property insurance to provide policyholders with a “notice” of change in coverages as opposed to having to non-renew and re-write a policy if the coverages change.
- Provides that the intent of the provision is to allow an insurer to make a change in policy terms without non-renewing policyholders that the insurer wishes to continue insuring. Also provides that this provision is intended to alleviate the confusion to the policyholder caused under current law by the required policy nonrenewal in the limited instance when an insurer intends to renew the policy, but the new policy contains a change in policy terms.

### ***Replacement Costs for Dwellings***

- The insurer must initially pay the insured the actual cash value of the insured loss, less any deductible, and the insured must subsequently enter into a contract for building and structural repairs. The insurer must pay any remaining amounts as repairs are done. With the exception of incidental expenses to mitigate damages, the insurer, contractor, or subcontractor may not require the insured to advance payment for other repairs or expenses. The insurer may waive the requirement for the insured to enter into a contract.
- Allows the insured to have a period of 1 year after the date the insurer pays the actual cash value to make a claim for replacement costs.
- If a total loss occurs, the insurer must pay the replacement cost coverage without reservation or holdback of any depreciation in value, pursuant to s. 627.702, F.S., the valued policy law.

### ***Property Insurance Claims***

- Clarifies that the same time frame in which an insurer must pay or deny a claim applies to both the initial or the supplemental claim.

### ***Insurer Report Card by the Consumer Advocate***

- Specifies that the Consumer Advocate's annual report card, which grades personal residential property insurers, must be prepared by June 1, 2012, and each June 1 thereafter, and must "objectively" grade such insurers.
- Clarifies that the report card include only "valid" consumer complaints and other "measurable and objective" factors, and defines the term "valid consumer complaint."

### ***Medical Malpractice Insurance***

- Continues the exemption of medical malpractice insurance premiums from Florida Hurricane Catastrophe Fund emergency assessments for three years, from May 31, 2010, to May 31, 2013.

### ***Federal Crop Insurance***

- Provides that gross written premiums for federal multiple-peril crop insurance ceded to the Federal Crop Insurance Corporation or authorized reinsurers may not be included in the calculation of an insurer's gross writing ratio. The bill requires insurers that write other insurance products, along with federal multiple-peril crop insurance, to provide disclosures in the notes to its annual and quarterly financial statements, or in a supplement, the gross written premiums for federal multiple-peril crop insurance.

### ***Audited Financial Reports***

- Provides that an accountant for an insurer cannot prepare audited financial reports for more than 5 consecutive years. Current law is 7 years.

### ***Customer Representatives***

- Exempts applicants who have earned the designation of Certified Insurance Representative from the National Association of Christian Catastrophe Insurance Adjusters from examination for customer representative licensure.

*EFFECTIVE DATE: July 1, 2010. Vetoed by the Governor on June 1, 2010.*

### **SB 2046 Employee Leasing Companies by Banking and Insurance Committee and Senator Richter**

Provides the following changes related to the regulation of employee leasing companies (ELC) in Florida:

- Streamlines approval process for a change of ownership by providing that a purchase or acquisition of a licensed ELC does not require prior board approval if the controlling person of the ELC maintains a controlling person license under part XI, ch. 468, F.S.

- Revises disciplinary actions associated with delinquent licenses (licenses not timely renewed).
- Eliminates the requirement that delinquent licenses automatically become void 30 days after the renewal date when the renewal fees are not paid and provides that the delinquent license would be subject to disciplinary action by the board instead of becoming automatically void.

*Effective Date: July 1, 2010. {Chapter Law 2010-126}*

**SB 2176 Insurance by General Government Appropriations Committee; Banking and Insurance Committee; and Senator Peaden**

***Insurer Rating Laws***

Amends the insurance “Rating Law,” to allow specified types of commercial lines insurance to be exempt from the rate filing and review requirements of s. 627.062(2), F.S.

Provides that in order to exercise this exemption an insurer must notify the Office of any changes to rates for these exempted types of insurance within 30 days after the effective date of the change.

Specifies the information that must be included in the notice, and requires that underwriting files, premiums, and loss/expense statistics must be maintained by the insurer and subject to review by the Office.

Provides that commercial motor vehicle insurance covering a fleet of 20 or more vehicles is exempt from: s. 627.0651(1), F.S., requiring certain rate filing information; s. 627.0651(2), F.S., requiring the Office to review the rate filing; s. 627.0651(9), F.S., allowing the Office to require information necessary to evaluate the filing; and s. 627.0645, F.S., requiring annual rate filings.

Prohibits an association, fund, or pool created to manage a risk management program or self-insurance public entity from requiring its members to give more than a 45 day notice of the member’s intention to withdraw from the association, fund, or pool.

***Firefighters and Law Enforcement Officers***

- Provides that a law enforcement officer, correctional officer, or correctional probation officer who suffers from tuberculosis, heart disease, or hypertension and departs from the prescribed course of treatment of his or her physician, and the departure is demonstrated to result in an aggravation of his or her condition, would lose a specified presumption for claims after July 1, 2010. The bill also specifies that only retirement coverage under claims made prior to leaving employment are eligible for a specified presumption. These provisions do not apply to state or local firefighters.

- Provides a broader interpretation of workers' compensation benefits payable to off-duty deputy sheriffs to include, but not be limited to, providing security, patrol, or traffic direction for a private employer.
- Authorizes a sheriff to include the sheriff's proportionate cost of workers' compensation premiums for the off-duty deputy sheriffs providing such off duty employment.

### ***Medicare Supplement Policies***

- Amends provisions relating to the regulation of Medicare supplement policies.
- Revises provisions related to unfair methods of competition and unfair or deceptive acts to provide that this section does not prohibit a Medicare supplement insurer from providing a premium credit to an insured for using an in-network inpatient facility.
- Expressly provides that an insurer offering Medicare supplement policy is not prohibited from entering into an agreement through a network with inpatient facilities that agree to waive the Medicare Part A deductible in whole or part.
- The insurer's network agreement would not be subject to the approval of the Office and the insurer would not be required to file a copy of the agreement with the Office.
- Requires an insurer to factor such a waiver of the Medicare Part A deductible and premium credit into the insurer's loss-ratio calculation and policy premium.

### ***Warranty Associations***

Streamlines much of the regulatory oversight that Office currently exercises over warranty associations. Among its key provisions, the bill:

- Exempts, from regulation under the Florida Insurance Code, motor vehicle service agreements that are sold to non-consumers.
- Provides that unlicensed activity by warranty associations is a first-degree misdemeanor.
- Prohibits false, deceptive or misleading advertising by warranty associations.
- Removes the requirement to submit warranty service agreements to the Office for approval; however, the bill provides that Office may order a form not to be used if it doesn't meet specified criteria.
- Switches from quarterly to annual financial reports requirements for warranty associations.

- Makes periodic Office examinations discretionary and provides factors to consider in choosing to conduct an examination.
- Provides that there is no violation for knowingly overcharging if a motor vehicle service agreement company refunds any excess premium within 45 days.
- Makes a failure to provide a complete sample copy of the terms and conditions of a service or warranty agreement prior to sale an unfair practice, but provides that this information may be provided online.
- Broadens the definition of home warranty service agreements.
- Allows premium increases in renewal home warranty contracts if supported by claims history or claims cost data.
- Removes the Office's ability to require additional regular or special reports from home warranty associations.
- Repeals the requirement for home warranty associations and motor vehicle service agreement companies to file rates with Office.
- Requires that warranty contracts sold in Florida must be accompanied by a written disclosure to the consumer that the rate charged for the contract is not subject to regulation by the Office.

### ***Annuities Sales***

Makes several changes in the insurance code to enhance penalties for unethical annuities sales practices as well as provide certain consumer protections for seniors who purchase annuities contracts. The act makes the following changes:

- Prohibits annuity sales agents from making a member of his/her family the beneficiary of an annuity if that annuity is sold to anyone other than another family member.
- Strengthens the Department of Financial Services (DFS) ability to deny licensure to agents who have a history of financial misconduct involving seniors.
- Requires more favorable annuity contract terms for seniors and requires sales agents to provide seniors with greater disclosures prior to the sale of an annuity contract.
- Heightens administrative fines for deceptive annuity sales practices towards seniors and gives DFS the authority to order the selling agent to pay restitution to a senior who is harmed by a violation of this section.

*EFFECTIVE DATE: June 1, 2010. {Chapter Law 2010-175}*

**HB 7119 Open Government Sunset Review/Hurricane Loss Projection Methodology by  
Governmental Affairs Policy Committee; and Rep. K. Roberson**

- The bill repeals s. 627.0628(3)(f)3., F.S., and thereby saves from repeal the public-records exemption and the public-meetings exemption created in s. 27.0628(3)(f)1., F.S., and s. 627.0628(3)(f)2., F.S., for a trade secret used to construct a hurricane loss model.
- Requires a recording to be made of any closed portion of a meeting.
- Expands the existing exemptions to make such recordings exempt from public-records requirements.
- Extends the repeal date from October 2, 2010, to October 2, 2015.
- Provides that the public-records exemption applies to a “trade secret” as defined in the Uniform Trade Secrets Act.

*EFFECTIVE DATE: October 1, 2010. {Chapter Law 2010-89}*

**HB 7121 Open Government Sunset Review/Hurricane Loss/Associated Exposure Data by  
Governmental Affairs Policy Committee; and Rep. K. Roberson**

This bill is the result of the Banking and Insurance Committee’s Open Government Sunset Review (Interim Report 2010-204) of the public records exemption for reports by insurers of their hurricane loss and associated exposure data. Specifically, the legislation:

- Reenacts and narrows the exemption by requiring Florida International University to annually publish a report summarizing by county the loss and exposure data collected from residential property insurers.
- The report must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives beginning on October 1, 2011, and each subsequent October 1.

*EFFECTIVE DATE: October 1, 2010. {Chapter Law 2010-117}*

## **Life and Health**

### **HB 37 Health Care Services by Rules and Calendar Council; Health Care Regulation Policy Committee; and Rep. Plakon and others**

This is a joint resolution proposing the creation of s. 28 of Art. I of the State Constitution to preserve the freedom of Florida residents to provide for their own health care by:

- Ensuring that any person, employer, or health care provider is not compelled to participate in any health care system;
- Authorizing a person or employer to pay directly, without using a third party such as an insurer or employer, for health care services without incurring penalties or fines; and
- Authorizing a health care provider to accept direct payment for health care services without incurring penalties or fines.
- Prohibits a law or rule from prohibiting the purchase or sale of health insurance in private health care systems and specifies certain aspects of health care that are not affected by this constitutional amendment.
- The joint resolution includes the statement that is to be placed on the ballot for the upcoming statewide election.

*EFFECTIVE DATE: If adopted by the voters at the 2010 General Election, this resolution will take effect January 4, 2011.*

### **HB 885 Life Insurance by Rules and Calendar Council; General Government Policy Council; and Reps. Tobia and Plakon**

Makes changes to various aspects of life insurance and annuities sales:

- Specifies circumstances under which an insurer is not required to send notice of replacement of a life insurance policy to the current user.
- Allows coverage of spouses and dependent children under a group of life insurance policy up to the amount for which the employee is insured under the policy.
- Bars the sale or transfer of annuities that were purchased as part of a settlement to satisfy Medicare secondary payer requirements to third parties that are not connected with the settlement.
- Prohibits, for purposes of life insurance, the creation of a class of employees consisting solely of employees covered under the employer's group health plan.

- Exempts certain inactive life insurance sales agents from the continuing education requirements currently required in order for an agent to maintain a license.

*EFFECTIVE DATE: Upon becoming law. {Chapter Law 2010-61}*

**SB 926 Relating to Trusts by Judiciary Committee; Banking and Insurance Committee; and Senator Richter**

- Eliminates the application of the Prudent Investor Rule and the Prudent Trust Administration Rule with respect to a contract for life insurance acquired or retained on the life of the trust settler.
- Removes certain duties from the trustee in specified situations, provides that a trustee is not allowed to receive compensation for performing certain services, and eliminates liability of the trustee to the beneficiaries for a loss sustained with respect to certain life insurance contracts.
- Adds additional duties that a trustee may delegate to an investment agent.

*EFFECTIVE DATE: July 1, 2010. {Chapter Law 2010-172}*

**HB 1253 Continuing Care Facilities by Insurance, Business and Financial Affairs Policy Committee; and Rep. Proctor and others**

Provides disclosures to residents of Continuing Care Retirement Communities (CCRC) and provides for more financial transparency in the operation of CCRCs. Among its key provisions, the bill:

- Increases the availability and distribution of certain information and reports to residents and prospective residents of CCRCs.
- Increases transparency by requiring providers to give the residents' council chair a copy of ch. 651, F.S., the quarterly and annual reports that must be filed with the Office, and, if requested, a copy of new contracts approved by the Office.
- Gives residents the right to receive memos and announcements from the residents' council as well as unrestricted access to the council.
- Increases allowable cancellation processing fees for prospective residents who cancel a contract prior to occupancy.
- Clarifies that a provider may assess a non-refundable application processing fee.

- Clarifies that the taxes and insurance that must be factored into the escrow account as a debt service reserve, pertain to “property”.
- Clarifies that if a prospective resident signs a contract but delays moving into the facility, he or she is considered to have occupied a unit in the facility when he or she pays an entrance fee, or any portion thereof, and has begun paying a monthly fee. Provides that such resident has seven days from the date of signing the contract to cancel without financial penalty.
- Changes in the Office inspections from once every three years to one every five years.
- Requires the Continuing Care Advisory Council (Council) to annually report the Council’s findings and recommendations concerning CCRCs to the Governor and to the Office.
- Requires the Office to disclose to Council members specified information regarding complaints filed with the Division of Consumer Services within DFS and to notify the Council regarding rule changes and rule workshops and hearings.

*EFFECTIVE DATE: July 1, 2010 {Chapter Law 2010-202}*

## **Administration and Budget**

### **SB 1178 Cost-benefit/Return-on-Investment/Dynamic Scoring by Policy and Steering Committee on Ways and Means; and Senators Haridopolis, Gaetz, and Crist**

- Creates s. 216.138, F.S., and allows the Speaker of the House or the President of the Senate to request that special impact sessions of consensus estimating conferences evaluate proposed legislation using dynamic scoring, return on investment or cost-benefit techniques, as appropriate.
- The Office of Economic and Demographic Research is tasked with recommending protocols and procedures which, upon approval by the Speaker and the President, will govern the application of the specified techniques when requested by the Speaker or the President.

*EFFECTIVE DATE: Upon becoming law. {Chapter Law 2010-101}*

### **SB 2020 Information Technology by Policy and Steering Committee on Ways and Means; and Senator Alexander**

- Expands the role of the Agency for Enterprise Information Technology (AEIT) in coordinating the consolidation of state agency purchases of information technology (IT) products and services.
- Establishes a competitive solicitation process for procuring a statewide consolidated email service.
- Requires the consolidation of SUNCOM services connecting users in state primary data centers to SUNCOM Network services.
- Provides for a staggered consolidation schedule of agency computing services, required by section 17, ch. 2008-116, Laws of Florida, into three primary data centers (Southwood Shared Resource Center, Northwood Shared Resource Center and the Northwest Regional Data enter).
- Provides for the ability of the state primary data centers to contract with each other for administrative services.
- Appropriates three FTEs and \$300,000 for additional duties associated with AEIT's expanded role in IT purchases.

*EFFECTIVE DATE: Upon becoming law. {Chapter Law 2010-148}*

**SB 2374 State Group Insurance Program by Policy and Steering Committee on Ways and Means; and Senator Alexander**

- Directs the Department of Management Services (Department) to competitively procure postpayment claims review services and dependent eligibility verification services for the state group insurance program.
- Places requirements on the Department regarding contract renewals with health maintenance organizations for the 2011 calendar year.
- Requires the Department to submit specified health plan information to the Legislature, as well as recommendations for contracting with health maintenance organizations.

*EFFECTIVE DATE: July 1, 2010. {Chapter Law 2010-150}*

**SB 2386 State Financial Matters by Policy and Steering Committee on Ways and Means; and Senator Alexander**

- Directs all agencies and the judicial branch to use electronic payment disbursements and receipts for all state payments where possible.
- Requires state purchasing agreements and state term contracts to include provisions which:
  - Define the scope of work that a contractor must perform.
  - Identify quantifiable, measurable and verifiable units of deliverables and require those deliverables to be accepted in writing prior to payment.
  - Specify the financial consequences for contractor noncompliance.
  - Specify the ownership rights to any intellectual property related to the contract.
- Requires state agencies to provide specific information to DFS when an agency elects not to use the competitive procurement process to award a contract for commodities or services.
- Requires state agencies to review and renegotiate contract renewals and reprocurements with savings to be placed in reserve in the Office of Policy and Budget.
- Directs agencies to improve enforcement of the Preferred Pricing Clause (PPC) in state contracts and introduce penalties for misrepresentation.
- Repeals sections related to products and materials with recycled content.
- Sets out new processes for competitive solicitation.
- Requires the coordination of Contracted Services between Department of Children and Families, the Agency for Persons with Disabilities, the Department of Health, the

Department of Elderly Affairs, and the Department of Veterans Affairs where applicable.

- Declares that each agency is responsible for exercising due diligence to secure full payment of all accounts receivable and other claims due to the state. Requires each agency to submit an annual report to the President of the Senate, the Speaker of the House of Representatives.
- Provides Florida preference language to promote through state contracting the employment of state residents and to maximize use of products made in Florida.
- Appropriates 5 FTE and \$311,915 from the General Revenue Fund to the Department of Financial Services to execute the provisions of the bill.

*EFFECTIVE DATE: July 1, 2010. {Chapter Law 2010-151}*

**HB 5001 General Appropriations Act by Full Appropriations Council on Education and Economic Development and Rep. Rivera**

Proviso Language Included in the Budget:

**OFFICE OF INSURANCE REGULATION**

**COMPLIANCE AND ENFORCEMENT - INSURANCE**

From the funds in Specific Appropriations 2565 through 2574, the Office of Insurance Regulation shall submit a report that provides a detailed listing of all rate filings submitted during Fiscal Year 2009-2010 for personal lines property residential coverage. For each such filing, the report shall include:

- (1) the name of the company submitting the filing;
- (2) the date the filing was submitted to the Office of Insurance Regulation;
- (3) the overall rate change requested;
- (4) the name of the Office of Insurance Regulation actuary responsible for reviewing the filing;
- (5) the number of days from the date of the original submission to the final disposition of the rate filing;
- (6) whether the submitted filing was approved as submitted, approved at a different rate level, disapproved in its entirety, or found to be incomplete or withdrawn;
- (7) if a rate was approved, the overall rate level which was approved;
- (8) if the rate was denied; the specific basis for the denial; and
- (9) if a rate filing was withdrawn and resubmitted, it shall be identified as part of the initial rate filing for purposes of this report.

The report shall be submitted to the chairs of the Senate Policy and Steering Committee on Ways and Means and the House of Representatives Full Appropriations Council on General Government and Health Care by September 1, 2010.

Beginning July 1, 2010 Select Exempt employees will be required to pay a premium for health insurance. The premium amount is \$8.34/month for individual coverage and \$30/month for family coverage.

*EFFECTIVE DATE: July 1, 2010. {Chapter Law 2010-152}*

# Financial Services Commission

Charlie Crist  
**Governor**

Alex Sink  
**Chief Financial Officer**

Bill McCollum  
**Attorney General**

Charles Bronson  
**Commissioner of Agriculture**

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