



Financial Services Commission  
**Office of Insurance Regulation**

**2012 Legislative Summary**

June 2012

Dear Friends,

During the 2012 session, the Legislature passed a number of bills that will impact the Office of Insurance Regulation (Office), the insurance industry and the insurance buying public. The Office's focus in 2012 was to reign in the cost of Personal Injury Protection (PIP) insurance. The Office teamed with Governor Scott, CFO Atwater, Legislative leaders, the Consumer Advocate, and law enforcement to pass legislation aimed at combating fraud and abuse in the PIP system. In addition to PIP reform, the Legislature passed several other bills that make changes to the insurance code. Attached for your review is the Office's 2012 Legislative Summary, which will provide you with a thorough review of all the major initiatives relating to insurance that passed during the session.

In response to the Office's 2011 PIP Data Call, the Legislature this year took on the difficult task of reforming a system which is being abused to the detriment of all Florida drivers. HB 119 by Representative Jim Boyd (R-Bradenton) will help restore the PIP system to its original intent by making sure that individuals who are truly injured in an automobile accident receive prompt medical treatment for their injuries. HB 119 also seeks to reduce frivolous litigation associated with auto accidents and provides law enforcement additional tools to fight fraud. I am hopeful that this comprehensive legislation will have positive benefits for consumers by reducing the costs associated with fraud and abuse in the current PIP system.

In addition, the Legislature passed HB 1101 by Rep. Mike Horner (R-Kissimmee) which amends several areas of the insurance code. Of particular note are two provisions which will help Florida attract new capital investment. Expanding on last year's efforts to attract international insurers, HB 1101 expands the opportunities available to large international insurers who will be exempt from licensure if they are offering products to non-US residents outside of the country. Also of note is a provision relating to captive insurers, which will make Florida more attractive for investment by corporations that use captives to insure their business risk. Together, these significant changes should send a signal to potential investors that Florida is "open for business" and help create employment opportunities for the people of our state.

The Legislature once again faced a substantial budget deficit in 2012. Fortunately, after several years of position cuts, this year the Legislature did not reduce Office staff. The Legislature also acknowledged the hard work of our staff by passing a new statute that allows for reimbursement of professional development costs for any Office employee, subject to available resources. This will allow our regulatory professionals to continue to improve the standard of their work, a positive development for both our staff and the entities we regulate.

As always, I remain committed to implementing all the regulatory changes made during the 2012 session in a manner that is consistent with the Legislature's intent, keeping in mind the Office's fundamental goal remains unchanged. We will continue to provide fair, fast and professional service to the people of Florida.

Sincerely,

Kevin M. McCarty

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## Fiscal Year 2012-2013 - Budget Overview

### 2012 General Appropriations Act

**HB 5001 - Approved by the Governor April XX, 2012**

Issue	2011-2012 Funding	2012-2013 Funding	Difference Over/(Under)
<b>Positions</b>	283	283	
<b>Salaries and Benefits</b>	\$17,585,162	\$17,585,162	
<b>Other Personal Services</b>	\$125,000	\$125,000	
<b>Expenses</b>	\$2,915,820	\$2,745,917	(\$169,903)
<b>Operating Capital Outlay</b>	\$2,000	\$2,000	
<b>Contracted Services</b>	\$805,726	\$805,726	
<b><u>SPECIAL CATEGORIES</u></b>			
<b>Financial Examination Contracts</b>	\$4,701,763	\$4,926,763	\$225,000
<i>Budget Authority for financial examinations of Property &amp; Casualty and Life &amp; 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.</i>			
<b>Florida Public Hurricane Loss Model</b>	\$588,639	\$588,639	
<b>Lease or Lease-Purchase of Equipment</b>	\$0	\$27,403	\$27,403
<i>New Appropriations Category</i>			
<b><u>Disclaimer:</u></b> The Appropriations above represent funds allocated to the Office of Insurance Regulation as approved by the Legislature for the annual fiscal period beginning July 1, 2012 and ending June 30, 2013. The Office is entirely funded by the Insurance Regulatory Trust Fund.			

## *Administrative Bills*

### HB 5505 Department of Financial Services by Representative Hooper and the Government Operations Appropriations Committee

- Allows for electronic submission of Workers' Compensation exemption applications and streamlines reporting requirements.
- Requires applicants for workers' compensation exemptions to report their date of birth, Florida driver's license number or Florida identification card number. Those applying for construction industry exemptions also provide a statement of ownership interest.
- Provides that all certificates of election to be exempt issued on or after January 1, 2013 are valid for two years from the effective date listed on the certificate.
- Authorizes the Governor to direct the State Board of Administration (SBA) to create the Florida Insurance Premium Tax Pre-Payment Program to provide an additional funding mechanism for the Florida Hurricane Catastrophe Fund (CAT Fund). If the Governor gives his/her approval, the SBA may sell up to \$1.5 billion in tax credits that can be applied to reduce future tax liabilities.
- Limits the amount of tax credits that can be applied each year to \$150 million. The SBA will loan the proceeds of the tax credit sale to the CAT Fund.
- Repayments of the loan are to be deposited in the state's General Revenue Fund.
- In addition, the loan repayment schedule is to be designed so that, in each fiscal year, the General Revenue Fund receives an amount equal to the amount of the tax credits that are being applied in that fiscal year.
- Allows for a reduction of 9.00 FTE positions and annual cost savings of \$348,289 from the Workers' Compensation Administration Trust Fund.

*EFFECTIVE DATE: July 1, 2012. Vetoed by the Governor on April 20, 2012.*

## **Property and Casualty**

### **HB 119 Motor Vehicle Personal Injury Protection Insurance by Representative Boyd**

Provides for changes in personal injury protection insurance (PIP) coverage.

#### ***PIP Medical Benefits***

- Revises PIP medical benefits provision under the Florida Motor Vehicle No-Fault Law, effective January 1, 2013.
- Requires those seeking PIP medical benefits to receive initial services and care within 14 days of the accident by certain types of physicians. Those physicians and facilities able to diagnose individuals seeking treatment under PIP medical benefits are:
  - licensed physicians
  - licensed osteopathic physicians
  - licensed chiropractic physicians
  - licensed dentists
  - a hospital
  - a facility that owns or is owned by a hospital
  - or a licensed emergency transportation or treatment provider
- Follow up treatment and care requires a referral from approved providers and must be consistent with the underlying medical diagnosis rendered when the initial services and care were received.
- Applies two coverage limits for PIP medical benefits, based on the severity of the individual's medical condition.

#### ***Emergency Medical Condition***

- Provides that individuals may receive up to \$10,000 in medical benefits for services and care if a physician, osteopathic physician, dentist, physician's assistant, or advanced registered nurse practitioner (ARNP) has determined the injured person had an emergency medical condition.
- Defines "emergency medical condition" as a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.
- Individuals not diagnosed with an emergency medical condition receive a PIP medical benefit limit of \$2,500. Services not covered under the PIP medical benefits are massage therapy and acupuncture regardless of the provider rendering the services.

### ***PIP Death Benefit***

- In addition to the \$10,000 in medical and disability benefits, \$5,000 in death benefits is offered. The death benefit was previously the lesser of the unused benefits, up to a limit of \$5,000. The increase is effective January 1, 2013.

### ***PIP Medical Fee Schedule***

- Revises provisions related to the PIP medical fee schedule to help resolve alleged ambiguities in the schedule, which have led to conflicts and litigation between claimants and insurers.
- Clarifies the reimbursement levels for care provided by ambulatory surgical centers and clinical laboratories and for durable medical equipment is 200 percent of the appropriate Medicare Part B schedule.
- The Medicare fee schedule in effect on March 1 will be the applicable fee schedule for the remainder of that year until the subsequent update.
- Authorizes insurers to use Medicare coding policies and payment methodologies, including applicable modifiers of the Centers for Medicare and Medicare Services when applying the fee schedule if a utilization limit is not used.
- Requires insurers to include notice of the fee schedule in their policies. Fee schedule provisions go into effect on January 1, 2013.

### ***Attorney Fees***

- Amends provisions related to attorney fee awards in No-Fault disputes.
- Prohibits the application of attorney fee multipliers.
- Provides statutory authority for insurers to recover fees if the plaintiff's recovery does not exceed the insurer's settlement offer by a statutorily specified percentage due to the offer of judgment statute, section 768.79, Florida Statutes when applied to No-Fault cases.
- Maintains current law, which allows a party that obtains a favorable judgment from an insurer to recover reasonable attorney fees from the insurer.
- Requires attorney fees awarded to comply with prevailing professional standards such as: not overstating or inflating the number of hours reasonably necessary for a case of comparable skill or complexity, and representing legal services that are reasonable to achieve the result received.

### ***Investigation and Payment of Claims***

Gives insurers the ability to require their insureds to take an examination under oath (EUO). If an insured does not comply with the EUO, the insurer does not owe any benefits.

- Provides that insurers that unreasonably request EUOs as a general business practice, as determined by the Office of Insurance Regulation (Office), is subject to the Unfair Insurance Trade Practices Act, section 626.9541, Florida Statutes.
- Provides if a person unreasonably fails to appear for an independent medical examination (IME), the insurer is no longer responsible for benefits. Refusal or failure to appear for two IMEs raises a rebuttable presumption the refusal or failure was unreasonable. This provision goes into effect January 1, 2013.
- Changes made to the statutory process for the payment of PIP benefits, to assist claimants in their claim submissions goes into effect January 1, 2013.
- Claimants whose claims are denied due to an error in the claim receive an additional 15 days to correct the flawed claim and resubmit within the extension.
- Requires insurers to maintain a log of all PIP benefits paid on behalf of the insured. The log must be provided to the insured upon his or her request if litigation has begun.
- Insurers must provide notice within 15 days of the exhaustion of PIP benefits if a dispute occurs.
- Requires insurers to reimburse Medicaid within 30 days.
- Authorizes the electronic submission of records, which must go into effect by December 1, 2012.

### ***Prevention of PIP-Related Insurance Fraud***

- Defines insurance fraud as knowingly presenting a PIP claim to an insurer for payment or other benefits on behalf of person or entity that committed fraud when applying for health care clinic licensure, seeking an exemption from clinic licensure, or demonstrating compliance with the Health Care Clinic Law.
- Makes claims labeled unlawful under the patient brokering law (section 817.505, Florida Statutes) are not reimbursable under the No-Fault Law.
- Health Care Practitioner's found guilty of insurance fraud under section 815.234, Florida Statutes loses his or her license for five years and is unable to treat patients seeking PIP medical benefits for 10 years.
- Provides an additional 60 days (90 total) for insurers to investigate suspected fraudulent claims, but an insurer who eventually pays the claim may also pay an interest penalty.
- Entities seeking reimbursement under the No-Fault law must obtain health care clinic licensure.
- Gives exceptions to hospitals, ambulatory surgical centers, entities owned or wholly owned by a hospital, clinical facilities affiliated with an accredited medical school and practices wholly owned by a physician, dentist, or chiropractic physician or by such physicians and specified family members.
- Creates standards for evaluating whether an entity claiming it is exempt from the requirement to obtain clinic licensure is actually wholly owned by a physician.

- Defines failure to pay PIP claims within the time restraints of section 627.735(4)(b), Florida Statutes, as an unfair and deceptive practice.
- Allows the Office to order restitution to the insured or provider and does not limit the Office's administrative penalties, which can include the suspension of an insurer's certificate of authority (COA).

### ***Investigation of Automobile Accidents***

- Requires law enforcement to complete a long-form crash report when there is any indication of pain or discomfort by anyone involved in a crash.
- Requires law enforcement to identify the vehicle that each person was a driver or passenger in for all crash reports.
- For all crashes that do not require a law enforcement report, the driver of the vehicle must submit a report to the Department of Highway Safety and Motor Vehicles (DHSMV) within 10 days of the accident.
- Creates a non-profit direct support organization: The Automobile Insurance Fraud Strike Force (Strike Force). The Strike Force can accept private donations for the purposes of preventing, investigating, and prosecuting motor vehicle insurance fraud.
- Monies raised by the Strike Force may fund salaries of insurance fraud investigators, prosecutors, and support personnel; however, the grants and expenditures cannot interfere with prosecutorial independence.
- Funds may not be used for lobbying or advertising that uses the likeness or name of any elected official.

### ***Mandatory Rate Filings and Data Call***

- Requires the Office to contract with a consulting firm to calculate the expected savings from the act.
- Requires a report from the consulting firm must be submitted to the Governor and Legislature by September 15, 2012.
- Requires insurers who write private passenger automobile personal injury protection insurance to submit a rate filing by October 1, 2012.
- Requires insurers that do not provide at least a 10 percent reduction of its current rates to explain in detail the reasons for failing to achieve those savings.
- Requires a second rate filing must be made by January 1, 2014.
- Insurers that do not provide at least a 25 percent reduction of the rate that was in effect on July 1, 2012 must explain in detail the reasons for failing to achieve those savings.
- Requires the Office to order an insurer to stop writing new PIP policies if it requests a rate in excess of the statutorily required rate reduction and fails to provide a detailed explanation for that failure.

- Authorizes the Office to perform a comprehensive data call on PIP and publish the results by January 1, 2015. The purpose of the data call is to analyze the impact of the act's reforms on the PIP insurance market.
- Appropriates \$200,000 from the Insurance Regulatory Trust Fund to be used by the Office to contract with an independent consultant for the data call.

*EFFECTIVE DATE: July 1, 2012, except as otherwise provided. {Chapter Law 2012-197}*

**HB 643 Title Insurance by Representative Moraitis, Jr.**

- Requires title insurers and title insurance agencies to submit to the Office data that has been identified as necessary to assist in the analysis of premium rates, title search costs, and the condition of Florida's title insurance industry by March 31 of each year.
- Authorizes the Financial Services Commission (FSC) to promulgate rules concerning the collection and analysis of the data. Requires the Department of Financial Services (DFS) to suspend or revoke the authority of title insurance agents or agencies who fail to file the required data on time.
- Requires attorneys who also serve as title insurance or real estate settlement agents to deposit and maintain funds received in connection with such transactions into a separate trust account, unless maintaining funds in the separate account for a particular client would violate rules of the Florida Bar.
- Also requires such attorneys to permit title insurers for whom they hold funds, to audit the separate account.
- Requires the Office to approve or disapprove forms filed by title insurers within 180 days after receipt and, when approving a form, determine if the current rate applies or if the coverages require the adoption of rules.
- Requires the Office to promptly approve forms filed containing identical coverages, rates, and approved deviations to a form the Office has approved for another title insurer to prevent a competitive advantage in the marketplace.
- Authorizes the Office to revoke approval of any form after providing 180 days notice to the title insurer.

*EFFECTIVE DATE: July 1, 2012. {Chapter Law 2012-206}*

**HB 645 Public Records/Title Insurance Data/Office of Insurance Regulation by Representative Moraitis, Jr.**

- Provides that proprietary business information provided to the Office by a title insurance agency or insurer is confidential and exempt from public records requirements until the information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information.

- Information provided by multiple title insurance agencies and insurers may be aggregated on an industry-wide basis and disclosed to the public as long as the specific identities of the agencies or insurers is kept confidential.
- Defines “proprietary business information” as:
  - Information owned or controlled by a title insurance agency or insurer requesting confidentiality under this section;
  - Information intended to be and is treated by the title insurance agency or insurer as private in that the disclosure of the information would cause harm to the business operations of the title insurance agency or insurer;
  - Information that has not been publicly disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement, providing that the information may be released to the public; and,
  - Information that concerns business plans, internal auditing controls, and reports of internal auditors, reports of external auditors for privately held companies, trade secrets as defined in Section 688.002, Florida Statutes, or financial information, including, but not limited to revenue data, loss expense data, gross receipts, taxes paid, capital investment, customer identification, and employee wages.
- Repeals the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature.
- Provides a statement of public necessity as required by the State Constitution.

*EFFECTIVE DATE: July 1, 2012. {Chapter Law 2012-207}*

**HB 941 Insurance by Representatives Holder and Bernard**

- Provides payment for professional development expenses for Office employees.
- Allows insurance companies writing commercial lines policies to transfer policies to a different Florida licensed insurance company if that company is a member of the same insurance group or owned by the same holding company.
- No residential policies, except specified types covering farms, can be transferred under this bill.
- Provides a 45-day notice must be given to policyholders, as well as information regarding the financial rating of the new insurer.
- Eliminates annual mandatory onsite premium audits of policyholders required by the workers’ compensation insurer, if the insurer meets certain financial requirements. If requested by the policyholder or ordered by the Office, the audit must still be done.
- Excludes workers’ compensation insurers from excess profit laws that required them to refund excess profits to their policyholders.
- Corporate officers can elect to be exempt from workers’ compensation coverage requirements. Persons who make this decision are not considered “employees” for

premium calculation purposes, and are not eligible to receive workers' compensation benefits if they are injured on the job.

- Defines "corporate office" to include members of limited liability companies (LLCs) in the construction industry who own at least 10 percent of the LLC.
- Expands the definition of corporate officer for workers' compensation purposes, to include 10 percent owners of non-construction LLCs. Allows these owners to elect to file an exemption from workers' compensation coverage requirements.

*EFFECTIVE DATE: July 1, 2012. {Chapter Law 2012-213}*

### **HB 1011 Warranty Associations by Representative Abruzzo**

- Provides that warranties offered by the three types of warranty associations (motor vehicle service agreement companies, home warranty associations, and service warranty associations) are cancelable by the purchaser who is entitled to refund.
- Allows service agreement refunds to be effectuated through the automobile dealer that originally sold the service agreement, but the service agreement company remains responsible for the full refund.
- Allows home and service warranty refunds to be made by the individual associations.
- Maintains authority for automobile dealers to effectuate refunds but codifies some of the documentation on refunds required by the Office.
- Specifies that for home warranty and service warranty products, the associations may provide refunds through the issuing sales representatives.
- Permits service warranty associations to offer refunds in the form of cash, check, store credit, gift card, or other similar means, but requires refunds by check if requested by the customer.
- Eliminates the Office requirement to conduct periodic examinations regarding the financial and market conduct affairs of warranty associations; but authorizes the Office to examine them at its discretion.
- Allows the Office to continue its use of independent examiners and levy the companies for the costs of their services. Limits those costs to no more than ten percent of the companies prior year reported income.
- Authorizes entities to provide donations and grants to DFS to pursue unauthorized entities operating in violation of the statutory provisions relating to warranty associations.
- Resources motor vehicle service agreement coverage for motor vehicles used for commercial purpose unless they have a gross weight rating of 10,000 lbs. or more.

*EFFECTIVE DATE: July 1, 2012. {Chapter Law 2012-77}*

## **HB 1127 Citizens Property Insurance Corporation by Representative Albritton**

- Repeals two regular assessments levied by Citizens Property Insurance Corporation (Citizens) from certain Florida property and casualty policyholders.
- Reduces a third regular assessment.
- If a deficit is incurred by Citizens, it will levy assessments using the following sequence set by statute:
  1. Citizens Policyholder Assessments: Assesses its policyholders up to 15 percent of premium per account in deficit, for a maximum of 45 percent. Levied for one year.
  2. Regular Assessments: Levies a regular assessment up to six percent of premium or six percent of the deficit per account, for maximum of 18 percent, upon the exhaustion of the Citizens Policyholder Assessment for a particular account. Levied for one year on nearly all property and casualty policies in the state, with the exception of Citizens' policies.
  3. Emergency Assessments: Levies an emergency assessment up to 10 percent of premium or 10 percent of the deficit per account, for a maximum of 30 percent, upon the exhaustion of the Citizens Policyholder Assessment and regular assessment for a particular account. Can be collected for as long as necessary to cure a deficit. Levied on nearly all property and casualty policies in the state, including Citizens' own policies.
  
- Eliminates the regular assessment for the Personal Lines Account and the Commercial Lines Account.
- Reduces the assessment percentage for the Coastal Account from six percent to two percent.
- Specifies the Office cannot order this assessment paid sooner than 90 days after the assessment is levied.
- Extends the time period limited apportionment companies have to pay a regular assessment to Citizens from 12 months to 15 months.

*EFFECTIVE DATE: July 1, 2012. {Chapter Law 2012-80}*

## **HB 1223 Highway Safety and Motor Vehicles by Representative Albritton**

- Does not impact the insurance code.
- Section 28, page 50, line 1362 places a specific notice requirement on insurers to notify the Department of Highway Safety and Motor Vehicles at the same time a cancellation notice is provided to an insured.

*EFFECTIVE DATE: January 1, 2013. {Chapter Law 2012-181}*

**HB 4061 Uniform Home Grading Scale by Representative Bernard**

- Repeals statutory authority for the home grading scale.
- Makes conforming change to the My Safe Florida Home Program statute that refers to the uniform home grading scale.

*EFFECTIVE DATE: July 1, 2012. {Chapter Law 2012-92}*

## *Life and Health*

### **SB 608 Florida Healthy Kids Corporation by Senator Flores**

- Adds one member to the Board of Directors of the Florida Healthy Kids Corporation.
- Additional member to be appointed by the Governor from three nominees submitted by the Florida Dental Association.

*EFFECTIVE DATE: April 6, 2012. {Chapter Law 2012-42}*

### **SB 730 Medicaid Managed Care by Senator Flores**

- Limits the Subscriber Assistance Program providing assistance to subscribers of certain managed care entities who have grievances that have not been resolved by the internal grievance process of the managed care entity.
- Limits review by the Subscriber Assistance Program to unresolved grievances from subscribers of prepaid health clinics certified under Chapter 641, F.S., Florida Healthy Kids plans, and health insurance policies or health maintenance organization (HMO) contracts that meet the grandfathered health plan coverage provisions under the Federal Patient Protection and Affordable Care Act.
- Provides that the Subscriber Assistance Program is not applicable to such a health plan if the plan elects to have all of its policies or contracts subject to applicable internal grievance and external review processes by an independent review organization.
- The Agency for Health Care Administration (AHCA), must be notified in writing if a plan elects to have all of its policies or contracts subject to external review.
- Requires certain individual, group, blanket, and franchise health insurance policies to comply with the National Association of Insurance Commissioners Uniform Health Carrier External Review Model Act in accordance with rules adopted by the Financial Services Commission and the Office and certain provisions of the Employee Retirement Income Security Act relating to internal grievances.
- These specific provisions take effect on May 12, 2012.

*EFFECTIVE DATE: Except as otherwise provided and except for section 14, which shall take effect upon this act becoming law, this act shall take effect July 1, 2012. {Chapter Law 2012-44}.*

## **General Insurance Bills**

### **HB 1101 Insurance by Representative Horner**

Changes provisions relating to the regulation of insurance companies, insurance agents, insurance adjusters, and insurance coverage.

#### ***Salvage Motor Vehicle Dealers***

- Are not required to carry \$25,000 combined single-limit liability coverage for bodily injury and property damage, or \$10,000 PIP coverage for vehicles that cannot be operated legally on state roads.

#### ***Alien Insurers***

- Revises current exemption provisions relating to such alien insurers by providing an insurer who has an affiliate would not be disqualified from obtaining an exemption, and by expanding the definition of nonresident to include a trust or other entity organized and domiciled under the laws of a country other than the United States.
- Creates an exemption from the COA requirements for alien insurers issuing life insurance or annuity contracts covering only persons who are not residents of the U.S. The insurer must meet the following requirements:
  - The insurer is an authorized insurer in its domiciliary country in the kinds of insurance proposed to be offered in this state; and:
  - Has been an insurer for at least the last three consecutive years; or
  - Is the wholly owned subsidiary of an authorized insurer; or
  - Is the wholly owned subsidiary of an already eligible authorized insurer as to the kind of insurance proposed to be issued in this state for a period of not less than the immediately preceding three years.
- Prior to the Office granting eligibility to an alien insurer to issue policies and contracts in Florida, the insurer is required to meet the following requirements:
  - Submit a copy of its annual financial statement to the Office in English with all monetary values expressed in U.S. dollars.
  - Maintain a surplus of at least \$15 million in eligible investments for like funds of like domestic insurers under Chapter 625, part II, F.S.
  - Have a good reputation for providing service and paying claims.
  - Furnish the Office with annual and quarterly financial statements.
  - Provide certain disclosures to policy or contract applicants.

### *Captive Insurance Companies*

- Redefines “captive insurer” as meaning a domestic insurer established under Chapter 628, Part V, Florida Statutes, including any of three specified types of captive formation, defined as:
  - Pure captive insurance company means a company that insures the risks of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof.
  - Special purpose captive insurance company means a captive licensed under Chapter 628, Florida Statutes, which does not meet the definition of any other type of captive insurance company.
  - Industrial insured captive insurance company means a company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.
- Removes the current requirement that captive insurers are subject to the same level of surplus specified for various lines of insurance written in Florida.
- Establishes capital and reserve requirements for each type of captive.
- Adds accumulated interest on allowed claims as a new class for distribution of claims from an insurer’s estate that precedes the priority of claims for shareholders and other owners.

### *Other Changes to the Insurance Code*

- Allows a not for profit self insurance fund to purchase coverage for its members for health, accident, or hospitalization if certain conditions are met.
- Clarifies that a current exemption from filing specified reinsurance information applies to any insurer with less than \$500,000 in direct written premiums in Florida in the preceding calendar year, and not more than \$250,000 of premium during the preceding calendar quarter and less than 1,000 policyholders at the end of the preceding calendar year.
- Allows DFS to provide licensing examinations in Spanish at the expense of the applicant.
- Expands the list of entities that may be issued a limited license for travel insurance.
- Allows licensed independent adjusters and licensed agents to supervise up to 25 individuals that are not required to obtain a license to perform functions in connection with entering data into an automated claims adjudication system for portable electronics insurance claims.
- Provides that residents of Canada cannot obtain a license as a nonresident independent adjuster for the purpose of adjusting portable electronics insurance claims, unless the individual obtains an adjuster license in another U.S. state.
- Provides surplus lines carriers are not required to provide 45 days’ notice of nonrenewal if the insurer has manifested its willingness to renew.

- Specifies that for someone to knowingly present a property and casualty certificate of insurance that has been altered after being issued is an unfair and deceptive trade practice.
- Provides that an insurer with surplus as to policyholders of \$25 million or less can qualify as a limited apportionment company (LAC) for all statutory purposes.
- Requires Citizens to offer basic personal lines policies similar to HO-8 policies by January 1, 2013.
- Requires Citizens to accept the lowest valuation from three specified sources when establishing replacement costs for dwelling coverage.
- States that unless specifically designated, mandated health benefits are not intended to apply only to limited benefit types of health benefits plans.
- Defines the term “rebate” within the context of performing repairs made pursuant to sinkhole damage.
- Allows insurers to cancel private passenger motor vehicle insurance policies within the first 60 days for nonpayment of premiums.
- Alternative dispute resolution procedure for personal and commercial residential property insurance claims can only be requested by the policyholder, as a first-party claimant, or by the insurer.
- When the notice of loss is reported more than 36 months after a declaration of a state of emergency by the Governor in response to a hurricane, the alternative claim dispute resolution process is not available.
- Allows the cancellation of a private passenger motor vehicle insurance policy, regardless of whether the first two months of premiums need to be paid up front, within the first 60 days for non-payment of premium when the check or other method of payment presented is subsequently dishonored.
- Provides that when an insurer who fails to meet the statutory requirements for timely payment of PIP benefits will be required to pay interest at the rate established in the contract or the statutory interest rate that applies to judgments and decrees, whichever is greater, that is in effect on the date the payment became overdue.
- Specifies insurers providing PIP coverage do not have a right of reimbursement from owners or registrants of motor vehicles used as taxi cabs.

*EFFECTIVE DATE: July 1, 2012. {Chapter Law 2012-151}*

# Financial Services Commission

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