



Florida Office of Insurance Regulation

# Legislative Summary 2014

Kevin McCarty,  
Insurance Commissioner



## OFFICE OF INSURANCE REGULATION

July 2014

Dear Floridians:

I am pleased to present the *2014 Legislative Summary* prepared by the Office for your use in reviewing the results of this past Session. It briefly describes each of the insurance and insurance-related bills enacted by the Legislature and approved by the Governor during the 2014 Regular Session. Additional information and legislative materials can be found online at Online Sunshine at [www.leg.state.fl.us](http://www.leg.state.fl.us). The 2014 Regular Session of the Legislature produced several key pieces of insurance legislation affecting both companies and consumers. Three of particular note are flood insurance, insurer solvency, and life insurance reserving.

- *Flood Insurance*: In the months leading up to Session, a number of Florida property owners insured through the federal flood insurance program faced substantial premium increases as federally imposed market-based rates took effect. The Legislature responded by approving legislation, SB 542, designed to encourage private insurers to enter the market and provide a less-expensive alternative to the federal program.
- *Insurer Solvency*: Making sure companies that operate in Florida and insure our families and businesses are on a sound financial footing is a core mission of the Office. This Session, the Legislature approved a package of measures to equip the Office with the additional tools necessary to perform this mission and maintain regulatory accreditation.
- *Life Insurance Reserving*: In SB 1308, the Legislature approved model legislation designed by the National Association of Insurance Commissioners (NAIC) to modernize insurer-reserving practices for term life and universal life with a secondary guarantee. This move to “principle based reserving” is an important step in making sure companies set aside enough funds to pay expected policyholder claims. Although the NAIC model must be adopted by 42 states before it can take effect, SB 1308 provides for an effective date of no sooner than January 1, 2017, to allow a reasonable transition period.

The more than 4,100 insurance-related entities in our state have a tremendous effect not only on the economy of our state, but also on the day-to-day lives of millions of Florida consumers. It is important that our insurance market is competitive and thriving, and that our consumers can secure needed products at appropriate rates. In the months ahead, the Office will be implementing statutory changes from this session consistent with the Legislature’s intent and within our scope of responsibility. And, despite the new laws and the change it brings, one thing will not change—my commitment to serving you in a fair, prompt and transparent manner.

Sincerely,

Kevin M. McCarty  
Insurance Commissioner

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**Summary of Insurance, Administrative and Budget-Related Legislation  
Passed During the 2014 Session of the Florida Legislature**

**BUDGET**

**General Appropriations Act (HB 5001, 1st Eng., by Appropriations, McKeel)**

Action by Governor: Approved (Chapter No. 2014-51, Laws of Florida)

Effective date: July 1, 2014.

The appropriations in the table below represent funds allocated to the Office of Insurance Regulation (Office) as approved by the Legislature for the fiscal year period beginning July 1, 2014, and ending June 30, 2015. The Office is funded entirely by the Insurance Regulatory Trust Fund.

<b>Office of Insurance Regulation</b>			
<b>Appropriations Overview Fiscal Year 2014-15</b>			
<b>Budget Category</b>	<b>FY 2013-14 Funding</b>	<b>FY 2014-15 Funding</b>	<b>Difference Over/(Under)</b>
<b>Positions</b>	288	288	0
<b>Salaries and Benefits</b>	\$18,259,213	\$19,425,731	\$1,166,518
<b>Other Personal Services*</b>	\$375,000	\$265,169	(\$109,831)
<b>Expenses</b>	\$2,512,782	\$2,518,543	\$5,761
<b>Operating Capital Outlay</b>	\$35,000	\$35,000	0
<b>Contracted Services</b>	\$805,726	\$780,726	(\$25,000)
<b>SPECIAL CATEGORIES</b>			
<b>Financial Examination Contracts**</b>	\$4,926,763	\$4,926,763	0
<b>Florida Public Hurricane Loss Model</b>	\$588,639	\$632,639	\$44,000
<b>FIU Enhancements to the FL Public Model***</b>	\$1,543,300	\$1,543,300	0
<b>FIU Wall of Wind Enhancements***</b>	\$0	\$300,000	\$300,000
<b>Lease or Lease-Purchase of Equipment</b>	\$27,403	\$27,403	0
<b>Risk Management Insurance</b>	\$262,960	\$162,559	(\$100,401)
<b>DMS Human Resources Contract</b>	\$101,323	\$95,221	(\$6,102)
<b>TOTAL</b>	<b>\$29,438,109</b>	<b>\$30,713,054</b>	<b>1,274,945</b>

\* For fiscal year 2013-14 only, the Legislature retained \$250,000 in funding in reserve (non-recurring). The Legislature released the portion of funds requested by the Office after the Office submitted a detailed operation and spending plan.

\*\*Authority for financial examinations of Property and Casualty, and Life and Health companies. Companies reimburse the Trust Fund for examination costs. The Trust Fund acts as a pass through; the transaction is revenue neutral.

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

## **Appropriations Proviso for the Office for Fiscal Year 2013-14**

***Rate Filings (Specific Appropriations 2488—2503).*** From the funds provided in Specific Appropriations 2488 through 2503, the Office must submit a report providing a detailed listing of all rate filings submitted during Fiscal Year 2013-14 for personal lines property residential coverage. For each filing, the report must include: 1) the name of the company submitting the filing; 2) the date the filing was submitted to the Office; 3) the overall rate change requested; 4) the name of the Office 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 or not 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 must be identified as part of the initial rate filing for purposes of this report. The Office must submit the report to the President of the Senate, Speaker of the House of Representatives, and the Executive Office of the Governor's Office of Policy and Budget by September 1, 2014. (Revised version of continuing proviso)

***Public Hurricane Loss Model Collaboration (Specific Appropriation 2492).*** Funds provided in Specific Appropriation 2492 must be transferred to FIU and used to promote and enhance collaborative research among state universities. Staff with the Florida Public Hurricane Loss Model located at FIU may consult with the private sector and the Florida Catastrophic Storm Risk Management Center located at The Florida State University to enhance the marketability, viability, and applications of the Florida Public Hurricane Loss Model. The Office must have the ability to accurately calculate hurricane risk and project catastrophic losses, and nothing shall interfere with or supersede the authority of the Office to enter into agreements with FIU. (Revised version of continuing proviso)

***Public Hurricane Loss Model Enhancements (Specific Appropriation 2492A).*** Funds provided in Specific Appropriation 2492A must be transferred to FIU for the purpose of enhancing the capability of the Florida Public Hurricane Loss Model to include windstorm and flood damage resulting from hurricanes. FIU shall update the Florida Public Hurricane Loss Model in coordination with the Office; the Division of Emergency Management; the Florida Catastrophic Storm Risk Management Center, the Center for Ocean-Atmospheric Prediction Studies, and the Meteorology Department at the Florida State University; the Civil and Coastal Engineering Department at the University of Florida; the Florida Institute of Technology; and the National Oceanic & Atmospheric Administration. (Revised version of current year proviso)

***Wall of Wind Enhancements (Specific Appropriation 2492B).*** Funds provided in Specific Appropriation 2492B shall be transferred to FIU for the purpose of enhancing the capability of the Wall of Wind. The enhancements to the Wall of Wind will provide additional research and development opportunities for wind and wind-driven rain mitigation efforts to include the development of cost effective mitigation methods of pre-existing buildings; research and recommendations to enhance building codes; and the research and validation of new products to make building structures more hurricane resilient and energy efficient. FIU must report on the various mitigation efforts being examined. The report must be submitted to the President of the Senate, Speaker of the House of Representatives, the Governor, and Cabinet Officers by June 15, 2015. (New proviso)

## Insurance-Related Appropriations Proviso for Other Agencies for Fiscal Year 2014-15

### Department of Financial Services (DFS):

- **PIP Fraud.** Funds in Specific Appropriation 2436 in the amount of \$1,537,908, are provided from the Insurance Regulatory Trust Fund for transfer to the Justice Administrative Commission for the specific purpose of funding attorneys and paralegals dedicated solely to the prosecution of Personal Injury Protection (PIP) insurance fraud cases in Duval, Orange, Miami-Dade, Hillsborough, Palm Beach, and Broward counties. These funds may not be used for any purpose other than the funding of attorney and paralegal positions that prosecute crimes of PIP insurance fraud.
- **Workers' Compensation Fraud.** From the funds in Specific Appropriations 2432 and 2442, three positions with associated salary rate of \$153,058 and \$210,000 from the Workers' Compensation Administration Trust Fund are provided for additional workers' compensation insurance fraud investigators. The positions and funding must be placed in reserve and made contingent on a grant to fund the positions. After obtaining grant funding, the DFS must request release of positions and funds pursuant to the provisions of Chapter 216, F.S.
- **Storm Worthiness of State-Owned Buildings and Facilities (Specific Appropriation 2447)** Funds in Specific Appropriation 2447 in the amount of \$1.5 million are provided to the Florida Catastrophic Risk Management Center at Florida State University (Center) to study the storm worthiness and characteristics for the estimated probable maximum loss of state-owned buildings and facilities that are provided insurance coverage by the State Risk Management Trust Fund, pursuant to s. 284.01, F.S. Funds may also be used to meet the requirements set forth in s. 1004.647, F.S. The Center must coordinate the storm worthiness study with the Division of Risk Management in the DFS and submit a report summarizing the findings to the President of the Senate, Speaker of the House of Representatives, the Governor, and Cabinet Officers by June 1, 2015.

### Division of Emergency Management (Division):

- **Hurricane Preparedness Campaign.** From the funds provided in Specific Appropriation 2576, the Legislature allocated \$250,000 for the Division of Emergency Management to contract with a not-for-profit corporation to conduct a statewide public education campaign on television and radio to promote hurricane preparedness. Funds must be matched on a 3-to-1 basis.
- **Hurricane Mitigation.** Funds in Specific Appropriation 2593 from the Grants and Donations Trust Fund reflect the transfer of \$3,000,000 of mitigation funds from the Florida Hurricane Catastrophe Fund pursuant to s. 215.555(7)(c), F.S. These funds must be used to retrofit existing facilities used as public hurricane shelters as specified in s. 215.559(1)(b), F.S. The nonrecurring General Revenue funds provided in Specific Appropriation 2593 are allocated for the construction of facilities as follows: Emergency Operations Center—City of Hialeah: \$750,000; Emergency Disaster Warehouse—Polk County: \$1,200,000.

**General Appropriations Implementing Act (HB 5003, 1st Eng., by Appropriations, McKeel)**

Action by Governor: Approved (Chapter No. 2014-53, Laws of Florida)

Statutes Affected: Sections of Insurance Code—624.502

Effective date: July 1, 2014

This bill implements HB 5001, 1<sup>st</sup> Eng., the General Appropriations Act for Fiscal Year 2014-15. Only one section of the Insurance Code is affected, that being a provision to reenact s. 624.502, F.S., relating to the deposit of fees for service of process made upon the Chief Financial Officer or Office of Insurance Regulation, and providing for deposit of the fees into the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund. Section 63 includes amendments to the State Employees' Prescription Drug Program.

**GENERAL INSURANCE**

**Warranty Associations (HB 291 by Santiago)**

Action by Governor: Approved (Chapter No. 2014-111, Laws of Florida)

Statute(s) Affected: 634.121, 634.312, 634.406, 634.414

Effective date: July 1, 2014

Chapter 634, F.S., governs the regulation of warranty associations. Warranty associations include motor vehicle service agreement companies, home warranty associations and service warranty associations. The Office regulates warranty associations, but not as to rates.

Current law requires warranty associations to mail or deliver every motor vehicle service agreement and home warranty to the purchaser within 45 days of sale. The bill permits warranty associations to deliver these products electronically, subject to the same 45-day delivery timeframe, unless the warranty holder requests delivery by regular mail instead.

The bill revises one of the financial requirements for service warranty associations. Under Florida law, they may demonstrate financial responsibility by securing contractual liability insurance from an authorized insurer that pays either when the service warranty association fails to pay its obligations, or provides coverage from the first dollar. Florida law also requires a service warranty association to maintain a 7-to-1 ratio of gross written premium to net assets. An association may avoid this writing ratio by securing an insurance policy providing first dollar coverage. The insurer must maintain minimum capital surplus of \$100 million, an "A" or higher rating, and not be affiliated with the association it insures. The bill expands this exception. Under the bill, associations insured under a policy that pays only when the association fails to pay its obligations can avoid the writing ratio if the insurer maintains a minimum capital surplus of \$200 million and an "A" or higher rating.

For insurers providing first dollar coverage, the bill repeals the requirement that they be unaffiliated with the association they insure. However, the insurer must still maintain a minimum surplus of \$100 million and an "A" or higher rating.

## **Division of Insurance Agents and Agency Services (CS/CS/HB 633, 1<sup>st</sup> Eng., by Ingram)**

Action by Governor: Approved (Chapter No. 2014-123, Laws of Florida)

Statute(s) Affected: 20.121, 624.31, 624.318, 624.501, 626.015, 626.0428, 626.112, 626.171, 626.172, 626.207, 626.241, 626.261, 626.311, 626.321, 626.382, 626.601, 626.611, 626.641, 626.733, 626.7355, 626.747, 626.7845, 626.8411, 626.861, 626.862, 626.9272, 627.4553, 627.7015, 627.706, 627.7074, 627.745, 627.952, 648.43, 648.49, 943.0585, 943.059

Effective date: July 1, 2014

### Insurance Agency Licensure

Florida is unique among states in requiring agents operating as sole proprietors to be licensed as both an insurance agent and agency. The bill repeals this requirement when the agency is owned and operated by a licensed agent operating as a sole proprietor and not using other insurance licensees. It repeals the agent registration option and converts all agency registrations to licenses effective October 1, 2015.

Currently, only certain specified persons owning or managing an insurance agency may sign an agency license application. The bill specifies the officers and directors required to sign the application. A third party may complete, submit, and sign an agency application on the agency's behalf. The bill dispenses with branch agency licensing if the branch transacts business under the same name and federal tax identification number as the licensed agency; designates a licensed agent-in-charge; and submits the address and telephone number of the branch location to the Department of Financial Services (DFS). Effective January 1, 2015, the three-year agency license is eliminated but will continue in force until canceled, suspended, revoked, or otherwise terminated or until it expires by operation of law.

### Agent-in-Charge

Individuals operating an insurance agency and each location of a multiple-location agency must designate a licensed and appointed agent-in-charge (AIC). "AIC" is defined and the branch location requirement deleted. The AIC may be the AIC of branch locations if insurance activities requiring licensure as an insurance agent do not occur at locations where an agent is not physically present; and unlicensed employees at the locations do not engage in insurance activities requiring licensure. Each agency and branch must designate an AIC and file agent information with the DFS. An agency location may not conduct insurance business unless an AIC is designated by, and providing services to, the agency. The AIC is accountable for licensee or agent misconduct or that of any person under her or his supervision acting on behalf of the agency, but is not criminally liable unless she or he personally committed the act or knew or should have known of the acts and facts constituting the violation.

### Appointment of Agents

Under current law, each property and casualty insurer entering into an agency contract is required to individually appoint each agent, unless the insurer's aggregate net written premium in the agency is \$25,000 or less. The bill deletes this exception and requires insurers to appoint only agents soliciting, negotiating, or effecting insurance contracts for the insurer.

### Unaffiliated Insurance Agent

The bill creates a new type of insurance agent, an unaffiliated agent, and specifies the scope of the license. Unaffiliated insurance agents may not affiliate with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents.

### Life Insurance Policies and Annuities

Under the bill, agents, insurers, and specified others recommending the surrender of an annuity or life insurance policy with a cash value, without the consumer replacing it, must provide the consumer with

certain information before executing the surrender, including the amount of any surrender charge; tax consequences; and forfeited death benefit; and the loss of any minimum interest rate guarantees. The bill gives individuals marketing variable life insurance or annuity contracts, or other variable or indeterminate value contracts, a broader range of licensure exams.

#### Insurance Mediation Programs

The DFS operates mediation programs and a neutral evaluation program and approves mediators and certifies neutral evaluators. The bill modifies the current DFS mediator education, experience, and training program requirements and qualifies a Florida Supreme Court certified circuit court mediator to be a DFS mediator. The bill essentially grandfathers in active DFS mediators and requires DFS to deny a mediator or neutral evaluator application or revoke or suspend the person in specified circumstances.

#### Nonresident Surplus Lines Agents

The bill revises nonresident surplus lines agent licensing requirements, exempting them from the experience or coursework and exam requirements for resident applicants. It also eliminates the fidelity bond for nonresident agents and requires them to be licensed and appointed as surplus lines agents in their state of residence and be licensed and appointed as nonresident surplus lines agents in Florida.

#### Miscellaneous

The bill exempts members of the U.S. Armed Forces, their spouses, and veterans who have retired within the previous 24 months and are applying for licensure as agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary from the filing fee; prohibits the issuance of new limited customer representative licenses after September 30, 2014; requires DFS to suspend a license or appointment when a licensee is charged with a specified felony; prohibits applicants from denying arrests covered by sealed or expunged records; revises the criteria for issuance of a temporary license as a customer representative; prohibits DFS and Office investigators from removing *original* records from the offices of any person being examined or investigated without the advance, written consent of the person or pursuant to a court order; requires insurers writing bail bonds to submit a sample power of attorney to the Office for approval, rather than the DFS; prohibits bail bond agents from engaging in certain transactions while their license is suspended or revoked; relieves applicants from having to pay the cost of taking a licensure exam in Spanish; revises experience requirements for engineers used in sinkhole claims; and requires each agency location to prominently display the agency license.

#### **Business Organizations (CS/CS/HB 685 by Rooney)**

Action by Governor: Approved (Chapter No. 2014-20, Laws of Florida)

Statute(s) Affected: Relevant Sections—215.555, 624.43, 624.462, 624.489, 628.041, 631.262, 636.204, 641.2015

Effective date: July 1, 2014

The bill amends numerous sections of Florida Statutes, including several sections related to insurance. These include technical conforming changes to the section of Florida Statutes governing the Florida Hurricane Catastrophe Fund and several sections of the Insurance Code for the purpose of reflecting the division of Chapter 607, F.S., into distinct parts—part I (General Provisions), part II (Social Purpose Corporations) and part III (Benefit Corporations).

### **Insurance Claims (CS/CS/SB 708, 1<sup>st</sup> Eng., by Bean)**

Action by Governor: Approved (Chapter No. 2014-86, Laws of Florida)

Statute(s) Affected: 627.3518, 627.409, 627.4133, 627.7015, 627.70151, 627.706, 627.7074, 627.7142

Effective date: Except as otherwise provided, July 1, 2014

The DFS is the agency charged with the regulation of insurance agents, insurance agencies, insurance adjusters, insurance school officials, and insurance school instructors.

Under current law, a misrepresentation, omission, concealment of fact, or incorrect statement by an insured in an insurance policy or annuity contract may prevent recovery under the contract or policy. However, under the bill, in the case of a residential property insurance policy or contract in effect for more than 90 days, a claim filed by the insured cannot be denied based on credit information available in public records.

In addition, under current law, an insurer must give the first-named insured at least 100 days advance written notice of nonrenewal, cancellation, or termination of a personal lines or commercial residential property insurance policy. Under the bill, if the policy or contract has been in effect for more than 90 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records.

The bill eliminates the DFS mediator education, experience, and training program requirements. It provides that an individual with an active certification as a Florida Circuit Court Mediator is qualified to be a mediator for the DFS. An individual not certified as a Florida Circuit Court Mediator can still be a DFS mediator if the person is an approved DFS mediator on July 1, 2014, and has conducted at least one DFS mediation from July 1, 2010, through July 1, 2014. This provision essentially grandfathers in current and active DFS mediators so they can continue to be DFS mediators, even if they are not certified as a Florida Circuit Court Mediator.

The bill permits an insurer providing residential coverage, or a policyholder using an appraisal clause in a property insurance contract, to challenge and disqualify a proposed umpire having certain specified relationships.

Under the bill, the DFS must deny an application for, or suspend or revoke the certification of, a neutral evaluator if the person lacks one or more of the specified qualifications; makes a material misstatement, misrepresentation, or engages in fraud to obtain approval or certification; demonstrates lack of fitness or trustworthiness to act as a neutral evaluator; engages in fraudulent or dishonest practices in conducting an evaluation or in the conduct of financial services business; or violates an Insurance Code provision or lawful order or rule of the DFS, or aids, instructs, or encourages another party to commit a violation. The DFS is also directed to adopt rules for certifying; and denying, suspending or revoking the certification of; a neutral evaluator.

Finally, the bill creates the Homeowner Claims Bill of Rights, and requires an insurer issuing a personal lines residential property insurance policy in this state to provide a copy to the policyholder within 14 days after receiving an initial communication with respect to a claim (except when the claim follows an event that is the subject of a state of emergency declaration by the Governor). The bill of rights is intended to summarize, in simple, nontechnical terms, the rights of a policyholder when filing a claim of loss under existing Florida law. It does not enlarge, modify, or contravene statutory requirements, according to the terms of bill.

**Foreign Investments (CS/CS/HB 811, 1<sup>st</sup> Eng., by Hager)**

Action by Governor: Approved (Chapter No. 2014-134, Laws of Florida)

Statute(s) Affected: 215.47, 215.473, 624.449

Effective date: July 1, 2014

The bill revises provisions governing investments by the State Board of Administration (SBA), modifies the "Protecting Florida's Investment Act" (PFIA), and requires domestic insurers to report on specified information concerning scrutinized companies.

Currently, the SBA manages over \$177 billion in assets, 85 percent of which are represented by the Florida Retirement System investments. In addition, the SBA manages over 30 investment portfolios, with combined assets of \$25 billion, including the Florida Hurricane Catastrophe Fund. Current law limits investments in foreign corporate securities and obligations by any SBA fund to 35 percent of fund assets. The bill increases this share to 50 percent.

The PFIA requires the SBA to identify and divest from assets in foreign companies doing business in Iran and Sudan and compile and publish a list of "Scrutinized Companies." The SBA and its investment managers are prohibited from acquiring the securities of these companies and must divest the securities if the companies do not cease prohibited activities or take certain compensating actions involving petroleum or energy, oil or mineral extraction, power production, or military support activities.

The bill amends the PFIA to exempt exchange-traded funds from the divestiture requirements. It also makes terminology changes to reflect South Sudan's status as an independent nation. Finally, it requires domestic insurers to provide the Office with an annual list of investments they have in companies included on the "Scrutinized Companies List" for Sudan and Iran. The insurer's list must include the name of the issuer and the stock, bond, security, and other evidence of indebtedness.

**Florida Statutes (SB 934 by Thrasher)**

Action by Governor: Approved (Chapter No. 2014-17, Laws of Florida)

Statute(s) Affected: Sections of Insurance Code—624.91, 627.351, 627.3518, 627.642, 627.6515, 627.6562, 627.657, 627.6686, 633.102, 633.216, 633.316, 633.408, 634.283, 641.31098

Effective date: 60 days after adjournment sine die (July 1, 2014)

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

**Florida Statutes (SB 938 by Thrasher)**

Action by Governor: Approved (Chapter No. 2014-19, Laws of Florida)

Statute(s) Affected: Sections of Insurance Code—624.351, 624.91, 651.117

Effective date: 60 days after adjournment sine die (July 1, 2014)

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

### **Insurance (CS/CS/SB 1344 by Braynon)**

Action by Governor: Approved (Chapter No. 2014-103, Laws of Florida)

Statute(s) Affected: 626.8805, 626.8817, 626.882, 626.883, 626.884, 626.89, 626.9541, 627.351, 627.7283, 631.912, 766.315

Effective date: July 1, 2014

Under current law, an insurer must review, at least semiannually, the operations of a third-party administrator (TPA) administering benefits for more than 100 certificate holders on behalf of an insurer. At least one review must be an onsite audit of the operations of the administrator. The bill authorizes an insurer to contract with a qualified third party to conduct this review.

The bill also changes the time frame for a TPA to file their annual financial statement with the Office. Reports must be submitted within three months of the conclusion of their fiscal year, rather than by March 1 in the case of a TPA on a calendar year cycle as is required under current law. The bill also permits administrators whose sole stockholder is a non-insurer affiliated association representing health care providers, administrators of pooled governmental self-insurance programs, and administrators that are universities, to also submit within three months of the end of their fiscal year, rather than two months from that date as currently provided. Similarly, the bill changes the timeframe for administrators to file their audited financial statements to five months after the end of the fiscal year, rather than a date specific.

The bill replaces the organizations making recommendations from which members of the Medical Malpractice Joint Underwriting Association must be selected. The one insurer representative currently selected from recommendations by the Alliance of American Insurers will be replaced by the Property Casualty Insurers Association of America. The one insurer representative recommended by the National Association of Independent Insurers will be replaced by the Florida Insurance Council.

Under current law, the American Insurance Association, the Alliance of American Insurers, and the National Association of Independent Insurers, make recommendations to the Chief Financial Officer (CFO) for the appointment of a casualty insurer representative to Florida Birth-Related Neurological Injury Compensation Association board of directors. The bill replaces these organizations with the Property Casualty Insurers Association of America, Florida Insurance Council, and American Insurance Association. Similarly, this bill replaces the Florida Obstetric and Gynecologic Society with the American Congress of Obstetricians and Gynecologists, District XII, as the organization making recommendations to the CFO. Unchanged in current law, the CFO is not required to select from among the trade association nominees. This bill also requires the Governor to appoint one member to the 11-member board of the Florida Workers' Compensation Insurance Guaranty Association. This member must have commercial insurance experience. This bill reduces from three to two the number of board member selected by self-insurance funds and appointed by the CFO.

This bill changes the information that must be filed with the Office as part of an application for a certificate of authority to act as an insurance administrator and allows an insurer that uses the services of an administrator to contract with a qualified third party to conduct the required semiannual review of an administrator. Insurers may refund unearned motor vehicle insurance premium to an insured by electronic transfer under this bill.

**Department of Agriculture (CS/CS/HB 7051, 1<sup>st</sup> Eng., by Business & Professional Development Subcommittee, La Rosa)**

Action by Governor: Approved (Chapter No. 2014-147, Laws of Florida)

Statute(s) Affected: Sections of Insurance Code—627.7842

Effective date: July 1, 2014

The bill contains numerous amendments to Florida Statutes related to subjects within the jurisdiction of the Departments of Agriculture and Consumer Services, and Business and Professional Regulation. It amends only one section of the Insurance Code—s. 627.7842, F.S., pertaining to title policy exceptions. The changes are technical conforming changes to reflect amendments to Chapter 472, F.S., governing the practice of surveying and mapping.

**INSURER SOLVENCY & FINANCIAL OVERSIGHT**

**Open Government Sunset Review (OGSR)/Florida Insurance Guaranty Association (SB 506 by Banking & Insurance)**

Action by Governor: Approved (Chapter No. 2014-77, Laws of Florida)

Statute(s) Affected: 631.582

Effective date: October 1, 2014

The bill saves from repeal, the public records exemption for specified records of the Florida Insurance Guaranty Association, including claims files, medical records and records pertaining to matters reasonably encompassed in attorney-client communications.

***Linked Public Records Bill to SB 1308:***

**Office of Insurance Regulation/Public Records (CS/CS/SB 1300, 1<sup>st</sup> Eng. by Simmons)**

Action by Governor: Approved (Chapter No. 2014-100, Laws of Florida)

Statute(s) Affected: 624.4212

Effective date: October 1, 2014, if SB 1308 or similar legislation becomes a law

The bill defines “proprietary business information” to include: 1) trade secrets as defined in s. 688.002, F.S., which comply with s. 624.4213, F.S.; 2) information relating to competitive interests, the disclosure of which would impair the competitive business of the information provider; 3) the source, nature, and amount of consideration used or to be used in carrying out a merger or other acquisition of control in the ordinary course of business, including the identity of the lender, if the person filing a statement regarding consideration so requests; 4) information relating to bids or other contractual data, the disclosure of which would impair the efforts of the insurer or its affiliates to contract for goods or services on favorable terms; and 5) internal auditing controls and reports of internal auditors.

Effective October 1, 2014, the bill makes proprietary business information contained in the following items held by the Office confidential and exempt: certain actuarial opinion summaries, notices of divestiture of controlling interest, forms for registration of insurance holding companies, enterprise risk reports and supervisory college materials.

Effective on the operative date of the NAIC valuation manual for life insurance reserving (which under the bill cannot occur in Florida prior to January 1, 2017), the bill makes proprietary business information contained in the following additional items confidential and exempt: certain specified actuarial examinations; the certification of the effectiveness of internal controls on the principle-based valuation;

principle-based valuation report; and the mortality, morbidity, policyholder behavior, or expense experience and other data submitted which includes potentially company-identifiable or personally identifiable information.

In addition, the bill makes confidential and exempt, information received from the National Association of Insurance Commissioners or another governmental entity in this or another state, the federal government or another nation which is confidential or exempt if held by that entity and which is held by the Office for use in the Office's performance of its duties relating to insurer valuation and solvency.

Finally, the circumstances under which the Office may disclose confidential and exempt information as provided in this bill are specified, to include the prior written consent of the insurer to which it pertains; court order; use for professional disciplinary proceedings; other state and federal agencies when the recipient agrees to maintain the confidential and exempt status; and for aggregating information on an industry-wide basis for disclosure to the public.

### **Insurer Solvency (CS/CS/SB 1308 by Simmons)**

Action by Governor: Approved (Chapter No. 2014-101, Laws of Florida)

Statute(s) Affected: 624.10, 624.319, 624.402, 624.4085, 624.424, 625.121, 625.1212, 625.1214, 627.476, 628.461, 628.801, 628.803, 628.804, 628.805, 636.045, 641.225, 641.255

Effective date: October 1, 2014, if SB 1300 or similar legislation becomes a law

In the aftermath of the 2008 financial crisis, the Solvency Modernization Initiative Task Force of the National Association of Insurance Commissioners (NAIC) recommended updates to various NAIC financial solvency model laws. The bill incorporates these updates into Florida law, in addition to other provisions designed to safeguard the claims-paying ability of insurers.

This bill strengthens the financial oversight of insurers by the Office. It adopts NAIC recommendations for expanding the capacity of the Office to evaluate entities within an insurance holding company system, by providing necessary access to books, records, and governance information. It includes provisions for acquisition and controlling stock reporting, registration and regulation of insurance holding companies, enterprise risk reporting, and Office disapproval of dividends and distributions for violations of enterprise risk requirements. Health maintenance organizations (HMO) and prepaid health service organizations are subjected to various risk-based capital requirements, and new trend tests designed to flag companies trending in a negative direction. HMO members of a holding company system are subjected to acquisition and enterprise risk reporting. Insurers reinsuring through captives must report certain information to the Office.

The bill authorizes the Office to participate in Supervisory Colleges of regulators to ensure coordinated oversight. The bill also permits the Office to serve as a group-wide supervisor for any international insurance group in which the ultimate controlling person is domiciled in, or has significant contacts with, this state, or acknowledge that another state should serve in this capacity.

The bill modernizes life insurer reserving through the enactment of NAIC-recommended revisions to the Standard Valuation Law. These include the adoption of the new NAIC valuation manual and principle-based reserving (PBR) for term life insurance and universal life with a secondary guarantee issued on or after the operative date of the manual. Although the operative date is tied to NAIC adoption thresholds (i.e., 42 states with 75% of premium), in Florida, it cannot be implemented prior to January 1, 2017.

This bill safeguards the confidentiality of sensitive information. It provides for the confidentiality of certain information through a linked public records bill, SB 1300. Legal privileges are recognized for certain information and reports such as examinations conducted by the Office and risk-based capital and enterprise risk reporting. Protections for actuarial opinions of reserves, principal-based valuation reports, and documents associated with the insurer reserving are also included.

## **LIFE AND HEALTH INSURANCE**

### **Dentists (CS/SB 86, 1<sup>st</sup> Eng., by Latvala)**

Action by Governor: Approved (Chapter No. 2014-64, Laws of Florida)

Statute(s) Affected: 627.647, 636.035, 641.315

Effective date: July 1, 2014

The bill prohibits a contract between a dentist and a health insurer, prepaid limited health service organization, or health maintenance organization, to provide services to an insured, from containing a provision requiring the dentist to provide services to the insured under the contract at a fee set by the health insurer unless the services are covered services under the applicable contract. The term “covered services” means dental care services for which a reimbursement is available under the insured’s or subscriber’s contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation. The prohibition applies to contracts entered into or renewed on or after July 1, 2014—the effective date of this new law.

## **PROPERTY AND CASUALTY INSURANCE**

### **Child Safety Devices in Motor Vehicles (CS/HB 225 by Perry)**

Action by Governor: Approved (Chapter No. 2014-226, Laws of Florida)

Statute(s) Affected: 316.613

Effective date: January 1, 2015

Under current law, motor vehicle operators must use a legally acceptable child restraint device when transporting young children below a certain age. The bill removes seat belts from the list of legally acceptable child restraint devices for children age four or five, and adds a child booster seat to the list of permissible devices. However, the bill permits a motor vehicle operator to use a seat belt in lieu of a child restraint device when gratuitously transporting a child that is not an immediate family member or in a medical emergency involving the child; or the child has a medical condition necessitating an exception evidenced by appropriate documentation from a health care professional.

### **Workers’ Compensation (CS/CS/HB 271 by Cummings)**

Action by Governor: Approved (Chapter No. 2014-109, Laws of Florida)

Statute(s) Affected: 440.107, 440.15, 440.16, 440.49

Effective date: July 1, 2014

When an employer fails to comply with workers’ compensation coverage requirements, the DFS must issue a stop-work order (SWO) within 72 hours.

The bill makes the following changes related to SWOs and associated penalties:

- Increases, from five to ten business days after receiving a written request from the DFS, the time within which an employer must produce requested business records or be subject to a SWO;
- Authorizes the DFS to issue an order of conditional release from an SWO to an employer securing appropriate coverage, making a \$1,000 down payment on the assessed penalty and agreeing to pay the remaining penalty in full or pursuant to a payment agreement schedule;
- Credits the initial payment of premium made to secure coverage against the assessed penalty for employers not previously issued a SWO; and
- Reduces the look-back period for employer noncompliance with coverage requirements from three to two years and increases the penalty multiplier from one and one-half to two times the unpaid premium amount.

In response to a court decision, the bill allows benefits currently payable at 66 2/3 percent of the employee's average weekly wage (up to the maximum weekly benefit for the year of injury) to be paid at either 66 2/3 percent or 66.67 percent of the average weekly wage.

Finally, the bill requires the DFS, by July 1 of each year, to calculate the Workers' Compensation Special Disability Trust Fund (SDTF) assessment rate. The assessment rate is effective January 1 of the next calendar year. The bill reduces the SDTF statutory rate cap from 4.52 to 2.5 percent. Approved reimbursement requests unpaid as of June 30, 2014, must be paid by October 31, 2014.

**Commercial and Recreational Water Activities (SB 320, 1<sup>st</sup> Eng., by Sachs)**

Action by Governor: Approved (Chapter No. 2014-70, Laws of Florida)

Statute(s) Affected: 320.08, 327.02, 327.37, 327.375, 327.391, 328.17, 342.07, 713.78, 715.07

Effective date: October 1, 2014

The bill subjects operators of commercial vessels engaged in parasailing to state regulation. It requires owners and operators engaged in commercial parasailing to secure minimum liability insurance of at least \$1 million per occurrence and \$2 million annual aggregate from a state-licensed carrier or surplus lines insurer and make proof available for inspection where parasailing is offered or provided for consideration. Vessel operators must maintain a current valid license issued by the U.S. Coast Guard authorizing them to carry passengers for hire and be appropriate for the number of passengers carried and the displacement of the vessel. This license must be available for inspection. Vessels engaged in commercial parasailing must be equipped with a functional VHF marine transceiver and electronic device capable of accessing National Weather Service forecasts and current weather conditions.

Commercial parasailing is prohibited when the current observed wind conditions in the area of operation include a sustained wind speed of more than 20 miles per hour; if wind gusts are 15 miles per hour higher than the sustained wind speed; if the wind speed during gusts exceeds 25 miles per hour; if rain or heavy fog results in reduced visibility of less than one-half mile; or if a known lightning storm comes within seven miles of the parasailing area. Vessel operators must use all available means to determine prevailing and forecasted weather conditions and record this information in a weather log each time passengers are to be taken out on the water. The weather log must be available for inspection at all times. Violations are punishable as a second-degree misdemeanor with up to 60 days in prison.

The bill adds “moored ballooning,” as defined in the bill, to the current prohibition against parasailing within 200 feet of the channel of the Florida Intracoastal Waterway, and extends the current prohibition to include areas within two miles of the boundary of any airport unless otherwise permitted. Kite boarding or kite surfing, as defined in the bill, is prohibited within an area that extends one mile in a direct line along the centerline of an airport runway and that has a width measuring one half mile unless otherwise permitted under federal law.

**Title Insurance (CS/CS/HB 321 by Passidomo)**

Action by Governor: Approved (Chapter No. 2014-112, Laws of Florida)

Statute Affected: 625.041, 624.407, 624.408, 625.111, 626.8412, 626.8413, 626.8417, 626.8418, 626.8419, 626.8437, 627.778, 627.782, 627.7845

Effective date: July 1, 2014

Title insurance insures owners of real property (owner’s policy) or others having an interest in real property against loss by encumbrance, defective title, invalidity, or adverse claim to title. Title insurers formed under the laws of Florida are required to set aside a statutory premium reserve of 30 cents per \$1,000 of net retained liability—one of the highest statutory premium reserves among states in which major title insurers are domiciled. Presently, Florida has no active domestic title insurers.

The bill amends the laws governing title insurance.

For domestic title insurers with at least \$50 million in surplus, the bill lowers the statutory premium reserve from 30 cents per \$1,000 of net retained liability to 6.5 percent of policy premium, plus other earnings and authorizes the release of a greater percentage of reserve funds. It also applies Florida law to the statutory premium reserve for new business written after the effective date of the transfer of domicile to Florida, beginning January 1, 2014, and:

- Limits liability under title insurance policies (and certain instruments issued by title insurers) to contract remedies for the breach of a duty which arises solely from the terms of the contract;
- Requires both title insurance agents and agencies to be licensed by the DFS and appointed by each title insurer they represent;
- Specifies that the pre-application work experience by which a person may qualify to take the title insurance agent examination must have been earned for duties performed under the supervision of a licensed title insurance agent, title insurer, or attorney;
- Extends limits on names title insurance agents may use and prohibits use of “title company” unless followed by “agent” or “agency” in the same size and type;
- Changes the reporting date for title insurance agencies and insurers to submit revenue, loss, and expenditure data to the Office, from March 31 to May 31;
- Distinguishes title insurance loss reserves from property and casualty loss reserves; and
- Defines the term bulk reserve and requires title insurers to obtain approval from the Office before using or recording a bulk reserve.

**Discriminatory Insurance Practices (CS/CS/SB 424 by T. Lee)**

Action by Governor: Approved (Chapter No. 2014-180, Laws of Florida)

Statute(s) Affected: 626.9541

Effective date: July 1, 2014

The bill makes it an unfair insurance trade practice for a personal lines property or automobile insurer to:

- Refuse to issue, reissue, or renew a policy; cancel or otherwise terminate a policy; or charge an unfairly discriminatory rate in this state based on the lawful use, possession, or ownership of a firearm or ammunition by the insurance applicant, insured, or a household member.
- Disclose the lawful ownership or possession of firearms of an insurance applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity of the insurer unless the insurer discloses to the applicant or insured the specific need to disclose the information and the applicant or insured expressly consents to the disclosure, or the disclosure is necessary to quote or bind coverage, continue coverage, or adjust a claim.

This provision does not prevent an insurer from charging a supplemental premium that is not unfairly discriminatory or sharing information with its licensed agent if, in both cases, a separate rider has been voluntarily requested by the policyholder to insure a firearm or a firearm collection whose value exceeds the standard policy coverage. The Office may fine and take other administrative actions against an insurer found to have engaged in discriminatory practices.

**Motor Vehicle Liability Policy Requirements (SB 490 by Garcia)**

Action by Governor: Approved (Chapter No. 2014-76, Laws of Florida)

Statute(s) Affected: 627.7275

Effective date: July 1, 2014

The bill extends from 30 to 60 days the underwriting period for non-cancellable motor vehicle liability coverage required to reinstate driving privileges revoked or suspended for failure to maintain required financial security or for driving under the influence. During the underwriting period, the policy is effective but the insurer may cancel the policy. The bill also allows the insured to change the coverage amounts without requiring the policy to be cancelled, if the minimum required coverage amounts are maintained. Under current law, the coverage or risk may not be changed during the policy period once the non-cancellable provisions of the policy take effect. The premium is nonrefundable under Florida law.

**Flood Insurance (CS/CS/CS/SB 542, 2<sup>nd</sup> Eng., by Brandes)**

Action by Governor: Approved (Chapter No. 2014-80, Laws of Florida)

Statute(s) Affected: 627.062, 627.0628, 627.715

Effective date: Upon becoming a law (June 13, 2014)

The bill authorizes insurers to write flood coverage on any residential structures or contents under specific terms and conditions. "Flood" is defined as it currently is under the National Flood Insurance Program (NFIP). However, flood coverage may also include water intrusion, as defined by the policy, originating from outside the structure. These terms and conditions in this bill do not apply to flood coverage for commercial residential and nonresidential properties and excess coverage. Insurers must notify the Office 30 days prior to writing flood coverage and file a plan of operation and financial

projections with the Office, as applicable. Any limits on flood coverage or policy limits must be prominently disclosed on the policy declarations or face page.

Insurers must offer coverage on a standard, preferred, customized or supplemental basis, with each coverage option defined in the bill.

- “Standard” flood insurance coverage is equivalent to a standard NFIP flood policy.
- “Preferred” coverage is standard coverage plus coverage for water intrusion originating from outside the structure not otherwise covered under the standard policy. It also includes coverage for additional living expenses (i.e., ALE) and loss adjustment on a replacement cost basis.
- “Customized” coverage includes broader coverage than under the standard NFIP policy. Supplemental flood insurance augments an NFIP policy or preferred insurance policy, but does not include excess coverage.
- “Supplemental” coverage may cover such items as jewelry, art, deductibles and ALE.

Insurers have the option of making an informational rate filing for flood insurance rates filed with the Office prior to October 1, 2019. They must notify the Office within 30 days after the effective date of any rate change. The Office may subsequently examine the rates based on specified rate factors in the rating law to determine if they are excessive, inadequate or unfairly discriminatory. In addition, insurers may use a model, method or “straight average” of models or methods acceptable to the Florida Commission on Hurricane Loss Projection Methodology to project flood losses. The Commission must adopt methods, principles, standards, models or output ranges for flood loss by July 1, 2017.

Until July 1, 2017, surplus lines agents may place flood coverage with a surplus lines insurer without first obtaining at least three declinations from admitted carriers. Citizens Property Insurance Corporation (Citizens) may not write flood insurance and the Florida Hurricane Catastrophe Fund may not reimburse losses.

An insurance agent receiving an application for coverage from an admitted or surplus lines insurer for a property covered under the NFIP must obtain a signed statement from the applicant prior to placing coverage with the admitted or surplus lines insurer acknowledging that the applicant could be subject to the full risk rate if it later becomes necessary to purchase coverage for the property through the NFIP. The bill authorizes the Insurance Commissioner to provide any certifications required by federal law or rule as a condition of qualifying for private flood insurance or disaster assistance. This act expressly supersedes other parts of the Insurance Code in the event of a conflict.

***Linked Public Records Bill:***

**Insurance Flood Loss Model/Public Records and Meetings (SB 1262 by Brandes)**

Action by Governor: Approved (Chapter No. 2014-98, Laws of Florida)

Statute(s) Affected: 627.0628

Effective date: Upon becoming a law, if SB 542 or similar legislation becomes a law

*Linked bill: CS/CS/CS/SB 542, 2<sup>nd</sup> Eng., by Brandes*

Currently, a trade secret used by a private company in the design and construction of a hurricane loss model provided to the Florida Commission on Hurricane Loss Projection Methodology (Commission), the Office, or the Insurance Consumer Advocate, is confidential and exempt under the public records law.

This bill broadens the exemption to include trade secrets used in the design and construction of a flood loss model.

In addition, by expanding the public records exemption for trade secrets to include flood loss models, the public meetings exemption is also expanded by operation of law. As a result, that portion of a Commission meeting or rate proceeding in which a trade secret pertaining to the confidential and exempt flood loss model is discussed is exempt from the open meetings law. However, the closed meeting must be recorded, and no portion of the closed meeting may be off the record. The exemption stands repealed effective October 2, 2019.

**Certificates of Title (CS/CS/SB 754, 1<sup>st</sup> Eng., by Bradley)**

Action by Governor: Approved (Chapter No. 2014-181, Laws of Florida)

Statute(s) Affected: 319.23, 319.30, 860.146

Effective date: July 1, 2014

Under current law, a person applying for a certificate of title must indicate whether or not the motor vehicle or mobile home is a rebuilt vehicle as defined by law. The certificate of title must include a statement that the rebuilt vehicle “may have previously been declared a total loss vehicle due to damage.”

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) on or before October 31, 2015, to submit a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives identifying any necessary improvements to the process for issuing certificates of title for rebuilt motor vehicles and recommendations for correcting any problems. The DHSMV must also include recommendations as to the need, and appropriate process, for inspecting the roadworthiness of rebuilt motor vehicles based on relevant data, including data on crashes caused by vehicle defects involving rebuilt motor vehicles.

Currently, the DHSMV must declare a vehicle unrebuildable and print a certificate of destruction authorizing the dismantling or destruction of the motor vehicle or mobile home, if the estimated costs of repairing any physical and mechanical damage equals 80 percent or more of the current retail cost of the vehicle, as established in an official used car or mobile home guide. The bill retains the 80 percent standard for mobile homes. However, the bill imposes a higher threshold for motor vehicles, distinguishing between “late-model vehicles” with a current retail cost of more than \$7,500 and all other vehicles with a cost of less than \$7,500. A “late model vehicle” is defined to mean “a motor vehicle that has a manufacturer’s model year of seven years or newer.” For late-model motor vehicles with a current retail value of \$7,500 or more, the DHSMV must declare a motor vehicle unrebuildable when the estimated cost to repair the damage equals 90 percent or more of the current retail cost of the vehicle.

For motor vehicles with a current retail value of less than \$7,500, or those that are not late model vehicles, the bill creates a new valuation standard. The owner or the insurance company paying for the total loss must obtain a certificate of destruction if the motor vehicle is damaged, wrecked, or burned to the extent that the only residual value is as a source of parts or scrap metal, or if the motor vehicle comes into this state under a title or other ownership document indicating that it is not repairable, is junked, or is for parts or dismantling only.

The bill defines various airbag terms such as “counterfeit airbag” for purposes of the current statutory provision making it a second degree felony for a person to install, manufacture, sell, import or purchase any fake airbag or junk filled airbag compartment.

**Workers' Compensation (CS/HB 785, 1<sup>st</sup> Eng., by Albritton)**

Action by Governor: Approved (Chapter No. 2014-131, Laws of Florida)

Statute(s) Affected: 440.13, 627.072, 627.281

Effective date: July 1, 2014

Under a retrospective rating plan, an employer's final workers' compensation premium is based on the actual loss experience during the policy period, plus insurer expenses and an insurance charge. This bill permits an insurer and employer to negotiate premium under such a plan if the insurer has at least \$500 million in surplus, and the employer has exposure in more than one state and an estimated annual standard premium of \$100,000 or more in Florida and \$750,000 or more countrywide. Although these plans and associated forms must be filed by the rating organization (i.e., National Council on Compensation Insurance) and approved by the Office, the premiums are not subject to part I of Chapter 627, F.S., relating to rates and rating organizations. The bill also bars insurer reimbursement for oral vitamins, nutrient preparations, and dietary supplements. It grants insurers and self-insured employers the sole discretion to authorize the provision of medical food and limit such authorization.

**Title Insurer Reserves (CS/CS/HB 805, 1<sup>st</sup> Eng., by Moraitis)**

Action by Governor: Approved (Chapter No. 2014-132, Laws of Florida)

Statute(s) Affected: 624.407, 624.408, 624.509, 625.041, 625.111, 627.7711

Effective date: Upon becoming a law (June 13, 2014)

Title insurance insures owners of real property (owner's policy) or others having an interest in real property against loss by encumbrance, defective title, invalidity, or adverse claim to title. Title insurers formed under the laws of Florida are required to set aside a statutory premium reserve of 30 cents per \$1,000 of net retained liability--one of the highest statutory premium reserves among states in which major title insurers are domiciled. Presently, Florida has no active domestic title insurers.

The bill amends the laws governing title insurance.

For domestic title insurers with at least \$50 million in surplus, the bill lowers the statutory premium reserve to 6.5 percent of policy premium, plus other earnings and authorizes the release of a greater percentage of reserve funds. Beginning January 1, 2014, Florida law applies to the statutory premium reserve for new business written after an insurer transfers domicile to Florida.

Presently, domestic title insurers account for unknown losses and claims [also known as "Incurred But Not Reported" losses] in both their liabilities and statutory premium reserve. The bill eliminates this duplication by requiring domestic title insurers to account for IBNR only through their statutory premium reserve.

Currently, the amount of unearned premium reserves for foreign title insurers transferring domicile to Florida is the amount required by the laws of the insurer's former state of domicile on the date domicile is transferred and released from reserves according to the law in effect in the former state at the time of domicile. Beginning January 1, 2014, the bill applies Florida law to the statutory premium reserve for new business written after the effective date of the transfer of domicile to Florida. The bill exempts title insurers from the premium tax on all portions of title insurance premiums retained by title agents and agencies. Continuation of the exemption is contingent on title insurers adding at least 600 Florida-based employees between July 1, 2014, and July 1, 2016. This exemption expires on December 31, 2017, unless reenacted by the Legislature.

**Motor Vehicle Crash Reports (CS/HB 863 by Kerner, Campbell)**

Action by Governor: Approved (Chapter No. 2014-212, Laws of Florida)

Statute(s) Affected: 316.066

Effective date: July 1, 2014

*Linked bill: CS/CS/CS/HB 865 by Kerner, Campbell*

Under current law, a motor vehicle crash report revealing the home, cellular, employment, or other telephone number or the home or employment address of any of the parties involved in a crash is confidential and exempt from inspection under the public records law for 60 days from the date the report is filed. However, they may be accessed by certain specified entities, including but not limited to, the parties involved in the crash and their legal and insurance representatives, prosecutors, law enforcement, the Department of Transportation, and news media such as radio and television stations licensed by the Federal Communications Commission, qualified newspapers, and certain free newspapers of general circulation.

To access a crash report within that 60-day time period, a person must submit a sworn statement to the state or local agency in possession of the report stating that confidential and exempt information will not be used for any commercial solicitation of accident victims, or knowingly disclosed to any third party for the purpose of solicitation during that time period. This bill requires the requesting party to complete a sworn statement for each individual crash report requested.

According to the 15<sup>th</sup> Statewide Grand Jury report issued in 2000 that led to restrictions on public access to crash reports, “probably the single biggest factor contributing to the high level of illegal solicitations is the ready access to public accident reports in bulk by runners.”

***Linked Public Records Bill:***

**Motor Vehicle Crash Reports/Public Records (CS/CS/CS/HB 865 by Kerner, Campbell)**

Action by Governor: Approved (Chapter No. 2014-213, Laws of Florida)

Statute(s) Affected: 316.066

Effective date: On the date CS/HB 863 or similar legislation takes effect

Under current law, motor vehicle crash reports are confidential and exempt from inspection under the public records act for a period of 60 days after the date the reports are filed. Free newspapers meeting certain criteria are included among a variety of entities not subject to the 60-day waiting period. To qualify, free newspapers must be of general circulation, published at least once a week or more and available and of interest to the public generally for the dissemination of news.

This bill imposes an additional condition on free newspapers, requiring that at least 7,500 copies be distributed by mail or by carrier as verified by a postal statement or by a notarized printer's statement of press run, which are intended to be generally distributed and circulated, and which contain news of general interest with at least 10 pages per publication. However, under the bill, free newspapers available and of interest to the public generally for the dissemination of news, and which request 10 or more crash reports within a 24-hour period before 60 days have elapsed after the report is filed may not have access to the home, cellular, employment, or other telephone number or the home or employment address of any of the parties involved in the crash.

This bill extends this exemption for another five years, with an expiration date of October 2, 2019, unless saved from repeal by the Legislature.

**Citizens Property Insurance Corporation (CS/CS/HB 1089, 1<sup>st</sup> Eng., by Raschein)**

Action by Governor: Approved (Chapter No. 2014-140, Laws of Florida)

Statute(s) Affected: 627.351

Effective date: July 1, 2014

Under current law, Citizens may not provide coverage for a “major structure” located seaward of the coastal construction control line or within the federal Coastal Barrier Resources System (CBRS), if the permit is applied for on or after July 1, 2014, and is for new construction or substantial improvement to an existing structure [as defined in s. 161.54(12), F.S.,] “Major structure” encompasses virtually all residential and commercial buildings. This bill delays the prohibition on coverage for one year until July 1, 2015. This bill also changes the transient occupancy definition and rule currently used by Citizens. Effective July 1, 2014, Citizens may not write wind-only coverage for a commercial lines residential condominium that rents 50 percent or more of the units more than eight times in a calendar year for a rental period of less than 30 days. Citizens may continue to provide multi-peril coverage that includes wind.

**Property Insurance (CS/CS/SB 1672, 2<sup>nd</sup> Eng., by Banking & Insurance)**

Action by Governor: Approved (Chapter No. 2014-104, Laws of Florida)

Statute(s) Affected: 626.621, 626.854, 627.351, 627.3519, 627.711, 817.234

Effective date: July 1, 2014, except as otherwise provided

Under the bill, the DFS may deny an application for; suspend, revoke, or refuse or continue the license or appointment of; and it may suspend or revoke the license or appointment of any such person, if it finds the applicant, licensee, or appointee directly or indirectly accepted any compensation, inducement, or reward from an inspector for the referral of the owner of the inspected property to the inspector or inspection company. This prohibition applies to an inspection submitted to an insurer to obtain property insurance coverage or establish the property insurance premium. It also prohibits a public adjuster, a public adjuster apprentice, or a person acting on behalf of an adjuster or apprentice from entering into a contract, or accepting a power of attorney that vests in the public adjuster, the public adjuster apprentice, or the person acting on behalf of the adjuster or apprentice the effective authority, to choose the persons or entities that will perform repair work in a property insurance claim.

Effective July 1, 2014, the bill prohibits Citizens from writing new commercial residential policies providing multi-peril coverage, although it may renew existing multi-peril policies on buildings it insured on June 30, 2014. Citizens must continue to offer commercial residential wind-only policies and may offer commercial residential policies excluding wind.

The bill prohibits an authorized mitigation inspector from directly or indirectly offering any compensation, inducement, or reward to an insurance agency, insurance agent, customer representative, or an employee of an insurance agency for referring the property owner to the inspector or inspection company. It further prohibits an insurance agency, insurance agent, customer representative, or an employee of an insurance agency from directly or indirectly receiving or accepting any compensation, inducement, or reward from an authorized mitigation inspector for referring the owner of the inspected property to the inspector or the inspection company. It gives insurers the option to exempt a uniform mitigation verification form completed by an authorized mitigation inspector or inspection company from independent verification. A form provided by a policyholder, a policyholder’s agent, or an authorized mitigation inspector or inspection company to Citizens is not subject to independent verification and the property is not subject to reinspection by Citizens, absent material

changes to the structure during the term stated on the form, if the form was signed by an authorized mitigation inspector and submitted to, reviewed by, and verified by a quality assurance program approved by Citizens prior to submission to Citizens.

The bill repeals the authority of the Citizens board to decide protests relating to competitive procurements, requiring it to contract with the Division of Administrative Hearings (DOAH) for this purpose. The board, acting as “agency head,” will consider recommended orders and take final action on protests. Final action by the board may be appealed to the First District Court of Appeal.

Under current law, Citizens must prepare an annual report outlining both the statewide average and county-specific details of the loss ratio attributable to non-catastrophic losses for the residential coverage it writes. The report must be filed with the Office and made available for public inspection on Citizen’s website by March 1, rather than January 15, as currently required. The bill repeals the requirement that the Financial Services Commission provide the Legislature with an annual report identifying the aggregate net probable maximum losses, financing options, and potential assessments of the Florida Hurricane Catastrophe Fund and Citizens. The Florida Hurricane Catastrophe Fund and Citizens already provide this report to the Legislature. Citizens is also required to submit to the Legislature and the Commission a statement concerning the corporation’s estimated borrowing and claims-paying capacity, and estimated balance as of December 31 of the current calendar year. These estimates must take into account the concurrent issuance of debt instruments by the corporation, the Florida Hurricane Catastrophe Fund, and the Florida Insurance Guaranty Association following a catastrophic event. Finally, the bill makes it a third-degree felony for a contractor to rebate deductibles for payment of repairs to property covered by a property insurance policy.

**Transportation (CS/CS/HB 7005, 3<sup>rd</sup> Eng., by Transportation & Highway Safety Subcommittee, Artiles)**

Action by Governor: Approved (Chapter No. 2014-216, Laws of Florida)

Statute(s) Affected: Sections of Insurance Code— 627.0653

Effective date: July 1, 2014

Included within this omnibus transportation bill is a provision permitting the Office to approve a motor vehicle insurance premium discount for vehicles equipped with factory-installed autonomous driving technology or electronic vehicle collision avoidance technology, or a retrofitted system in compliance with National Highway Traffic Safety Administration standards.

**Title Insurance Data Call/Rule Ratification (HB 7097 by Rulemaking, Oversight & Repeal Subcommittee, Steube)**

Action by Governor: Approved (Chapter No. 2014-152, Laws of Florida)

Statute(s) Affected: 120.541

Effective date: Upon becoming a law (June 13, 2014)

Under current law [s. 627.782(8), F.S.], each title insurance agency and insurer licensed to do business in this state and each insurer’s direct or retail business in this state must maintain and submit information, including revenue, loss, and expense data, as the Office determines necessary to analyze title insurance premium rates, title search costs, and the condition of the title insurance industry in this state. This data must be submitted to the Office annually by March 31.

In addition, the Financial Services Commission is required to promulgate rules governing the collection and analysis of this data. In response, the Commission approved Rule 69O-186.013, F.A.C., entitled: "Title Insurance Statistical Gathering: Licensed Title Insurance Agencies and Florida Retail Offices of Direct-Writing Title Insurance Underwriters," as filed for adoption with the Department of State.

Under the Florida Administrative Procedure Act, an agency rule having an estimated regulatory impact on business in excess of \$1 million in the aggregate within five years after implementation must be ratified by the Legislature prior to taking effect [s. 120.541(3), F.S.]. The Office determined that the financial impact of this rule exceeded this threshold and required legislative ratification.

The bill ratifies this rule, satisfying any condition on effectiveness imposed under s. 120.541(3), F.S., and allowing the rule to take effect.

## **OFFICE ADMINISTRATION AND OPERATIONS**

### **Legislature (CS/HB 9, 1<sup>st</sup> Eng., by Nunez)**

Action by Governor: Approved (Chapter No. 2014-106, Laws of Florida)

Statute(s) Affected: None

Effective date: Upon becoming a law (June 13, 2014)

Under Article III, Section 3(b) of the Florida Constitution, the Legislature, during each even-numbered year, must convene in regular session, either on the first Tuesday after the first Monday in March, or on some other date as may be fixed by law. Pursuant to this authority, the Legislature will convene the 2016 Regular Session on January 12, 2016.

### **State Contracting (HB 953 by Peters)**

Action by Governor: Approved (Chapter No. 2014-135, Laws of Florida)

Statute(s) Affected: 287.057

Effective date: July 1, 2014

The bill revises the criteria state agencies must consider when evaluating bids submitted in response to a competitive solicitation or replies to an invitation to negotiate to include "consideration of (the) prior relevant experience of the vendor." Under current law, agencies may, but are not required to, consider prior relevant experience when evaluating bids for procuring goods and services.

### **Citizen Support and Direct-Support Organizations (CS/SB 1194 by Government Oversight & Accountability)**

Action by Governor: Approved (Chapter No. 2014-96, Laws of Florida)

Statute(s) Affected: 14.29, 16.616, 20.058, 20.2551, 39.0011, 39.8298, 250.115, 257.43, 258.015, 259.10521, 265.703, 267.17, 288.1226, 288.809, 288.923, 292.055, 379.223, 413.0111, 413.615, 430.82, 570.903, 570.9135, 626.9895, 683.231, 744.7082, 893.055, 944.802, 960.002, 985.672, 1009.983

Effective date: Upon becoming a law (June 13, 2014)

Citizen-support organizations (CSOs) and direct-support organizations (DSOs) are private entities created to assist or support governmental entities in carrying out their duties. No one set of standards are set forth in law. However, CSOs and DSOs are often created with similar organizational and reporting requirements. Among the many DSOs created under Florida law, one is insurance-related—the

Automobile Insurance Fraud Strike Force. It supports the prosecution, investigation, and prevention of motor vehicle insurance fraud.

The bill establishes new reporting and transparency requirements for CSOs and DSOs that are adjunct to an executive agency. The bill requires CSOs and DSOs to make annual reports to their related agencies on the topics of organization and mission. Agencies must make the reported information available on agency websites, submit annual recommendations to the Governor and Legislature, and terminate the contracts of organizations not in compliance with the reporting requirements. The bill also sunsets the laws creating CSOs and DSOs. The bill provides repeal dates for existing CSOs and DSOs. The bill sunsets the Automobile Insurance Fraud Strike Force on October 1, 2019.

**Inspectors General (CS/CS/SB 1385, 1<sup>st</sup> Eng., by Raulerson)**

Action by Governor: Approved (Chapter No. 2014-144, Laws of Florida)

Statute(s) Affected: 14.32, 20.055

Effective date: July 1, 2014

Under current law, the Office of the Chief Inspector General is created within the Governor's Office. The Chief Inspector General (Chief IG) is appointed by and serves at the pleasure of the Governor, and is responsible for promoting accountability, integrity, and efficiency in agencies under the Governor's jurisdiction. The Chief IG monitors the activities of the agency inspectors general under the Governor's jurisdiction. This bill authorizes a Governor, upon a change in Governors or reelection of the existing Governor, to appoint, or reappoint, a Chief IG before adjournment sine die of the first regular session of the Legislature that convenes after a change in Governors or reelection of the Governor.

In the case of an agency under the Governor's jurisdiction, the bill requires the inspector general to inform the Chief IG of programmatic and operational fraud, abuse, and deficiencies, rather than the agency head.

The bill revises the process for appointing inspectors general for state agencies. While the agency head will continue to make the appointment for agencies under the Governor and Cabinet (e.g., the Department of Revenue), the Chief IG will now make the appointment for agencies under the Governor's jurisdiction. In addition, the bill requires the agency head or Chief IG, depending on the status of the agency, to notify the Governor at least seven days prior to hiring an agency inspector general. Currently, the agency heads notify the Governor across all agencies. The agency head provides general supervision for the agency inspector general under existing law. Under the bill, the agency inspectors general for agencies under the Governor's jurisdiction must report to the Chief IG and, in hiring and removing staff, consult with the Chief IG.

Also, under current law, the agency head may remove an agency inspector general. Under the bill, an inspector general of an agency within the Governor's jurisdiction may only be removed by the Chief IG for cause, including concerns regarding performance, malfeasance, misfeasance, misconduct, or failure to carry out assigned duties. The Chief IG must notify the Governor at least 21 days prior to removing an agency inspector general. Currently, the agency head is required to provide the Governor with a 7-day advance notice. If the agency inspector general contests the removal, the inspector general may present written objections to the Governor within the 21-day period.

The bill includes the Governor, and the Governor and Cabinet within the existing requirement that the agency head not prevent or prohibit the inspector general from initiating, carrying out, or completing any audit or investigation. The bill also amends current law to provide that the agency head may at any

time request, rather than direct, the inspector general to perform an audit of a special program, function, or organizational unit. Finally, the bill requires the inspector general for agencies within the jurisdiction of the Governor to submit a copy of a final audit report to the Chief IG.

**OGSR/Agency Personnel Information (SB 1678 by Government Oversight & Accountability)**

Action by Governor: Approved (Chapter No. 2014-105, Laws of Florida)

Statute(s) Affected: 119.071

Effective date: October 1, 2014

This bill reenacts and saves from repeal the current public records exemption for the social security numbers of current and former agency employees held by an employing agency. This bill also amends the current exemption to permit agency disclosure: if expressly required by federal or state law or a court order; to another agency if necessary for the recipient to perform its duties and responsibilities; or if the current or former agency employee expressly gives written consent.

**State-Administered Retirement Systems (HB 5005, 1<sup>st</sup> Eng., by Appropriations, McKeel)**

Action by Governor: Approved (Chapter No. 2014-54, Laws of Florida)

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

Effective date: July 1, 2014

The Florida Retirement System (FRS) is the primary retirement plan for employees of the state of Florida and county government agencies, district school boards, and state colleges and universities. This bill conforms statutory law to the retirement and health insurance subsidy contributions included in the Fiscal Year 2014-15 General Appropriations Act. Beginning July 1, 2014, the employer contribution for the Retiree Health Insurance Subsidy increases from 1.20 percent to 1.26 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 2013 Actuarial Valuation.

**Distribution of Surplus Lines Tax Revenue (HB 5403, 1<sup>st</sup> Eng., by Government Operations Appropriations Subcommittee, Ingram)**

Action by Governor: Approved (Chapter No. 2014-60, Laws of Florida)

Statute(s) Affected: 624.523, 626.932, 626.938

Effective date: July 1, 2014

Florida levies a five percent premium tax on surplus lines insurance, independently procured coverage, and insurance provided by risk retention groups. Currently, 100 percent of the proceeds are deposited into the General Revenue Fund. However, a 2009 law distributing 100 percent of the tax proceeds to the General Revenue Fund expired on July 1, 2014, with the distribution percentages reverting to the law in existence prior to 2009. Prior to 2009, 84.5 percent of the proceeds were distributed to the General Revenue Fund, with the remaining 15.74 percent deposited to the credit of the Insurance Regulatory Trust Fund (IRTF) within the Department of Financial Services (DFS).

This bill repeals the sunset of the 2009 re-distribution, effective June 30, 2014, and, rather than reverting to the pre-2009 law, changes the distribution to the IRTF to 8.8 percent of the tax revenues and 91.2 percent to the state General Revenue fund. As a result, for Fiscal Year 2014-15, \$19 million will be credited to the IRTF and \$198.7 million to the General Revenue Fund. The IRTF funds the expenditures of the Office of Insurance Regulation and partially funds the DFS.

**Information Technology Governance (HB 7073, 1<sup>st</sup> Eng., by Appropriations Committee, McKeel)**

Action by Governor: Approved (Chapter No. 2014-221, Laws of Florida)

Statute(s) Affected: 14.204, 17.0315, 20.055, 20.61, 110.205

215.322, 215.96, 216.023, 282.0041, 282.0051, 282.00515, 282.0055, 282.0056, 282.201, 282.203, 282.204, 282.205, 282.318, 282.33, 282.34, 287.057, 287.0591, 327.301, 445.011, 445.045, 668.50 943.0415, 1004.649

Effective date: July 1, 2014

The bill establishes an enterprise information technology (IT) governance structure within the executive branch. It repeals the Agency for Enterprise Information Technology (AEIT) and creates the Agency for State Technology (AST) within the Department of Management Services (DMS). The Governor will appoint the executive director, subject to Senate confirmation. The bill authorizes a Type Two transfer of all records, property, unexpended balances, administrative authority, administrative rules pending issues, and existing contracts from the AEIT to the AST. The bill also transfers the Northwood and Southwood Shared Resource Centers from the DMS to the AST, and creates the state data center.

The duties and responsibilities of the AST include developing and implementing IT architecture standards; establishing IT project management and oversight standards; performing project oversight on large IT projects, except for cabinet agencies unless it impacts another agency and has a total project cost of \$50 million or more; providing operational management and oversight of the state data center; identifying opportunities for standardization and consolidation of IT services that support common business functions; and recommending additional consolidations of agency data centers or computing facilities.

Finally, the bill establishes the Technology Advisory Council within the AST and defines the membership; clarifies IT security duties; requires the AST to conduct studies and provide recommendations on managing state government data, improving IT security, and streamlining operational processes of the state data center; and repeals sections of law relating to the AEIT, the Northwood and Southwood Shared Resource Centers; energy efficient standards for data centers; and statewide e-mail service.



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