

2009 Legislative Summary

Florida



Office of
Insurance
Regulation

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Prepared by
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August 2009

Dear Friends:

During the 2009 Legislative Session, the Legislature passed several bills that will greatly impact the Office of Insurance Regulation (Office), the insurance industry, and the insurance buying public who we proudly serve each day. The Office's priority bills this year focused on title insurance, credit scoring methodologies, and Stranger-Originated Life Insurance (STOLI). For your reference, attached is the Office's 2009 Legislative Summary, which will provide you with a thorough review of the major bills and legislative appropriations affecting the Office.

While the 2008 Legislative Session had an impact on all business units of the Office, the 2009 Session focused mainly on the subjects of property insurance, health insurance, and the overall administration.

One significant bill that passed this year was HB 1495, by Representative Nelson, which made several changes to the property insurance market, including Citizens Property Insurance (Citizens). Office staff and insurance industry lobbyists were called upon to testify during the several weeks of committee meetings to present information relating to the unique Florida marketplace. Important provisions of this legislation include the creation of a "glide path" to increase the rates charged by Citizens by no more than 10 percent per year. HB 1495 also phases out the "TICL" layer of the Florida Hurricane Catastrophe Fund, and allows insurers to make an expedited rate filing for the purchase of private reinsurance that replaces this layer of Cat Fund coverage.

The Legislature also passed a substantial bill dealing with the payment of health care benefits by insurers. SB 1122 by Senator Gaetz allows for direct payment of benefits to out of network health care providers, which substantially changes the billing procedures instituted by health insurers regulated by the Office.

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

Sincerely,


Kevin M. McCarty

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FY 2009-2010 Budget Overview

2009 General Appropriations Act

SB 2600 - Approved by the Governor May 27, 2009

Issue	2008-2009 Funding	2009-2010 Funding	Difference Over/(Under)
Positions	314	300	(14)
Salaries and Benefits	\$19,631,384	\$18,334,987	(\$1,296,397)
Other Personal Services In 2008-2009, OPS funds were included with Contracted Services.		\$175,000	\$175,000
Expenses	\$3,389,957	\$3,021,102	(\$368,855)
Operating Capital Outlay	\$2,000	\$2,000	
Contracted Services	\$1,020,726	\$845,726	(\$175,000)
Special Categories Budget authority for financial examinations of insurance companies. Insurance companies reimburse the Insurance Regulatory Trust Fund for exam costs.		\$4,701,763	\$4,701,763
Special Categories - Public Hurricane Model	\$623,512	\$623,512	

Disclaimer: The Appropriations above represent funds allocated to the Office of Insurance Regulation as approved for the annual period beginning July 1, 2009 and ending June 30, 2010. The Office is funded entirely by the Insurance Regulatory Trust Fund.

PROPERTY & CASUALTY

HB 0569 Financial Instruments by Finance and Tax; General Government Policy Council; Insurance, Business, and Financial Affairs Policy Council; and Rep. Roberson

have the same option and requirement for FDIC insurance.

Expands Florida Statutes by providing an option for state and local government funds to be deposited into money market deposit accounts and other financial deposit instruments insured by the FDIC. Deletes provisions relating to concurrent deposits. Provides for use of payroll debit cards as payment instruments for labor.

The Florida Hurricane Catastrophe Fund (FHCF)

Regarding the Florida Hurricane Catastrophe Fund, the bill:

- Extends for two and a half years (until December 31, 2011) the \$10 million coverage option available for purchase from the FHCF by certain insurance companies and allows it to be purchased by insurers that purchased it in 2008 in addition to the insurance companies authorized to purchase this coverage under current law. This FHCF coverage option provides reinsurance to insurance companies meeting specified statutory criteria for loss amounts incurred by these insurers below the deductible for the mandatory coverage from the FHCF and below the Temporary Emergency Options For Additional Coverage (TEACO option).
- Specifies the \$10 million coverage option must be accessed before the mandatory coverage and the mandatory coverage retention applies once the \$10 million coverage option limit is exhausted. The \$10 million coverage option will be paid concurrently with the mandatory coverage.
- Sets the retention level/deductible for the \$10 million coverage option at 30% of the insurer's surplus amount on December 31, 2008 (for the 2009-2010 contract year), on December 31, 2009 (for the June 1, 2010 – December 31, 2010 contract year), and on December 31, 2010 (for the 2011 contract year).

EFFECTIVE DATE: July 1, 2000. {Chapter Law 2009-140}

SB 0714 Condominiums by Jones (D)

Revises and clarifies the property insurance and other requirements of condominium associations and condominium unit owners under ch. 718, F.S., known as the Condominium Act. The legislation corrects inconsistencies with terms used under the Insurance Code and repeals certain insurance requirements placed on condominium unit associations and owners. Specifically, the bill contains the following provisions:

- Creates a provision under the Insurance Code to require that residential condominium unit owner policies issued or renewed on or after July 1, 2009, must include loss assessment coverage of \$2,000 for certain assessments. The bill authorizes insurers to apply a deductible of no more than \$250 per direct property loss under certain conditions.
- Requires that every unit owner's residential property insurance policy contain a provision stating that the coverage is excess coverage over the amount recoverable under any other policy covering the same property.

- Deletes the requirement that a unit owner's hazard insurance policy, issued or renewed on or after January 1, 2009, include special assessment coverage of \$2,000 per occurrence and removes a provision prohibiting the policy from providing rights of subrogation against the owner's condominium association.
- Deletes the requirement that a unit owner's hazard insurance policy provide that the policy coverage is "excess coverage" over the amount recoverable under any other policy covering the same property.
- Clarifies what property is the responsibility of the unit owner and covered by the owner's property insurance policy.
- Deletes the requirement that all improvements or additions to the condominium property that benefit fewer than all unit owners be insured by the unit owner or owners having the use thereof, or may be insured by the association at the cost and expense of the unit owners having such use.
- Removes the provision that the association must require owners to provide evidence of hazard and liability insurance upon written request, and, should the owner fail to provide such proof of insurance, the association may purchase a policy on the owner's behalf wherein the owner is responsible for the cost.
- Deletes the requirement that the association be an additional named insured and loss payee on all casualty insurance policies issued to unit owners in the condominium operated by the association.
- Clarifies that adequate "property" insurance, as opposed to "hazard" or "casualty" insurance, be provided by the condominium association and condominium unit owner.
- Provides that adequate property insurance be based upon the "replacement cost" of the insured property, which must be determined at least once every 36 months.
- Deletes the requirement that notices of association board meetings contain specified provisions relating to deductibles and that such meetings may be held in conjunction with budget meetings.

EFFECTIVE DATE: Upon becoming law. Vetoed by Governor on June 1, 2009.

HB 0741 Insurance Premium Financing by Patterson

Provides that the provisions in parts XV and XVI of chapter 627 of the Florida Insurance Code do not apply to any discount granted an insured if the insured pays the premium for the entire policy term at the term's inception so long as the discount is actuarially justified and approved by the Office of Insurance Regulation (OIR). Further provides that no actuarially justified discount approved by the OIR is a component of or related to premium financing.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-84}

SB 0742 Sinkhole Losses by Fasano

Allows an insurer offering sinkhole coverage to non-renew those policies in Pasco and Hernando Counties, and instead offer coverage for catastrophic ground cover collapse. The insurer must offer an endorsement for sinkhole coverage, subject to an inspection and subject to the insurer's underwriting guidelines.

Mandates the creation of a building code effectiveness grading schedule to be adopted by the Financial Services Commission by rule. Four years after a county amends the Florida Building Code with a “sinkhole loss prevention ordinance,” the Office of Insurance Regulation will use the building code effectiveness grading schedule to evaluate the effectiveness of the county ordinance in reducing the number of sinkholes and the severity of sinkhole losses.

Mandates the creation of insurance premium discounts or surcharges on personal residential property insurance based on a property’s compliance with sinkhole loss prevention ordinances and the effectiveness of the ordinance as determined by the grading schedule.

EFFECTIVE DATE: January 1, 2010. {Chapter Law 2009-178}

HB 0845 Self-Insurance Funds by Drake

Requires an application for workers’ compensation coverage issued by a group self-insurance fund to contain a notice in 10-point boldface type that it is a fully assessable policy and that, if the fund is unable to pay its obligations, policyholders must contribute, on a pro rata earned premium basis, the money necessary to meet any unfilled obligations.

Authorizes any two or more electric cooperatives to operate a self-insurance fund for pooling and spreading liabilities of group members in securing payment of benefits for workers’ compensation purposes.

Establishes standards for these electric cooperative self-insurance funds including requiring members to be jointly and severally liable for the obligations of the fund; maintain excess insurance coverage and reserves; subscribe to a rating organization; employ an independent certified public accountant; limit membership to Florida electric cooperatives; provide members with a specified disclosure statement and require payment of premium taxes.

Exempts the electric cooperative self-insurance fund and the independent educational institution self-insurance fund from being members of the Florida Workers’ Compensation Insurance Guaranty Association.

Changes the financial data reporting period for administrators of an association representing health care providers, administrators of a pooled governmental self-insurance program or of a university from a calendar year to a fiscal year and provides reporting deadlines.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-116}

HB 0853 Surplus Lines Insurers by Patterson

Amends the surplus lines law(s. 626.913, F.S.) by providing that except where specifically stated, the provisions of ch. 627, F.S., do not apply to surplus lines insurance.

Specifies that the amendment to s. 626.913, F.S., is remedial in nature and operates retroactively to the regulation of surplus lines insurers from October 1, 1988, except with respect to lawsuits that are filed on or before May 15, 2009.

The bill also imposes the following requirements on surplus lines insurers:

- Requires surplus lines policies to have printed on the face of the policy a statement in 14-point boldface type that surplus lines insurers’ policy rates and forms are not approved by any Florida regulatory agency;

- Specifies the types of claims payments that can be made under surplus lines insurance contracts;
- Specifies the policy information that must be included in a disclosure statement by surplus lines insurers regarding liability insurance claims;
- Provides for an award of attorney's fees upon a judgment or decree by any Florida court against a surplus lines insurer in favor of any named or omnibus insured or named beneficiary;
- Requires surplus lines insurers to have printed on the face of a personal lines residential property insurance policy a statement in 14-point boldface type that the policy contains a separate deductible or a co-pay provision for hurricane or wind losses, which may result in high out-of-pocket expenses to the insured; and
- Provides that if a provision of the act is held invalid, that invalidity shall not affect the other provisions of the act.

EFFECTIVE DATE: June 11, 2009. {Chapter Law 2009-166}

HB 0903 Attorney's Fees in Workers' Compensation Cases by Flores

Reverses the impact of the Supreme Court's decision in *Murray vs. Mariner* and revises statutory language related claimant attorney fees that was deemed unconstitutional.

Strikes the word reasonable in subsection (1) to make it clear that the Judge of Compensation Claims is to approve attorney fees based on the schedule and does not need to make a determination that the fee is reasonable.

Clarifies that retainer agreement may not exceed the amounts allowed under subsection (1) or (7) of the current statute. Subsection (1) specifies the schedule of fees based on the benefits secured. Subsection (7) provides for hourly attorney fees for medical only cases but the attorney fee cannot exceed \$150 per hour or \$1,500 per accident.

In subsection (3) of current law the bill strikes the word reasonable and clarifies that an attorney fee due a claimant must equal the amounts allowed under subsection (1) or (7).

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-94}

HB 1171 Residential Property Insurance by Proctor

Allows certain insurers to use be exempt from a determination from the Office that their rate is excessive or unfairly discriminatory if the company meets the following criteria:

- The insurer has surplus as to policyholders of \$500 million or more;
- The insurer has a surplus of \$200 million or more and a ratio of net written premium to surplus of two to one or less; or
- The insurer has a surplus of \$150 million or more, and offers insurance primarily as a service to members of a nonprofit corporation.

Prohibits an insurer using this provision from purchasing coverage from the temporary increase in coverage limit (TICL) of the Florida Hurricane Catastrophic Fund.

Prohibits an insurer from using this provision for policies that exclude coverage for wind or hurricane.

Requires an insurer using this provision to provide notice in bold type that the rate is not approved by the Office and that a rate regulated policy may be available from Citizens Property Insurance Corporation (Citizens) or another carrier.

EFFECTIVE DATE: Upon becoming law. Vetoed by Governor on June 24, 2009.

HB 1495 Insurance by Nelson

Makes wide-ranging changes to the regulation of property insurance, including:

Citizens Property Insurance Corporation (“Citizens”)

- Implements a rate “glide path” capped at 10 percent per year for Citizens’ policyholders until rates are actuarially sound. This provision will go into effect on or after January 1, 2010. The incremental rate increase was a recommendation of the Citizens Mission Review Task Force.
- Allows Citizens to increase its rates to pay the Florida Hurricane Catastrophe Fund’s (FHCF) cash build up program for 5 years. Estimated rate impact is less than 1 percent.
- Staggers the terms of office for members of the Board of Governors. Insurers may offer ex-wind policies to homeowners within the boundaries of the HRA (high risk account) area who are no longer eligible for coverage by Citizens because the replacement value of the home exceeds \$2 million or because the replacement value of the home exceeds \$750,000, but the home does not have hurricane shutters.
- Deletes the provision that required on January 1, 2010, a seller of a home which is insured by Citizens and located in the wind-borne debris region, with an insured value of \$500,000 or more, to disclose in writing to the prospective purchaser its windstorm mitigation rating based on the uniform home grading scale, prior to sale.
- Extends from February 1, 2010 to December 1, 2010, the requirement that Citizens reduce its HRA area boundaries in order to lower its 100-year probable maximum loss (PML).

Florida Hurricane Catastrophe Fund

- Implements provisions to reduce the FHCF’s exposure and increase its cash reserves. Phases out the Temporary Increase in Coverage Limit (TICL) layer of coverage over a 6-year period at a rate of \$2 billion per year.
- Increases the price of the TICL layer by an additional multiple each year until TICL is eliminated in 6 years.
- Authorizes the Fund to implement a “cash build up” factor which would increase the reimbursement premiums that the Fund charges property insurers for the mandatory layer of coverage provided by the Fund. The cash build up factor is based on a 5 percent annual

increase which will be phased in over a 5-year period, at which time the increase will be 25 percent.

- Allows small insurers to continue to purchase an additional amount of FHCF reimbursement coverage up to \$10 million until December 31, 2011.
- Establishes the contract period for the Fund to be the calendar year (January through December). Previously the contract year began on June 1.

My Safe Florida Homes Program (“MSFH”)

- Adds mitigation improvements relating to roof hardening to help facilitate the MSFH program to access federal “weatherization” stimulus money and FEMA grant money.
- Clarifies that the MSFH program should provide grants rather than participate in a no-interest loan program.
- Authorizes the Department of Financial Services to adopt by rule the maximum grant allowances for mitigation improvements.
- Revises the threshold for grant and contract review by the Legislative Budget Commission.

Insurance Rate Filings

- Allows insurers to make a separate expedited rate filing limited solely to an adjustment of its rates for reinsurance or financing costs relating to the purchase of reinsurance or financing products to replace or finance the payment of the amount covered by the Fund’s TICL layer, including replacement reinsurance for the TICL reductions, as well as the cash build up factor and the increase in the price for the remaining TICL layers.
- Mandates all costs contained in this filing are capped at 10 percent per policyholder; however, financing products such as a liquidity instrument or line of credit may not result in an overall premium increase exceeding 3 percent.
- Provides that insurers purchasing this reinsurance do so at a price no higher than would be paid in an “arms-length” transaction.
- Provides an insurer may make only one filing under this provision in any 12-month period.
- Prohibits —use and file rate filings until December 31, 2010.

Public Adjusters

- Prohibits public adjusters, public adjuster apprentices and persons acting on behalf of public adjusters or apprentices from accepting referrals of business from any person with whom the public adjuster conducts business.
- Prohibits a public adjuster from compensating any person, except for another public adjuster, for the purpose of referring business to the public adjuster.

- Requires an applicant for a public adjuster apprentice license to pass a written examination prior to licensure and receive a specified designation.
- Limits the number of public adjuster apprentices that are maintained by public adjusting firms.
- Requires OPPAGA to review the claims practices and laws relating to public adjusters and submit a report to the Governor, President of the Senate, Speaker of the House of Representatives, the CFO, and the Insurance Commissioner by February 1, 2010.

Other Provisions

- Authorizes the Florida Hurricane Loss Projection Methodology Commission to study and issue a report on mitigation credits, discounts and deductibles.
- Provides that premium discounts resulting from the home grading scale (due in 2011 from OIR) will supersede the current mitigation discounts approved by OIR.
- Authorizes reinsurers to issue coverage directly to a self-insuring public housing authority.
- Allows an insurer to repair damaged property in compliance with its policy.
- Allows insurance agents to explain the applicability of FIGA to consumers.
- Repeals the statute that prevents OIR attorneys from asserting attorney-client privilege or work-product confidentiality on certain communications with other OIR personnel.
- Changes recoupment by insurers for Citizens assessments, eliminating the need to receive prior OIR approval before recouping costs from policyholders. Instead, OIR would review the final accounting report of the recoupment after it has been completed.

EFFECTIVE DATE: May 27, 2009. {Chapter Law 2009-87}

SB 2252 Professional Liability Claims by Baker

Amends Section 627.912, F.S., which requires that insurers providing professional liability coverage to specified health care providers or to members of The Florida Bar must report to the Office of Insurance Regulation (OIR) any claim or action for damages due to injuries claimed to have been caused by error, omission, or negligence in the performance of the insured's professional services, if the claim results in a settlement, final judgment, or disposition of a medical malpractice claim with no indemnity payment on behalf of the insured.

Defines the term "claim" for reporting purposes, requires that the claim be in writing, and specifies the circumstances under which an insurer is to report a claim to the OIR.

Provides that an insurer will be obligated to report a claim when any of the following occurs:

- Upon the entry of a judgment against the provider;
- Upon the execution of a settlement;

- Upon the final payment of indemnity on behalf of any provider for damages alleged in the performance of professional services; or
- Upon a final disposition of a claim for which no indemnity payment was made, but for which loss adjustment expenses exceeded \$5,000.

Allows the Office to adopt the National Association of Insurance Commissioners' (NAIC) current and future standards for auditing rules of regulated entities.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-189}

HB 7039 OGSR/Insurance Claim Data Exchange by Governmental Affairs Policy

Reenacts the public records exemption for the Department of Revenue's data match system in which an insurer may voluntarily provide DOR with the name, address, and, if known, date of birth and social security number or other taxpayer identification number for each noncustodial parent who has a claim with the insurer and who owes past-due child support.

Provides a new repeal date for this exemption of October 2, 2010

EFFECTIVE DATE: June 2, 2009. {Chapter Law 2009-119}

LIFE & HEALTH

HB 0185 Access to Health Care by Hudson

Adds a representative from the dental community to the Florida Healthy Kids Corporation board of directors. The member will be appointed by the Governor from three candidates who are nominated by the Florida Dental Association.

Creates two new provider contract prohibitions for prepaid limited health service organization (PLHSO) contracts entered into on or after July 1, 2009:

- Contracts between a PLHSO and a provider of limited health services may not contain provisions that prohibit or restrict the provider from contracting with other PLHSOs.
- Prohibits PLHSOs from requiring providers to accept the terms of other health care practitioner contracts with the PLHSO, as a condition of contract continuation or renewal.

Authorizes health care practitioners to meet their service obligations over the biennial licensure period, rather than annually, in order to be eligible for the benefits available to health care providers who volunteer their services under the Access to Health Care Act.

Allows practitioners who volunteer 160 hours of service over two years and provide the necessary documentation to the Department of Health are eligible for a waiver of their biennial licensure renewal fee and credit for up to 25 percent of their continuing education credits.

Requires retired health care practitioners must volunteer 800 hours over the biennium.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-41}

HB 0453 Tax Credits for Contributions to Nonprofit Scholarship by Weatherford ***Insurance Premium Tax Credit***

Expands the revenue sources that can be claimed as tax credits for donations to a nonprofit scholarship funding organization (SFO) under the Corporate Income Tax Credit Scholarship Program (CTC) to fund scholarships for economically disadvantaged students.

Provides that the additional revenue source is the premium tax under s. 624.509, F.S., which is imposed on insurance premiums written in Florida and paid by insurance companies to the Department of Revenue (DOR).

Allows insurance companies to receive a credit of 100 percent of an eligible contribution to an eligible SFO against any tax due for a taxable year under the provisions of the insurance premium tax. However, the credit may not exceed 75 percent of the tax due.

Provides that an insurer claiming a credit against premium tax liability is not required to pay any additional retaliatory tax levied under s. 624.5091, F.S., as a result of claiming the credit.

Credit Limits

Maintains the maximum amount of tax credits that may be granted each state fiscal year under the CTC program at \$118 million.

Clarifies that the \$118 million cap applies to all tax credits (the corporate income tax and the insurance premium tax combined).

Insurers receiving an insurance premium tax credit under this program are not able to receive a similar corporate income tax credit under the program.

Renames the CTC program as the Florida Tax Credit (FTC) Scholarship Program and provides that a taxpayer's use of the credit granted under the new program does not reduce the amount of the alternative minimum tax credits available under s. 220.186, F.S.

Provision for Certain Contributions Made by Insurers from 2006 through 2008

Provides that an insurance company that made eligible contributions under the CTC program for tax years beginning in 2006, 2007, or 2008, but did not receive a dollar-for-dollar benefit because of the interaction between the corporate income tax and the insurance premium tax, may apply to DOR by July 31, 2009, to take a credit against its 2009 corporate tax liability.

Credits taken pursuant to this provision would be counted toward the \$118 million cap in FY 2009-2010. These credits would be treated as corporate taxes paid for purposes of computing the corporate tax credit against the insurance premium tax.

Eligible Students

Allows for students who are on a direct certification list to be eligible to receive a scholarship.

Defines the list to mean children who qualify for the Food Stamp Program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations. This list is provided to the Department of Education by the Department of Children and Family Services pursuant to a memorandum of understanding.

Requires that, at the request of an eligible scholarship-funding organization, school districts must inform all households participating in the National School Lunch Program that they are eligible to apply for a tax credit scholarship.

Clarifies that once a year an SFO may request a special communication from the district to each household and the SFO must reimburse the district for postal expenses.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-108}

HB 0483 Investor Protection by Grady

Priority bill for the Office of Financial Regulation (OFR) that increases regulatory authority over securities transactions.

Authorizes the Office of Statewide Prosecution to initiate and pursue investigations for securities transactions and money laundering and to prosecute criminal violations.

Authorizes the Attorney General to investigate and bring actions against violators of the fraud provisions of ch. 517, F.S., the Securities and Investors Protection Act.

Provides the Attorney General may seek injunctive relief, restitution, and civil penalties.

Requires the OFR to adopt disciplinary guidelines for persons who violate ch. 517, F.S.

Increases the cap on administrative fines from \$5,000 to \$10,000 per violation.

Authorizes the emergency suspension of an individual's securities registration under ch. 517, F.S., for failure to promptly provide books and records to the OFR.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-242}

HB 0675 Medicare Supplement Policies by Workman

Requires insurers that provide Medicare supplement policies (Medigap) to issue such policies on a guaranteed-issue basis to persons in Florida who meet the following criteria:

- People under 65 years of age and eligible for Medicare due to a disability determination or diagnosis of end-stage renal disease (ESRD).
- Qualified Medicare beneficiaries must be enrolled in Medicare Part B and must purchase Medigap coverage within 6 months after initial Medicare eligibility or within 2 months following termination of coverage under a group health insurance policy.

Allows Medigap insurers that already offer coverage to Medicare beneficiaries under the age of 65 a process to make a one-time rate schedule change without activating the 5-year lockout period required in s. 627.410(6)(e)2., F.S.

Allows insurers to address concerns in the premium relativities between the premium class, which includes the under age 65 and the balance of the block, by redefining the age bands of the premium classes.

Allows an insurer to address problems in the premium relativities between the premium class, which includes the under age 65 individual, and the balance of the block, in the first rate filing in 2012, thus allowing a company to consider the experience data for the premium class, including the under age 65 individuals, on a much more credible basis than the current rules authorize.

EFFECTIVE DATE: October 1, 2009. {Chapter Law 2009-141}

SB 1122 Health Insurance/Payment of Benefits/Claims Forms by Gaetz

Substantially amends s. 627.638, F.S.

Requires insurers to make payments directly to any provider not under contract with the insurer if the insured makes a written assignment of benefits. Under current law, direct payment by an insurer is only required for emergency services and care.

Provides that OPPAGA is to complete a report to the President of the Senate and the Speaker of the House by March 1, 2012, and if that report finds that the act has caused a net loss in physicians in the preferred provider plan network of the state group health plan, the provisions of the act will be repealed.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-124}

CS/CS/SB 1868 — Practice of Pharmacy by Health and Human Services Appropriations Committee; Health Regulation Committee; and Senator Peadar

Amends the law relating to health insurance coverage for use of drugs in the treatment of cancer to update the definition of “standard reference compendium” to mean an authoritative compendium identified by the Secretary of the United States Department of Health and Human Services and recognized by the federal Centers for Medicare and Medicaid Services.

Revises requirements for written prescriptions for medicinal drugs to delete a requirement that the quantity of the drug prescribed be in both textual and numerical formats and that the prescription be dated with the month written out in textual letters.

Requires a written prescription for a controlled substance to have the quantity of the drug prescribed in both textual and numerical formats and be dated with the abbreviated month written on the face of the prescription.

Allows, under specified circumstances a pharmacist to dispense a drug, if the prescriber of a controlled substance is unavailable to verify a prescription.

Authorizes the pharmacist to dispense a controlled substance for a prescription that does not include the quantity or date written out in textual format without verification of the quantity or date written on the prescription.

Provides that the pharmacist may do so only if the pharmacy previously dispensed another prescription for the person to whom the prescription was written.

Transfers a provision that exempts pharmacists from ch. 468, part XIV, F.S., relating to orthotics, prosthetics, and pedorthics, to ch. 465, F.S., the Florida Pharmacy Act.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-202}

ADMINISTRATION

HB 0479 Retirement by Schenck

Revises the definition of “termination” for purposes of the Florida Retirement System (FRS) to provide that for retirements effective prior to July 1, 2010, termination does not occur if a member is reemployed by an employer within the system within the next calendar month after ceasing employment.

Provides that, for retirements effective on or after July 1, 2010, termination does not occur if a member is reemployed within the next 6 calendar months after ceasing employment. Similar revisions are made to conform termination of employment after completion of the Deferred Retirement Option Program (DROP).

Provides that, on or after January 1, 2010, no city or special district may opt to join the FRS. On or after July 1, 2010, a retiree of a state-administered system who is elected or appointed for the first time to an elective office in a regularly established position with a covered employer may not reenroll in the FRS. Further, an elected officer who is elected or appointed to an elective office and who is participating in the DROP is subject to the revised termination provisions upon completion of the DROP.

Forbids a retiree who is initially reemployed as an elected officer on or after July 1, 2010, as an elected official eligible for membership in the Elected Officers’ Class, from renewing membership in the Senior Management Services Class or in the Senior Management Optional Annuity Program, and prevents that employee from withdrawing from the FRS as a renewed member in lieu of membership in the Senior Management Service Class as provided in current law.

With respect to the Senior Management Service Optional Annuity Program, a retiree who is initially reemployed on or after July 1, 2010, may not renew membership in the Senior Management Service Optional Annuity Program.

Provides developmental research schools and charter schools with the authority to reemploy a retiree as a substitute or hourly teacher on a noncontractual basis after the retiree has been retired for 1 month. Such employees are restricted from receiving salary and benefits for 12 months from the date of retirement.

Repeals the authority for an employing agency to reemploy a retired firefighter or paramedic after such member has been retired for 1 month.

Provides that any person whose retirement is effective on or after July 1, 2010, or whose participation in the DROP program terminates on or after July 1, 2010, may be reemployed by an FRS employer.

Provides that the retiree must meet the definition of termination prior to reemployment and for 6 months after meeting that definition; the person may not receive both a salary and retirement benefits. A reemployed retiree may not renew membership in the FRS and the employer of such a person must pay retirement contributions in an amount equal to the unfunded actuarial liability portion of the employer contribution that would be required for active members of the FRS in addition to other contributions for social security and the retiree health insurance subsidy.

Authorizes The Division of Retirement in the Department of Management Services to issue retirement benefits payable for division of marital assets under a qualified domestic relations order directly to the alternate payee to meet Internal Revenue Code requirements, regardless of any court order to the contrary.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-209}

SB 0538 Publicly Funded Retirement Programs by Baker

Requires the State Board of Administration to identify and offer at least one terror-free investment product to the Public Employee Optional Retirement Program by March 1, 2010, if the investment product is deemed by the board to be consistent with prudent investor standards.

Provides that no person may bring a civil, criminal, or administrative action against a provider, the board, or any employee, officer, director, or trustee of a provider based on the divestiture.

Revises provisions relating to firefighter and municipal police pensions for purposes of determining prior service credit and terms of office for members of both pension plan boards.

Revises the boundaries of special fire control districts which have been annexed to provide that for purposes of assessments and the imposition of excise taxes on insurance premiums, the district may continue to receive ad valorem taxes, non-ad valorem assessments and insurance premium taxes if it continues to provide services to the annexing municipality until the completion of the 4-year service period, or other agreed to extension, or under an executed interlocal agreement.

Repeals apportionment provisions relating to assets distributed upon termination of a firefighter or police officer pension termination, and codifies in statute the ruling of the District Court of Appeals, 4th District, in *Board of Trustees of the Town of Lake Park Firefighters Pension Plan v Town of Lake Park*.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-97}.

HB 0135 Public Records/Insured Dependents/Agency Group Plan by McKeel

Creates a public records exemption for personal information that identifies a dependent child of a current or former officer or employee of an agency if the minor dependent is insured under an agency group insurance plan.

Provides the exemption is remedial in nature and applies to personal identifying information held by an agency before, on or after July 1, 2009.

Makes the exemption subject to legislative review and repeal under the provisions of the Open Government Sunset Review Act, with a repeal date of October 2014.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-104}

SB 1758 Department of Financial Services by Gen. Government Appropriations

Increases the maximum percentage of funds that can be invested in securities under the authority of the Chief Financial Officer (CFO) from 3 percent to 5 percent of the Treasury investment pool.

Creates a Treasury Investment Committee to administer the Treasury's Investment Program, and to make investment policy recommendations to the CFO.

Authorizes the Florida Commission on Hurricane Loss Projection Methodology to adopt revisions to the Florida Public Hurricane Loss Model every odd year rather than annually.

Reduces the cost of copies for documents on file with the Department of Financial Services and requires prior notification to the requester when additional charges are to be assessed for preparation of redacted records.

Redirects to the General Revenue Fund revenues from taxes collected on premiums for surplus lines insurance and insurance provided by risk retention groups. These revenues are currently distributed to the Insurance Regulatory Trust Fund within the Office of Insurance Regulation. This provision expires on July 1, 2014.

EFFECTIVE DATE: July 1, 2009. {Chapter Law 2009-70}