Session Summary

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Compilation of successful legislation affecting the Office of the Chief Financial Officer, the Department of Financial Services, and related entities.

Department of Financial Services

CHIEF FINANCIAL OFFICER
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Contents

Key:

- Particular Impact to DFS or Related Entity (Cabinet, Financial Services Commission, et al.)
- Rulemaking of Note
- Budgetary Nexus

SB 2 – Ethics: Chapter 2013-36, LOF; effective May 1, 2013; by Senate Ethics and Election Committee.
Affected Division(s): Accounting and Auditing; Administration; Legal

The bill is an omnibus ethics reform package containing numerous significant changes to the Code of Ethics for Public Officers and Employees that include:

Dual Public Employment: prohibiting public officers from accepting employment with the state or a political subdivision that is being offered for the purpose of gaining influence or other advantage based upon the person's holding office or candidacy; and providing criteria that must be met for the employment to be lawfully accepted.

Revolving Door: prohibiting a former legislator from lobbying an executive branch agency, agency official, or employee for a period of two years after leaving office.

Ethics Training: requiring all constitutional officers to complete 4 hours of ethics training each year; specifying requirements for ethics training; requiring the commission to adopt rules to establish minimum course content; and requiring each house of the Legislature to provide for ethics training pursuant to its rules.

Blind Trusts: allowing public officers to create a blind trust in order to avoid conflicts of interests arising from the ownership of those assets; specifying that assets placed in a qualified blind trust cannot give rise to a conflict of interest under s. 112.313(3), F.S., s. 112.313(7), F.S., and s. 112.3143, F.S.; specifying that assets placed in the trust must be free of any restrictions concerning sale or trade and may not be improbable or impossible to transfer without the officer's knowledge; prohibiting certain conduct and communications to assure that the trust is truly "blind;" specifying who may serve as a trustee; prohibits certain individuals from managing the blind trust; and requiring the officer to file a notice of the trust or a copy of the trust agreement with the Commission on Ethics.

Voting Conflicts: providing a definition for the terms "principal by whom retained" and "special private gain or loss;" prohibiting a state public officer from voting on any matter that would inure to his or her special private gain or loss; requiring disclosure of any interest prior to the vote unless it is not possible to do so; providing that, if it is not possible for an officer to disclose an interest prior to the vote, he or she must disclose the interest no later than 15 days after the vote; allowing members of the Legislature to satisfy the disclosure requirements using forms promulgated by their respective house; clarifying that an attorney who serves as a member of the Legislature is not required to disclose information that would violate confidentiality or privilege provided, however, that the member makes a general disclosure apprising the public of the general nature of the conflict; and clarifying that members of the Board of Directors of Enterprise Florida are subject to the voting conflict provisions relating to state public officers in s. 112.3143(2), F.S.

Financial Disclosure: requiring the qualifying officer to electronically transmit financial disclosure forms of a candidate for elected office to the commission; requires the commission to refrain from taking action on complaints alleging immaterial, inconsequential, or *de minimis* errors or omissions for certain period of time to allow an officer time to cure such an error or omission; providing what constitutes an immaterial, inconsequential, or *de minimis* error or omission; authorizing an individual required to file a disclosure to have the statement prepared by an attorney or a certified public accountant; requiring an attorney or certified public accountant to sign the completed disclosure form to indicate compliance with applicable requirements and that the disclosure is true and correct based on reasonable knowledge and belief; providing that the failure of the attorney or certified public accountant to accurately transcribe information provided by the filing individual does not constitute a violation; authorizing an elected officer or candidate to use funds in an office

account or campaign depository to pay an attorney or certified public accountant for preparing a disclosure; requiring all full and public disclosures of financial interests (CE Form 6) filed with the commission to be scanned and made publicly available on a searchable Internet database beginning with the 2012 filing year; requiring the commission to submit a proposal to the President of the Senate and the Speaker of the House of Representatives for a mandatory electronic filing system by December 1, 2015; revising the definitions in s. 112.3145, F.S. of the terms "local officer" and "specified state employee;" requiring a person filing a statement of financial interest to indicate the method of reporting income; amending the collections techniques available for collecting an unpaid fine for failing to timely file financial disclosure; requiring the commission to attempt to determine whether an individual owing certain fines is a current public officer or public employee; authorizing the commission to notify the Chief Financial Officer or the governing body of a county, municipality, or special district of the total amount of any fine owed to the commission by such individuals; requiring that the Chief Financial Officer or the governing body of a county, municipality, or special district begin withholding portions of any salary payment that would otherwise be paid to the current public officer or public employee until the fine is satisfied; authorizing the Chief Financial Officer or the governing body to retain a portion of payment for administrative costs; authorizing garnishment of wages to collect unpaid fines for failure to timely file financial disclosure owed by individuals who are no longer public officers or public employees;[1] authorizing the commission to contract with a collection agency; authorizing a collection agency to utilize collection methods authorized by law; and extending the statute of limitations to allow up to twenty years to collect such an unpaid fine.

Gifts and Honoraria: provides that a person is not a "procurement employee" if he or she does not exceed, or is expected not to exceed, $10,000 in purchasing during a year; providing a definition of vendor; prohibiting solicitation of gifts and honoraria from vendors; removing references to committees of continuous existence and political committees from existing gifts and honoraria laws; creating a new prohibition on soliciting or accepting certain "gifts" from a political committee, regardless of the value of the "gift;" defining "gifts" for purposes of the new prohibition; and providing penalty.

Executive Branch Lobbying: authorizing the commission to investigate sworn complaints alleging a prohibited expenditure; authorizing the commission to investigate a lobbyist or principal upon a sworn complaint or random audit; authorizing the Governor and Cabinet to assess a fine on a lobbyist or principal under specified conditions; and providing a civil penalty for failure to disclose certain required information.

Complaint Procedures: authorizing the Commission on Ethics, upon a vote of six members, to investigate a referral alleging a breach of the public trust, or violation of the Code of Ethics that is received from the Governor, the Florida Department of Law Enforcement, a state attorney, or a U.S. Attorney; providing that a complaint may not be filed against a candidate for public office within the 30 day period before the election unless the complaint is based upon personal information or information other than hearsay; authorizing the commission to dismiss a complaint alleging a *de minimis* violation; providing exceptions; and defining "de minimis violation."

HB 87 – Mortgage Foreclosures

: Chapter 2013-137, LOF; effective June 7, 2013; by Representative Passidomo.
Affected Division(s): Office of Financial Regulation

Statute of Limitations on Certain Actions

[1] Amended to incorporate edits suggested by the Division of Accounting & Auditing.

The bill reduces the statute of limitations period for a lender to enforce a deficiency judgment following the foreclosure of a one-family to four-family dwelling unit from 5 years to 1 year, for any such deficiency action that commences on or after July 1, 2013, regardless of when the cause of action accrued.

The Foreclosure Complaint

The bill requires that in order to bring a complaint to foreclose a mortgage on residential real property designed principally for occupation by 1 to 4 families, including condominiums and cooperatives but excluding timeshare interests under part III of ch. 721, F.S., the complaint must establish that the plaintiff holds the original note or is a person entitled to enforce a promissory note. If a plaintiff has been delegated the authority to institute a foreclosure action on behalf of the person entitled to enforce the note, the complaint must describe with specificity the authority of the plaintiff and the document that grants such authority to the plaintiff.

A plaintiff in possession of the original promissory note must certify, under penalty of perjury, that the plaintiff possesses the original note. An "original note" or "original promissory note" is defined as the signed or executed promissory note, including a renewal, replacement, consolidation, or amended and restated note or instrument that substitutes for the previous promissory note. The term includes a transferrable record, but not a copy of any of the foregoing. The required certification must be submitted contemporaneously with the foreclosure complaint, and set forth the location of the note and other specified information. The original note and allonges (i.e., addendums) must be filed with the court before the entry of any judgment of foreclosure or judgment on the note.

A plaintiff seeking to enforce a lost, destroyed, or stolen instrument must attach to the complaint an affidavit executed under penalty of perjury, detailing the chain of all endorsements, transfers, or assignments of the promissory note, and setting forth the facts and documents showing that the plaintiff is entitled to enforce the instrument. Adequate protection as required under s. 673.3091(2), F.S., must be provided before final judgment.

Finality of Mortgage Foreclosure Judgment

The bill provides that an action to challenge the validity of a final judgment of mortgage foreclosure, or to establish or re-establish a lien or encumbrance of property is limited to monetary damages if all of the following apply:

- The party seeking relief from the final judgment of mortgage foreclosure was properly served in the foreclosure lawsuit;
- The final judgment of mortgage foreclosure was entered as to the property;
- All applicable appeals periods have run as to the final judgment with no appeals having been taken or having been finally resolved; and
- The property has been acquired for value by a person not affiliated with the foreclosing lender or the foreclosed owner, at a time in which no lis pendens regarding the suit is in the official county records.

The bill defines affiliates of the foreclosing lender to include any loan servicer for the loan being foreclosed, and any past or present owner or holder of the loan being foreclosed, and:

- a parent entity, subsidiary, or other person who directly or indirectly controls, is controlled by, or under common control of any such entities; or
- a maintenance company, holding company, foreclosure services company or law firm under contract with such entities.

The bill provides that the former owner can continue to pursue money damages against the lender. The claims of the former owner, however, cannot impact the marketability of the property of the new owner.

The bill provides that when a foreclosure of a mortgage occurs based upon enforcement of a lost, destroyed, or stolen note, a person who was not a party to the foreclosure action but claims entitlement to enforce the promissory note secured by the mortgage has no claim against the foreclosed property once it is conveyed to a person not affiliated with the foreclosing lender or the foreclosed owner. That person may still pursue recovery from any adequate protection given pursuant to s. 673.3091, F.S., or from the party who wrongfully claimed entitlement to enforce the promissory note, from the maker of the note, or any other person against whom a claim may be made.

Deficiency Judgments

The bill limits the amount of a deficiency judgment on owner-occupied residential property to the difference between the judgment amount and the "fair market value" on the date of the foreclosure sale. Similarly, the deficiency for a short sale may not exceed the difference between the outstanding debt and the fair market value of the property on the date of the sale.

Show Cause Procedure

The bill makes several revisions to the show cause process. The bill provides that after filing a complaint, the plaintiff may request an order to show cause for the entry of final judgment, and the court must immediately review the request and the court file in chambers without a hearing. If the complaint is verified, complies with the requirements in s. 702.015, F.S., and alleges a cause of action to foreclose on real property, the court must issue an order to show cause why a final judgment of foreclosure should not be entered to the other parties named in the action. The bill adds a number of elements that must be included in the court's order to show cause that is sent to the other parties named in the action. The court must set a hearing no sooner than the later of 20 days after service of the order to show cause or 45 days after service of the initial complaint. The hearing is no longer required to be held within 60 days of the date of service, as required by current law. The bill specifies that the Legislature intends that the alternative show cause procedure may run simultaneously with other court proceedings.

The bill adds the requirement that the plaintiff must file the original note, establish a lost note, or show the court the obligation to be foreclosed is not evidenced by a promissory note, before the court can enter a final judgment of foreclosure after the court has found that all defendants have waived the right to be heard. If the hearing time is insufficient, the court may announce a continued hearing on the order to show cause.

The bill exempts foreclosures of owner-occupied residences from provisions authorizing the plaintiff to request the court to enter an order to show cause why it should not enter an order to make payments during the pendency of the foreclosure proceedings, or an order to vacate the premises.

Adequate protections for lost, destroyed, or stolen notes

The bill provides that the following may constitute reasonable means of providing adequate protection, if so found by the court:

- A written indemnification agreement by a person reasonably believed sufficiently solvent;
- A surety bond;
- A letter of credit issued by a financial institution;
- A deposit of cash collateral with the clerk of the court; or
- Such other security as the court deems appropriate under the circumstances.

The bill provides that a person who wrongly claims to be the holder of a note or to be entitled to enforce a lost, stolen, or destroyed note is liable to the actual holder of the note for damages and attorney fees and costs. The bill specifies that the actual holder of the note can pursue any other claims or remedies it may have against the person who wrongly claimed to be the holder, or any person who facilitated or participated in the claim.

Application and Implementation of Bill
The Legislature finds that the act is remedial and not substantive in nature. The act applies to all mortgages encumbering real property and all promissory notes secured by a mortgage, regardless of when executed. The following sections are exempted from this general rule of application:

- Section 702.015, F.S., only applies to cases filed on or after July 1, 2013.
- The amendments to s. 702.10, F.S., and the entirety of s. 702.11, F.S., apply to causes of action pending on the act's effective date.

The Legislature also requests the Supreme Court to amend the Rules of Civil Procedure to implement the expedited foreclosure process.

HB 157 – Delivery of Insurance Policies:

Chapter 2013-190, LOF; effective July 1, 2013; by Representative Holder.
Affected Division(s): Consumer Services; Agent and Agency Services; Office of Insurance Regulation

The bill allows an insurer to use electronic transmission as an acceptable means to meet statutory requirements for delivery of an insurance policy. Under current law, an insurer must mail or deliver a policy to the insured within 60 days after the insurance takes effect. The bill further specifies electronic transmission of an insurance policy related to commercial risks constitutes delivery of the policy to the policyholder unless the policyholder notifies the insurance company in writing or in an electronic format that they do not agree to have their policy delivered by electronic transmission. If a policy covering commercial risks is transmitted to the policyholder electronically, the transmission is required to include notice to the policyholder indicating the policyholder has a right to receive the policy by mail instead of electronic transmission. In addition, a paper copy of the policy must be provided to policyholders upon request.

SB 166 – Annuities:

Chapter 2013-163, LOF; effective October 1, 2013; by Senator Richter.
Affected Division(s): Agent and Agency Services; Legal

The bill substantially revises Florida consumer protection laws relating to sales of annuities by incorporating the 2010 National Association of Insurance Commissioners (NAIC) model regulation on annuity protections. The bill expands the scope of the consumer protection laws to generally include all consumers purchasing annuities. Current law only applies the protections to consumers aged 65 and older. The bill also retains current law limiting the surrender charges and deferred sales charges that may be imposed upon senior consumers.

Additionally, it contains the following provisions:

Suitability of Annuities – The bill requires an insurer or insurance agent recommending the purchase or exchange of an annuity that results in an insurance transaction to have reasonable grounds for believing the

recommendation is suitable for the consumer, based on the consumer's suitability information. The bill imposes additional duties on insurers and insurance agents when a transaction involves the exchange or replacement of an annuity.

Documentation of Sales Transaction – The bill requires agents and agent representatives to record recommendations made to a consumer.

Prohibitions on Agents – The bill prohibits agents from dissuading or attempting to dissuade a consumer from truthfully responding to the insurer's request for suitability information, filing a complaint, or cooperating with the investigation of a complaint.

Unconditional Refund Period – The bill expands to 21 from 14 days the unconditional refund period for all purchasers of fixed and variable annuities.

Limit on Surrender Charges – The bill retains the prohibition against surrender charges or deferred sales charges in annuity contracts issued to a senior consumer exceeding 10 percent of the amount withdrawn. The charge must be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the premium is paid, whichever is later.

Penalties – Authorizes the imposition of corrective action, appropriate penalties, and sanctions on insurers, agents, managing general agencies, or insurance agencies that violate the requirements of s. 627.4554, F.S. An insurance agent must pay restitution to a consumer whose money the agent misappropriates, converts, or unlawfully withholds.

Rulemaking—Retains substantially similar (permissive) Department rulemaking authority.

HB 171[2] – Disposition of Human Remains:

Chapter 2013-138, LOF; effective July 1, 2013; by Representative Rooney.
Affected Division(s): Funeral, Cemetery & Consumer Services

The bill amends various provisions relating to the disposition of human remains. The bill:

- Defines the term "final disposition" to include anatomical donation;
- Adds the Department of Health as an authorized issuer of extensions of time to provide the medical certification and of burial-transit permits, adds the appropriate district medical examiner as one of the persons who must file a death certificate, permits electronic transfer of medical certification of cause of death, and clarifies the obligations of primary and attending physicians;
- Defines several terms to have the same meaning as provided in ch. 497, F.S.;
- Defines a nontransplant anatomical donation organization as a tissue bank or other organization that facilitates nontransplant anatomical donations, including activities such as referral, obtaining of consents and authorizations, acquisition, transport, assessment of acceptability of donors, preparation, storage, release, evaluation of intended use, distribution, and final disposition of donations.
- Directs any person or entity that has possession, charge, or control of unclaimed human remains that will be buried or cremated at public expense, to notify the anatomical board at the University of Florida Health Science Center (board), and specifies the situations in which notification of the board is not required;

[2] Includes language requested by the Division of Funeral, Cemetery & Consumer Services.

- Defines the reasonable effort that must be undertaken to identify deceased persons and veterans who may be eligible for burial in a national cemetery, and to dispose of unclaimed remains;
- Authorizes the board to embalm the human remains that it receives;
- Permits a funeral director licensed under ch. 497, F.S., to act as a legally authorized person for the unclaimed remains when no family exists or is available, and releases a funeral director from liability for damages when exercising that authority;
- Provides that, when the identity of the unclaimed remains cannot be ascertained, the remains may not be cremated, donated as an anatomical gift, buried at sea, or removed from the state;
- Authorizes counties to dispose of unclaimed remains by burial or cremation pursuant to an ordinance or resolution if the remains are not claimed by the board;
- Clarifies that competing claims for unclaimed remains are prioritized according to the priority of legally authorized persons provided in s. 497.005, F.S.;
- Permits the board to lend remains to accredited colleges of mortuary science for education or research purposes;
- Authorizes the board to pay or reimburse the reasonable expenses, as determined by the board, for the transportation, removal, or storage of unclaimed remains by licensed funeral establishments or removal services;
- Requires the board, rather than the Department of Financial Services (DFS), to keep a record of all fees and other financial transactions, and authorizes the University of Florida to audit these records using an accounting firm paid by the board at least once every three years and provide DFS with the audit;
- Removes the requirement that the Division collect bodies handled reports on a monthly basis; rather, the funeral establishment, direct disposal establishments, cinerator facility, or central embalming facility shall keep this record and make it available upon inspection by the Division;[3]
- Limits the conveyance of human remains by the board outside the state for educational or scientific purposes;
- Allows third parties to convey human remains or any part outside the state for dental education or research purposes, with proper notice to and approval by the board;
- Creates an exception for nontransplant anatomical donation organizations that are accredited by the American Association of Tissue Banks (AATB) to convey human remains into or outside the state, for medical or dental education or research purposes;
- Requires that the original burial-transit permit must accompany human remains received by the board or a nontransplant anatomical donation organization;
- Requires that a nontransplant anatomical donation organization must obtain written consent to dissect, segment, or disarticulate human remains, with such consent expressly stating the long-term preservation or extensive preparation methods that may be used on the remains being dissected, segmented or disarticulated; and
- Prohibits the giving by any person, institution or organization of any monetary inducement or other valuable consideration to the donor's estate, or other third party. It permits the payment or reimbursement of the reasonable costs associated with the removal, storage, and transportation of human remains, including payment or reimbursement to a funeral establishment or removal service, or the reasonable costs after use, including the disposition of human remains.

HB 217 – Money Services Businesses:[4] Chapter 2013-139, LOF; effective July 1, 2013; by Representative Cummings.

[3] Requested by the Division of Funeral, Cemetery & Consumer Services.

Affected Division(s): Insurance Fraud; Information Systems; Workers' Comp; Office of Financial Regulation

The bill provides for the establishment of a check-cashing database within the Office of Financial Regulation (OFR). The database can be used by regulators and law enforcement agencies to target and identify persons involved in workers' compensation insurance premium fraud and other criminal activities. The OFR regulates money services businesses that offer financial services, such as check cashing, money transmittals (wire transfers), sales of monetary instruments, and currency exchange outside the traditional banking environment. Currently, licensed check cashers are required to maintain specified records, such as copies of all checks cashed, and for checks exceeding $1,000, certain transactional data in an electronic log.

The bill authorizes the OFR to issue a competitive solicitation for a statewide, real time, online check cashing database. The bill requires that check cashers, after implementation of the new database, to enter specified transactional information into the database. After completion of the competitive solicitation for the database, the OFR may include a request for funding in their FY 2014-2015 Legislative Budget Request. The bill has no fiscal impact on state government for the 2013-2014 fiscal year.

The bill also grants rulemaking authority to the Financial Services Commission to administer these provisions and requires money services businesses to submit additional information to the database.

HB 223 – Insurance: Chapter 2013-191, LOF; effective July 1, 2013; by Representative Lee.

Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill allows property and casualty insurance policies and endorsements that do not contain personally identifiable information may be posted on the insurer's Internet website. If the insurer elects to post insurance policies and endorsements on its Internet website the insurer must:

- Make each policy and endorsement easily accessible on the insurer's Internet website for as long as the policy and endorsement remain in force.
- Archive all of its expired policies and endorsements on its Internet website and make any expired policy and endorsement available upon an insured's request for at least 5 years after expiration of the policy and endorsement.
- Post each policy and endorsement in a manner that enables the insured to print and save the policy and endorsement using a program or application that is widely available on the Internet without charge.
- Notify the insured, in the manner the insurer customarily uses to communicate with the insured, that the insured has the right to request and obtain without charge a paper or electronic copy of the insured's policy and endorsements.
- Clearly identify the exact policy form and endorsement form purchased by the insured on each declarations page issued to the insured.

HB 341 – Uninsured Motorist Insurance Coverage: Chapter 2013-195, LOF; effective *upon becoming law*; by Representative Ingram.

Affected Division(s): Consumer Services; Office of Insurance Regulation

[4] Requested by the Division of Insurance Fraud.

The bill deals with the rejection of stackable Uninsured Motorist (UM) motor vehicle insurance benefits. Current law states that when the named insured, applicant, or lessee signs a form rejecting UM coverage, a conclusive presumption arises that "there was an informed knowing acceptance of such limitations" of coverage. The bill specifies that the signed form gives rise to a conclusive presumption that the rejection of stackable coverage benefits was made "on behalf of all insureds." The bill addresses the decision of the Florida First District Court of Appeal in *Travelers Commercial Insurance Company v. Harrington,* 86 So.3d 1274 (Fla. 1st DCA 1012). In *Harrington*, the Court determined that stackable UM coverage benefits are available to an insured claimant under an insurance policy where the purchaser executed a signed waiver of stacking benefits, but the insured claimant did not waive such benefits.

SB 356 – Mutual Insurance Corporations: Chapter 2013-125, LOF; effective *upon becoming law*; by Senator Abruzzo.

Affected Division(s): Office of Insurance Regulation

The bill allows a financial guaranty insurance corporation to be organized as a mutual insurer. If the corporation is organized as a mutual insurer, it must be organized and licensed in accordance with the provisions of the Florida Insurance Code. Financial guaranty insurance is a surety bond, insurance policy, or indemnity contract issued by an insurer, or a similar guaranty, under which loss is payable once the insured claimant, obligee, or indemnitee provides proof of an occurrence of:

- The failure, as a result of a financial default or insolvency of an obligor on a debt instrument or other monetary obligation to make principal, interest, premium, dividend, or purchase price payments when due;
- Changes in interest rate levels or the differential in interest rates between various markets or products;
- Changes in currency exchange rates;
- Changes in the value of specific assets or commodities, financial or commodity indices, or price levels in general; or
- Other events that the Office of Insurance Regulation determines are substantially similar to any of the foregoing.

The bill permits a mutual insurance holding company to acquire the membership interests of a not-for-profit insurance company or nonprofit health care plan. The mutual insurance holding company may also acquire a not-for-profit insurance company or nonprofit health care plan through the merger of such entities with a mutual insurance company or a not-for-profit insurance company subsidiary of the mutual insurance holding company or intermediate holding company. The bill allows a not-for profit insurance company subsidiary to pay dividends or distributions to its mutual insurance holding company.

HB 383 – Interstate Insurance Product Regulation Compact: Chapter 2013-140, LOW; effective July 1, 2014; by Representative Hudson.

Affected Division(s): Consumer Services; Legal; Office of Insurance Regulation

The bill enacts the Interstate Insurance Product Regulation Compact (Compact). The Compact is intended to help states join together to regulate designated insurance products, specifically, the following asset-based insurance products:

- Life insurance;
- Annuities;

- Disability income insurance; and
- Long-term care insurance, though the state is prospectively opting out of all uniform standards for long-term care insurance in the Compact.

The Compact is governed by the Interstate Insurance Product Regulation Commission (Commission). The Commission may:

- Develop uniform standards for product lines;
- Receive and promptly review products; and
- Approve product filings that satisfy applicable uniform standards.

The members of the Commission are representatives from each state that has joined the Compact. The Commission has authority to adopt uniform standards by rule. A "uniform standard" is a commission standard for a product line, plus subsequent amendments that use a substantially consistent methodology. A uniform standard includes all product requirements in the aggregate. A uniform standard must be construed to prohibit the use of inconsistent, misleading, or ambiguous provisions in a product. The uniform standard must also ensure that the form of any product made available to the public is not unfair, inequitable, or against public policy as determined by the Commission. Adoption of a uniform standard requires a two-thirds vote of Commission members.

The Commission also has authority to receive and review products filed with the Commission and rate filings for disability income and long-term care insurance products (Florida is opting out of all uniform standards involving long-term care). Products and disability income insurance rates that satisfy the appropriate uniform standard may be approved. Commission approval has the force and effect of law and is binding on compacting states. A product is the policy form or contract and includes any application, endorsement, or related form that is attached to and part of the policy or contract. The term also includes any evidence of coverage or certificate for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue. A state may opt out of a uniform standard via legislation or rule. Florida is prospectively opting out of all uniform standards involving long-term care insurance products, as allowed by the terms of the Compact.

To obtain approval of a product, the insurer must file the product with the Commission and pay applicable fees. Any product approved by the Commission may be sold or otherwise issued in any compacting state in which the insurer is authorized to do business. An insurer may alternatively file its product with a state insurance department, and such filing will be subject to the laws of that state.

All lawful actions of the Commission, including all rules and operating procedures, are binding on compacting states. Agreements between the Commission and compacting states are binding in accordance with their terms. The Compact prevents the enforcement of any other law of a compacting state, except that the Commission may not abrogate or restrict the access to state courts; remedies related to breach of contract, tort, or other laws not specifically directed to the content of the product; state law relating to the construction of insurance contracts; or the authority of the state Attorney General. A Compact provision is ineffective as to a state, however, if it exceeds the constitutional limits imposed on the Legislature of a state. If an insurance product is filed with an individual state, it is subject to the law of that state.

The exclusivity provision of the Compact (stating that the rules and uniform standards of the compact are the exclusive provisions applicable to the content, approval, and certification of products governed by the Compact) applies only to uniform standards adopted by the Commission, and standards adopted by Florida are not limited or rendered inapplicable by the absence of a standard adopted by the Commission. The bill

also applies all Florida standards to the content, approval, and certification of products in Florida, notwithstanding the exclusivity provision of the Compact.

The state exercises an opt out of all new uniform standards that the Commission adopts after March 1, 2013, that substantially alter or add to existing Commission uniform standards that the state adopted pursuant to this bill until the state enacts legislation to adopt or opt out of the new uniform standards or amendments to uniform standards. Effective July 1, 2014, the state will exercise an opt-out of uniform standards adopted by the Commission for the 10-day period for the unconditional refund of life insurance premiums, plus any fees or charges under s. 626.99, F.S.; underwriting criteria limiting the amount, extent, or kind of life insurance based on past or future travel that is inconsistent with s. 626.9541(1)(dd), F.S., as implemented by the Office of Insurance Regulation (OIR); and any Compact standard that conflicts with Florida statutes or rules providing consumer protections.

The OIR must prepare a report that examines the extent to which Compact standards provide consumer protections equivalent to those under state law and the Administrative Procedure Act for annuity, life insurance, disability income, and long-term care insurance products. The OIR must submit the report to the Senate President, the Speaker of the House of Representatives, and the Financial Services Commission by January 1, 2014.

HB 457 – Collection of Worthless Payment Instruments:

Chapter 2013-113, LOF; effective July 1, 2013; by Representative Magar.
Affected Division(s): Office of Financial Regulation

The bill amends s. 68.065, F.S., to define the term "payment instruments" to include debit card transactions and electronic funds transfers. The bill also provides an alternative collection process that allows a payee to collect on payment instruments without having to file a civil action. Specifically, if the payment is refused or the maker has stopped payment on the payment instrument with intent to defraud, the payee may collect:

- Bank fees actually incurred by the payee in the course of tendering payment; and
- A service charge which is the greater of 5 percent of the amount of the payment instrument or $25 if the payment amount is $50 or less, $30 if the payment instrument amount is greater than $50 but less than or equal to $300, or $40 if the payment instrument amount is greater than $300.

The alternative collection process does not prevent the payee from bringing a civil action to collect three times the face value of the payment instrument, plus costs, attorney fees, and bank fees. To do so, however, the payee will need to provide written notice to the maker of the payment instrument and allow the maker 30 days to cure by paying the face value of the payment instrument and the statutorily defined service fee.

SB 464 – Disposition of Unclaimed Property/Electronic Claims Process:[5]

Chapter 2013-34, LOF; effective July 1, 2013; by Senator Flores.
Affected Division(s): Accounting & Auditing; Legal; Information Systems

The bill authorizes (permissive) the Department of Financial Services to adopt rules to allow an apparent owner of unclaimed property to electronically submit a claim to the department. If the electronically submitted claim is for $1,000 or less, the department may use an alternative method of identity verification.

[5] Requested by the Division of Accounting & Auditing.

The bill also applies the procedures of ch. 717, F.S., to property reported or remitted by the Chief Financial Officer pursuant to:

- ***Section 43.19, F.S., Money Paid into Court; Unclaimed Funds***: Provides that unclaimed funds held in the court registry for 5 years shall be deposited with the Chief Financial Officer to the credit of the State School Fund. Accounts/funds held in perpetuity.
- ***Section 45.032, F.S., Disbursement of Surplus Funds after Judiciary Sale***: Provides that unclaimed funds as a result of a property foreclosure are to be deposited with the Chief Financial Officer. Accounts/funds held in perpetuity.
- ***Section 732.107, F.S., Escheat***: Property held by an Estate without Heirs escheats' to the state. Accounts/funds can be claimed for 10 years, after which the funds permanently escheat.
- ***Section 733.816, F.S., Disposition of Unclaimed Property Held by Personal Representatives***: Property held by a Personal Representative that cannot be distributed to a beneficiary is deposited into the court registry and then deposited with the Chief Financial Officer. Accounts/funds can be claimed for 10 years, after which the funds permanently escheat.
- ***Section 744.534, F.S., Disposition of Unclaimed Funds Held by Guardian***: Property held by a Legal Guardian that cannot be distributed to a ward or ward's estate is deposited into the court registry and then is deposited with the Chief Financial Officer. Accounts/funds can be claimed for 5 years, after which the funds permanently escheat.

SB 468 – Property and Casualty Insurance Rates, Fees, and Forms: Chapter 2013-66, LOF; effective July 1, 2013; by Senator Hukill.

Affected Division(s): Office of Insurance Regulation; Consumer Services

This bill expands the number of commercial lines insurance that are exempt from the rate filing and review requirements of s. 627.062(2)(a) and (f), F.S, to include:

- Medical malpractice for a facility that is not a hospital, nursing home, or assisted living facility.
- Medical malpractice for a health care practitioner that is not a licensed dentist, physician, osteopathic physician, chiropractic physician, podiatric physician, pharmacist, or pharmacy technician.

The rate filing requirements that these types of medical malpractice insurance are exempt from are:

- The requirement to file with the Office of Insurance Regulation (OIR) rates, rating schedules, or rating manuals via the "file and use" method (at least 90 days prior to the proposed effective date) or the "use and file" method (within 30 days after the effective date of the filing).
- The authority of the OIR to require an insurer to provide, at the insurer's expense, all information necessary to evaluate the condition of the company and the reasonableness of the rate filing.

The bill creates an alternative mechanism to the form filing and approval process required by s. 627.410, F.S., for all lines of property and casualty insurance, except workers' compensation and personal lines. Insurers may instead elect to make an informational form filing in which a representative of the insurer executes a sworn certification that the filed forms comply with Florida law if:

- The form is electronically submitted to the OIR in an informational filing 30 days before delivery of the form within the state; and
- The informational filing includes a certification of compliance.

If the form is not in compliance with state laws and rules, the form filing is subject to the prior approval requirements of s. 627.410, F.S. A Notice of Change in Policy Terms form is also required as a part of the informational filing for any renewal policy that contains a change.

The bill also extends the exemption of medical malpractice insurance policies from Florida Hurricane Catastrophe Fund emergency assessments until May 31, 2016. The exemption was scheduled to expire May 31, 2013.

SB 534 – Publicly-funded Defined Benefit Retirement Plans: Chapter 2013-100, LOF;

effective July 1, 2013; by Senator Brandes.
Affected Division(s): Accounting & Auditing; Administration; Cabinet

This bill provides that the state is not liable for any obligation relating to any financial shortfalls in any local government retirement plan.
The bill requires each public pension plan, except the Florida Retirement System, to submit the following information to the Department of Management Services (DMS):

- Annual financial statements in compliance with Government Accounting and Standard Board's "Statement No. 67, Financial Reporting for Pension Plans" and "Statement No. 68, Accounting and Financial Reporting for Pensions";
- Annual financial statements which use an assumed rate of return on investments and an assumed discount rate that are equal to 200 basis points less than the plan's assumed rate of return;
- Information indicating the number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits as determined in the plan's latest valuation; and
- Information indicating the recommended contributions to the plan based on the plan's latest actuarial valuation and the contributions necessary to fund the plan based on the financial statements using alternative actuarial assumptions, stated as an annual dollar value and a percentage of valuation payroll.

The new information must be included in the DMS-produced fact sheet for the respective local government defined benefit pension plan.

The bill provides that any plan that fails to submit the required information to the DMS may be deemed to be in noncompliance with the law and may jeopardize its revenue-sharing funds.

The bill also specifies the types of financial information that must be included on plan websites.

HB 553 – Workers' Compensation System Administration:[6] Chapter 2013-141, LOF;

effective July 1, 2013; by Representative Hager.
Affected Division(s): Workers' Comp; Legal

The bill provides the following changes relating to the administration of workers' compensation system in Florida:

[6] Requested by the Divisions of Workers' Compensation & Legal Services.

- Provides that stop-work orders and penalties assessed against a limited liability company (LLC) continue in force against successor companies of the LLC to the same extent (and under the same conditions) that they remain in force against successor companies of corporations, partnerships, and sole proprietorships.
- Eliminates the requirement that workers' compensation health care providers be certified by the Department of Financial Services (DFS) and repeals corresponding rulemaking authority.
- Provides additional time for health care providers, carriers, and employers to file medical reimbursement disputes with the DFS, for carriers to respond to petitions, and for the DFS to issue a written determination.
- Eliminates the requirements that: (1) the DFS approve the advance payment of workers' compensation benefits in certain circumstances; (2) carriers submit reemployment status reports to the DFS for review; (3) a vocational evaluation always be conducted prior to the DFS authorizing training and education for an injured employee; and (4) the DFS serve as custodian of certain collective bargaining agreements.
- Conforms the administrative fine under s. 440.185(9), F.S., that may be assessed against employers or carriers that violate reporting requirements with the $500 civil penalty per violation provided under s. 440.593(4), F.S., relating to electronic reporting. Currently, s. 440.185(9), F.S., provides for an administrative fine of up to $1,000 per violation and, for employers that fail to timely submit more than 10 percent of notices of injury or death within a calendar year, an administrative fine of up to $2,000 per violation. The DFS uses their authority under s. 440.185(9), F.S., to assess penalties for violations of reporting requirements, but it has never assessed a penalty greater than $500 per violation or against an employer based upon a percentage of late filings.

The elimination of the mandatory vocational evaluation pursuant to s. 440.491, F.S., will result in a reduction of $80,000 in state expenditures.

SB 558 – Letters of Credit Issued by a Federal Home Loan Bank:[7] Chapter 2013-129, LOF; effective July 1, 2013; by Senator Detert.

Affected Division(s): Treasury

The bill amends the Florida Security for Public Deposits Act (the act), which authorizes local and state governments to place public deposits in qualified public depositories (QPD). The state Chief Financial Officer (CFO) is responsible for establishing criteria for financial institutions to be designated QPDs. A QPD is required to secure or collateralize public deposits in accordance with the act. Various types of securities are eligible to be pledged as collateral, including letters of credit issued by a Federal Home Loan Bank (FHLBank) that are triple A-rated (AAA), which is the highest rating, by a national source.

Due to uncertainties regarding the fiscal condition of the United States (U.S.), consumer confidence, high unemployment, and the global economy, one of the nationally recognized credit rating agencies, Standard and Poor's Ratings Services (Standard & Poor's), downgraded the U.S. long-term sovereign credit rating one level from "AAA" to "AA+." While Moody's Investor Service, Inc., and Fitch, Inc., have not downgraded the U.S. sovereign rating, they have both issued short-term negative outlooks for the U.S. and have indicated that they may downgrade the U.S. from its top credit rating if Congress fails to address those fiscal issues. Although the U.S. government does not guarantee obligations of the FHLBank, a government-sponsored entity, credit rating agencies state that there is financial dependence between the U.S. government and the FHLBank. Thus, a

[7] Supported by the Division of Treasury. Memo on file by Katie Hayden.

lower U.S. sovereign rating would likely affect the rating of the FHLBank. In the event the two other rating agencies also downgrade their credit ratings for FHLBank obligations, QPDs could no longer use FHLBank letters of credit as eligible collateral under current law. This would require QPDs to use other assets as replacement collateral, which in turn could affect their liquidity and lending ability.

The bill would allow QPDs to continue using letters of credit of a FHLBank as eligible collateral in the event the other major credit agencies downgrade their ratings of FHLBank obligations below AAA. The bill would permit QPDs to use letters of credit of an FHLBank, if obligations of the FHLBank are rated by a nationally recognized source at not lower than its rating of the long-term sovereign credit of the U.S.

HB 573 – Manufactured and Mobile Homes/Citizens: Chapter 2013-158, LOF; effective June 12, 2013; by Representative Hooper.

Affected Division(s): Consumer Services; Office of Insurance Regulation; Citizens

The bill imposes a $3,000 minimum insured value, instead of $6,000. Thus, Citizens is required to offer coverage for mobile and manufactured homes for a minimum insured value of at least $3,000. This minimum applies to buildings, other structures, contents, additional living expense, and liability coverage for owner occupied mobile or manufactured homes. And, it applies to contents, additional living expense, and liability coverage provided to a renter or tenant of a mobile or manufactured home.

In addition, the bill requires Citizens to provide coverage for the following attached structures to mobile or manufactured homes:

- Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as that of the primary dwelling.
- Carports that are aluminum or carports not covered by the same or substantially the same materials as that of the primary dwelling.
- Patios that have a roof covering constructed of materials that are not the same or substantially the same materials as that of the primary dwelling.

The bill amends s. 723.06115, F.S., to specify the manner in which funds from the Florida Mobile Home Relocation Trust Fund are to be disbursed to the Florida Mobile Home Relocation Corporation.

Specifically, the bill provides that the Department of Business and Professional Regulation (DBPR) shall disburse funds from the Trust Fund to the Corporation using the following procedures:

- At the beginning of each fiscal year, the Corporation shall determine its operating costs and provide that amount to the DBPR, in writing. One-fourth of the operating budget shall be transferred to the Corporation each quarter. The DBPR shall make the first one-fourth quarter transfer on the first business day of the fiscal year and make the remaining one-fourth transfers before the second business day of the second, third, and fourth quarters.
- Throughout the year, additional requests for necessary operating funds may be submitted to the DBPR, in writing, indicating the changes to the operating budget and the conditions that were unforeseen at the time the Corporation developed the operating budget at the beginning of the fiscal year.
- As it deems necessary, the Corporation shall advise the DBPR, in writing, of the amount needed to make payments to mobile home owners under the relocation program. The DBPR must distribute the amount within 5 business days of the Corporation's written request. Funds transferred from the DBPR

to the Corporation shall be transferred electronically and maintained by the Corporation in a qualified public depository as defined in s. 280.02, F. S.

Finally, the bill specifies that other than the requirements set forth in the section, neither the Corporation nor the DBPR is required to take any other action as a prerequisite to accomplishing the provisions of this section. This effectively nullifies any additional disbursement "prerequisites" listed in the current Memorandum of Understanding between the DBPR and the Corporation.

SB 604 – Practitioners: Chapter 2013-130, LOF; effective July 1, 2013; by Senator Bean.
Division Reference: Risk Management; Legal

The bill directs certain fees collected by the Department of Health for examinations, certification, and recertification of emergency medical technicians and paramedics to be deposited into the Medical Quality Assurance Trust Fund instead of the Emergency Medical Services Trust Fund.

The bill also adds to the types of proceedings that the Department of Financial Services must defend to include any action for injunctive, affirmative, or declaratory relief against an impaired practitioner consultant involving emergency interventions on behalf of impaired practitioners when the consultant is unable to perform the intervention if the act or omission arises out of and is in the scope of the consultant's contractual duties.

SB 648 – Health Insurance Marketing Materials: Chapter 2013-174, LOF; effective July 1, 2013; by Senator Hukill.
Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill eliminates the requirement that health insurers and health maintenance organizations submit marketing communications for small employer health plans to the Office of Insurance Regulation (OIR) for review. The bill also deletes the requirement that each marketing communication contain specific disclosures, but retains the requirement that such disclosure be provided to a small employer upon the offer of coverage.

The bill continues the requirement that insurers file with the OIR any long-term care insurance advertising materials, but deletes the requirement to file such materials 30 days prior to use. The bill allows the insurer to begin using such materials upon filing, subject to subsequent disapproval by the OIR. The bill does not eliminate the authority of the Financial Services Commission to adopt rules establishing standards for the advertising, marketing, and sale of long-term care insurance policies.

Florida law would continue to prohibit persons involved in the business of insurance from knowingly publishing any advertising with respect to the business of insurance, which is untrue, deceptive, or misleading.

The bill also specifies that the rules adopted by the Financial Services Commission to establish the format for the notice of the estimated premium impact of the federal Patient Protection and Affordable Care Act (PPACA) are not subject to s. 120.541(3), F.S., which requires that rules obtain legislative ratification if they exceed certain regulatory costs. These rules are required to be adopted pursuant to CS/SB 1842, which was passed by the Legislature on April 26, 2013, and ordered enrolled. That bill requires health insurers and health

maintenance organizations to provide a notice to individual and small group policyholders of non-grandfathered health plans that describes or illustrates the estimated impact of PPACA on monthly premiums. This notice would be required one time, when the policy is issued or renewed on or after January 1, 2014, and must first be filed with the OIR by September 1, 2013. The notice must be in a format established by rule by the Financial Services Commission. The OIR and the Department of Financial Services must develop a summary of the estimated impact of PPACA on monthly premiums as contained in the notices, which must be available on their respective websites by October 1, 2013.

SB 662 – Workers' Compensation/Repackaged Prescription Medication: Chapter 2013-131, LOF; effective July 1, 2013; by Senator Hays.

Affected Division(s): Risk Management; Workers' Comp; Office of Insurance Regulation

The bill revises provisions relating to reimbursement for prescription medications under ch. 440, F.S., Florida's Workers' Compensation Law in the following manner:

- Revises the amount of reimbursement for prescription medications of workers' compensation claimants by providing that the reimbursement rate for repackaged or relabeled drugs dispensed by a dispensing practitioner would be capped at 112.5 percent of the average wholesale price (AWP), plus $8.00 for the dispensing fee.
- Maintains the reimbursement rate for other prescription medications at AWP plus $4.18 dispensing fee.
- Provides that the AWP would be calculated by multiplying the number of units dispensed times the per-unit AWP set by the original manufacturer of the underlying drug dispensed, based upon the published manufacturer AWP published in the Medi-Span Master Drug Database as of the date of dispensing.
- Provides an exception to the reimbursement schedule if the employer or carrier, or a third party acting on behalf of the employer or carrier, directly contracts with a provider seeking reimbursement at a lower rate.
- Prohibits a dispensing practitioner from possessing such medications unless payment has been made to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of the medication.

Chapter 440, F.S., generally requires employers and carriers to provide medical and indemnity benefits to workers who are injured due to an accident arising out of and during the course of employment. Medical benefits can include, but are not limited to, medically necessary care and treatment, and prescription medications. In Florida, the prescription reimbursement rate for dispensing physicians and pharmacies is the AWP plus a $4.18 dispensing fee, or the contracted rate, whichever is lower.

The National Council on Compensation Insurance estimates that the implementation of the bill would reduce workers' compensation insurance costs by 0.7 percent or approximately $20 million based on preliminary 2012 statewide workers' compensation insurance premium (insurers and self-insurers).

The Division of Risk Management in the Department of Financial Services estimates that implementation of the bill would result in an estimated annual increase in prescription drug costs of $210,377 to the State Risk Management Program.

HB 665 – Licensure by Office of Financial Regulation: Chapter 2013-301, LOF; effective October 1, 2013; by Representative LaRosa.
Affected Division(s): Office of Financial Regulation

The bill allows the Office of Financial Regulation (OFR) to exercise discretion regarding whether to deny an application for licensure as a mortgage broker or mortgage lender if the applicant's licensure or its equivalent was revoked in any jurisdiction. Current law requires the automatic denial of the licensure application. The bill also changes the method by which the OFR collects fingerprints from applicants for registration as securities dealers, associated persons, or securities issuers and applicants for money services business licensure. The new method of fingerprinting is live-scan processing. Money services business licensees initially approved for licensure before October 1, 2013, must re-submit fingerprints for live scan processing in order to obtain a renewed license set to expire between April 30, 2014, and December 31, 2015.

HB 701 – Electronic Benefits Transfer Cards: Chapter 2013-88, LOF; effective October 1, 2013; by Representative Smith.
Affected Division(s): Public Assistance Fraud

The bill prohibits the use or acceptance of electronic benefits transfer cards (EBT cards) for the following activities or at the following locations: establishments licensed to sell distilled spirits, adult entertainment establishments, pari-mutuel facilities, slot machine facilities, commercial bingo facilities, casinos, gaming and gambling facilities, or any gaming activities authorized under part II of ch. 285, F.S., (the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed on April 7, 2010).

HB 783 – Branch Offices Conducting Securities Transactions: Chapter 2013-202, LOF; effective October 1, 2013; by Representative Eagle.
Affected Division(s): Office of Financial Regulation

The bill provides notice filing requirements for branch offices and deletes the requirement that branch offices be registered. A key difference between the notice filing process of the bill and registration is that registration of a branch office is effective upon receipt of the filing and required fee by the Office of Financial Regulation (OFR), while registration is only effective after the OFR has reviewed the registration and approved it. Each dealer and each investment adviser must pay a filing fee of $100 for each branch office in the state. As under current law, it is unlawful for a securities dealer or investment adviser to conduct business from a branch office that has not filed with the OFR, the only difference being the bill's requirement of a notice filing.

Each notice filing expires on December 31 of the year the filing was made, unless the filing is renewed on or before that date. A branch office notice is renewed when the dealer or securities adviser furnishes to the OFR any required information, a $100 renewal fee, and any amount due and owing the office pursuant to an agreement with the OFR. If a branch office notice expires, the dealer or investment adviser may request reinstatement on or before January 31 of the following expiration by providing requested information, the $100 renewal fee, and a $100 late fee. A branch office reinstatement is effective retroactive to January 1 of that year. The bill authorizes the Financial Services Commission to require, by rule, a dealer or investment adviser to file amendments to a branch office notice filing.

The OFR must summarily suspend a branch office notice filing if the notice filer fails to provide to the OFR all information required as part of a filing within 30 days after the OFR makes a written request for such information. The summary suspension is effective until the notice filer submits the requested information to the OFR, pays an administrative fine pursuant to s. 517.221(3), F.S., and a final order is entered. For purposes of emergency suspension of licenses, failure to provide all information required pursuant to branch office notice filing is grounds for the emergency suspension of a license under s. 120.60(6), F.S., because such failure constitutes an immediate and serious danger to the public health, safety, and welfare. A notice filing must be revoked by the OFR if the notice filer fails to provide all requested information within 90 days. The OFR may revoke a branch office notice if the notice filer makes a payment to the OFR via check or electronic funds transmission (EFT) that is dishonored. A dealer or investment adviser may terminate a branch office notice filing by filing a notice of termination with the OFR, the effective date of which is either as specified in the notice of termination or upon receipt by the OFR if the notice does not specify an effective date.

SB 810 – Wrap-up Insurance Policies: Chapter 2013-175, LOF; effective July 1, 2013; by Senator Simmons.
Affected Division(s): Workers' Comp; Office of Insurance Regulation

CS/CS/SB 810 defines a "wrap-up insurance policy" to mean a consolidated insurance program or series of insurance policies issued to the nonpublic owner or general contractor (or a combination of the two) of a construction project through a consolidated insurance program that provides workers' compensation coverage, various forms of liability coverage, or a combination of such coverages for the contractors and subcontractors working at a specified contracted work site of the construction project.

The bill authorizes a wrap-up insurance policy to include a deductible of $100,000 or more for workers' compensation claims if all of the following prerequisites are met:

- The workers' compensation minimum standard premium calculated on the combined payrolls for all entities covered by the wrap-up policy exceeds $500,000;
- The estimated cost of the construction at each specified contracted worksite is $25 million or more;
- The insurer pays the first dollar of a workers' compensation claim without a deductible;
- The reimbursement of the deductible by the insured does not affect the insurer's obligation to pay claims;
- The insurer complies with all workers' compensation filing requirements under ch. 440, F.S., for losses, including those below the deductible limit;
- The insurer files unit statistical reports with the National Council on Compensation Insurance (NCCI) which show all losses, including those below the deductible limit;
- Any unit statistical report needed to calculate an experience modification factor for the insured are filed with the NCCI;
- The insurer complies with NCCI aggregate financial calls, detail claim information calls, unit statistical reporting, and other required calls; and
- The insurer establishes a program for having the first-named insured, whether the owner, the general contractor, or a combination thereof, reimburse the insurer for losses paid within the deductible.

HB 913 – Holocaust Victims Assistance Act:[8] Chapter 2013-149, LOF; effective July 1, 2013; by Representative Bileca.

Affected Division(s): Legal

The bill expands the scope of assistance that is provided by the Department of Financial Services (DFS) to Holocaust victims and their heirs. While current law provides the DFS with the authority to assist Holocaust victims and their heirs in identifying and obtaining potential and actual insurance claims, the bill broadens the authority to include:

- Recovery of other financial claims, assets, and property;
- Education to mitigate the effects on Holocaust survivors of the nonpayment of claims or the nonreturn of property; and
- Assistance with gaining access to funding to address the effects of nonpayment of claims and nonreturn of confiscated assets.

The bill eliminates the annual report required of insurers and instead requires insurers to file a report with the DFS when there are any changes to the previous report, or when it is requested to do so by the DFS. The bill also specifies that the DFS must submit its annual report to the Legislature by July 1.

HB 935 – Florida False Claims Act:[9] Chapter 2013-104, LOF; effective July 1, 2013; by Representative Young.

Affected Division(s): Legal; Public Assistance Fraud

The bill conforms the Florida False Claims Act (FFCA) to the Federal False Claims Act. Specifically, the bill:

- Expands the authority of the Department of Legal Affairs to issue subpoenas to investigate false claims against the state. However, this authority is contingent upon a public records exemption in House Bill 1297 (Senate Bill 1496) or similar legislation becoming law.
- Removes the statement of purpose for the FFCA.
- Revises the definitions under the FFCA to conform to the Federal False Claims Act.
- Revises the violations under the FFCA.
- Revises procedures for the Department of Legal Affairs to intervene in a case under the FFCA.
- Expands the authority of the Attorney General's Office to prosecute false claims allegedly made by certain governmental officials which are not acted upon by other state officials having authority to act.
- Revises provisions relating to the burden of proof in actions under the FFCA. Under the revised provisions, a defendant in a *qui tam* action may not deny facts which were the basis of a criminal proceeding in which the defendant was found guilty, pled guilty or pled nolo contendere. A "*qui tam* action" is an action brought under a statute that allows a private person to sue for a penalty, part of which the government or some specified public institution will receive.

HB 939 – Medicaid Recoveries:[10] Chapter 2013-150, LOF; effective July 1, 2013; by Representative Pigman. (Medicaid & Public Assistance Fraud Strike Force)

Affected Division(s): Public Assistance Fraud; Medicaid & Public Assistance Fraud Strike Force

[8] Requested by the Division of Legal Services.
[9] Amended by DFS to prevent overlapping subpoena requirements.
[10] Includes language requested by the Medicaid & Public Assistance Fraud Strike Force.

The bill modifies existing statutory provisions relating to fraud and abuse, provider controls, and accountability in the Medicaid program. This bill includes the following provisions:

- Requires a Medicaid provider to report a change in any principal of the provider to the Agency for Health Care Administration (AHCA) within 30 days after the change occurs;
- Provides a definition for "administrative fines" for purposes of liability for payment of such fines in the event of a change of ownership;
- Authorizes, rather than requires, the AHCA to perform an onsite inspection of a provider before entering a provider agreement to ensure that the entity complies with the Medicaid program and professional regulations;
- Modifies provider's surety bond requirements to provide that the amount of the bond need not exceed $50,000, if the physician or group of physicians licensed under ch. 458, ch. 459 or ch. 460, F.S., has a 50 percent or greater ownership interest in the provider or if the provider is an assisted living facility under ch. 429, F.S.;
- Provides a definition for principals of a provider with a controlling interest for hospitals and nursing homes, for purposes of conducting criminal background checks to be consistent with the definition for licensure;
- Removes exceptions to the background screenings requirements for hospices or assisted living facilities that are Medicaid providers;
- Permits enrollment of an out-of-state provider if the provider is located within 50 miles of the state line; the provider is a physician actively licensed in the state and interprets diagnostic testing results through telecommunications and information technology from a distance; or the AHCA determines a need for that provider type to ensure adequate access to care;
- Amends the Medicaid Third Party Liability Act with respect to procedures for challenging certain recovered medical expenses to ensure compliance with federal law;
- Expands the list of criminal offenses for which the AHCA may terminate the participation of a Medicaid provider;
- Requires the AHCA to impose the sanction of termination for cause against providers that voluntarily relinquish their Medicaid provider numbers after being notified that an audit, survey, or inspection that could result in the sanction of suspension or termination is underway or has been conducted;
- Requires that when the AHCA determines that an overpayment has been made, the AHCA must base its determination solely on the information available before the issuance of an audit report and upon contemporaneous records. The AHCA may consider addenda and modifications to a note made contemporaneously with the patient care episode if the addenda is germane to the care;
- Requires overpayments or fines to be paid to the AHCA within 30 days after the date of the final order;
- Clarifies the scope of immunity from civil liability for persons who report fraudulent acts or suspected fraudulent acts;
- Amends the membership of the Medicaid and Public Assistance Fraud Strike Force to allow members to utilize designees and repeals the Strike Force effective June 30, 2014; and,
- Repeals s. 624.352, F.S., relating to interagency agreements to detect and deter Medicaid and public assistance fraud effective June 30, 2014.

The AHCA will primarily oversee the implementation of the bill relating to Medicaid in coordination with the Chief Financial Officer and other state agencies involved in Medicaid and public assistance fraud activities.

HB 1071 – Health Care Accrediting Organizations: Chapter 2013-93, LOF; effective July 1, 2013; by Representative Antone.
Affected Division(s): Insurance Fraud

The bill amends ss. 154.11, 394.741, 397.403, 400.925, 400.9935, 402.7306, 408.05, 430.80, 440.13, 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015, F.S., to replace requirements that health care entities be accredited by specific accreditation organizations with general provisions requiring health care entities to be accredited by an accrediting organization whose standards incorporate comparable licensure regulations required by this state and, where appropriate, is approved by the Centers for Medicare and Medicaid Services.

The bill amends s. 395.3038, F.S., to delete an outdated provision requiring the Agency for Health Care Administration to notify hospitals that it is creating a registry of primary and comprehensive stroke centers.

The bill also amends s. 486.102, F.S., to specify that any regional or national institutional accrediting agency recognized by the United State Department of Education, as well as the Commission on Accreditation for Physical Therapy Education, are appropriate accrediting agencies for the purpose of approving courses for the preparation of physical therapist assistants.

HB 1075 – Public Records: Chapter 2013-___, LOF; effective July 1, 2013; by Representative Rangel.
Affected Division(s): Administration; Legal; Inspector General

The bill creates a public record exemption for a complaint of misconduct filed with an agency against an agency employee, and all information obtained pursuant to the investigation by the agency of the complaint of misconduct. The information is confidential and exempt from public record requirements until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint that the agency concluded the investigation and either will or will not proceed with disciplinary action or file charges. The bill provides for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature. In addition, the bill provides a statement of public necessity.

SB 1122 – Florida Fire Prevention Code:[11] Chapter 2013-134, LOF; effective July 1, 2013; by Senator Simpson.
Affected Division(s): State Fire Marshal

The Florida Fire Prevention Code (FFPC) is a complex set of fire code provisions enforced by the local fire official within each county, municipality, and special fire district in the state. CS/CS/CS/SB 1122 makes two changes to the statutes governing the application of the FFPC.

First, the bill addresses an apparent discrepancy between the FFPC and the Florida Building Code that currently requires upgrades of multiuse commercial buildings whenever a mercantile use (for the display and sale of merchandise) adjoins a business use (for the transaction of business other than mercantile). The FFPC requires a two-hour fire rated wall or partition between these two use groups while the building code does not. The bill provides that for structures of less than three stories and 10,000 square feet, a fire official shall enforce the less stringent wall fire-rating provisions found in the building code.

[11] Amended by the Department to address some concerns of the Division of State Fire Marshal.

Second, the bill exempts certain structures on agricultural lands from the FFPC. Existing law already exempts "farm outbuildings" from the FFPC. The bill provides an additional exemption for structures in which the occupancy is limited to no more than 35 persons, which are part of a "farming or ranching operation," and which are situated on property classified as agricultural for property tax purposes. The bill provides that such structures may not be used by the public for direct sales or as an educational outreach facility. Moreover, under no circumstances may the structures be used for either residential or assembly occupancies.

HB 1145 – State-Owned or State-Leased Space: Chapter 2013-152, LOF; effective July 1, 2013; by Representative LaRosa.
Affected Division(s): Administration; State Fire Marshal

The bill addresses various inventory, sales, lease, and reporting requirements applicable to state-owned and state-leased property. The bill:

- Revises reporting requirements applicable to the annual inventory of state-owned facilities.
- Requires the Division of State Lands in the Department of Environmental Protection to consider a comparable sales analysis or a broker's opinion of value, as opposed to an appraisal, when determining the sale price of lands determined to be surplus, if such property has an estimated value of $500,000 or less.
- Provides and revises various reporting, notice, and bidding requirements applicable to surplus property.
- Requires a state agency, state university, or Florida College System institution, when seeking to use a building or parcel determined to be surplus, to submit a plan for the proposed use.
- Authorizes the Department of Management Services (DMS) to direct a state agency (except Cabinet member agencies) to occupy or relocate to space in any state-owned office building within existing appropriations.
- Requires state agencies to report on their vacant or underutilized space.
- Requires the DMS to include the strategic leasing plan in the annual master leasing report, and directs the DMS to submit the report by October 1 of each year.
- Requires the annual master leasing report to contain recommendations for using capital improvement funds to implement the consolidation of state agencies into state-owned office buildings.
- Removes the authorization for an agency (except for Cabinet member agencies) to negotiate a replacement lease with the lessor if that agency determines that it is in its best interest to remain in the space it currently occupies, and gives the authority to the DMS to make the determination.
- Authorizes the DMS to approve emergency acquisition of space without competitive bids under certain conditions.
- Revises energy performance analysis requirements for buildings occupied by state agencies.

HB 1157 – Health Flex Plans: Chapter 2013-94, LOF; effective June 30, 2013; by Representative Powell.
Affected Division(s): Office of Insurance Regulation; Consumer Services

The bill amends s. 408.909, F.S., relating to the Health Flex program. HB 1157 eliminates the statute's repeal date of July 1, 2013, extending the Health Flex program indefinitely. Health Flex plans were designed to provide affordable, alternative health care coverage for low-income individuals.

The bill also modifies the definition of "health care coverage" or "health flex plan coverage" to allow Health Flex plans coverage to include excepted benefits, such as hospital indemnity or other fixed indemnity insurance, and limited scope dental or vision. This change will bring the Health Flex plans, as an excepted benefits plan, into conformity with the provisions of the federal Patient Protection and Affordable Care Act.

The Agency for Health Care Administration and the Office of Insurance Regulation will continue to jointly regulate and monitor the operation of the Health Flex plan program.

HB 1159 – Health Care:[12] Chapter 2013-153, LOF; effective June 7, 2013; by Representative O'Toole.

Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill amends various sections of law relating to the provision of health care. This bill contains one of the CFO's priories for this year relating to:

The Cancer Treatment Fairness Act

The bill creates the "Cancer Treatment Fairness Act" which requires an individual or group insurance policy, or a health maintenance organization contract, that provides medical, major medical, or similar comprehensive coverage and includes coverage for cancer treatment to also cover prescribed, orally administered cancer treatment medications. The Act restricts such policies and contracts from applying cost-sharing requirements for orally administered cancer treatment medications that are less favorable than cost-sharing requirements for other cancer treatment medications covered under the policy or contract except that if the cost sharing requirements for intravenous or injected cancer medications are less than $50 per month the cost-sharing requirements for orally administered cancer treatment medications may be up to $50 a month. The Act also restricts insurers offering such policies and contracts from:

- Varying the terms of the policy or contract after July 1, 2014 to avoid compliance with these provisions;
- Providing any incentive or imposing any treatment limitation to encourage a covered person to accept less than the minimum protections available under these provisions;
- Penalizing a health care practitioner for recommending or providing services or care to a covered person as required under these provisions;
- Providing any incentive to induce a health care practitioner to not comply with these provisions; or,
- Changing the classification of any intravenous or injected cancer treatment medication or increasing the amount of cost sharing applicable to any intravenous or injected cancer treatment medication in order to achieve compliance with this section.

Grandfathered health plans, Medicare supplement, dental, vision, long-term care, disability, accident only, and specified disease policies, or other supplemental limited-benefit plans are exempted from the provisions of the act.

HB 1191 – Captive Insurance: Chapter 2013-209, LOF; effective July 1, 2013; by Representative Nelson.

Affected Division(s): Office of Insurance Regulation

[12] Includes chemotherapy parity initiative requested by the Division of Consumer Services.

Current law requires that to be a qualifying reinsurer parent company, a reinsurer must hold a certificate of authority or a letter of eligibility, or be an accredited or satisfactory non-approved reinsurer. The bill removes the current allowance for a satisfactory non-approved reinsurer or a reinsurer that possesses a letter of eligibility to be acceptable alternatives to qualify as being a qualifying reinsurer parent company. The bill, however, adds the alternative that if a reinsurer qualifies for credit for reinsurance under s. 624.610(3), F.S., it will be considered a qualifying reinsurer parent company, even if it does not hold a certificate of authority.

Current law allows an industrial insured captive insurance company to insure only the risks of the industrial insureds that comprise the industrial insured group and their affiliated companies. The bill broadens the entities that an industrial insured captive insurance company is allowed to insure to include the industrial insureds' and affiliates' stockholders or members, and affiliates thereof, or the stockholders or affiliates of the parent corporation of the captive insurance company. The bill allows an industrial insured captive insurance company with unencumbered capital and surplus of at least $20 million to be licensed to provide workers' compensation and employer's liability insurance in excess of $25 million in the annual aggregate.

The bill exempts captive insurance companies from the statutory trust deposit required under s. 624.411, F.S., as a condition of obtaining a certificate of authority to transact insurance. A pure captive insurance company must submit to the Office of Insurance Regulation its standards to ensure a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business that is to be insured by the pure captive insurance company. The bill deletes the current authorization for the Financial Services Commission to adopt rules establishing such standards.

HB 1309 – Procurement of Commodities and Contractual Services:[13]

Chapter 2013-154, LOF; effective July 1, 2013; by Representative Albritton.
Affected Division(s): Accounting & Auditing; Administration

The bill makes the following revisions to provisions governing state agency procurement and contracting, including, but not limited to:

- Requiring public agency contracts for services to include provisions that the public has access to public records, and requiring the public agency to enforce compliance with public records requests;
- Requiring specified accountability provisions to be included in grant agreements;
- Requiring agencies to appoint grant managers; such grant manager must be a certified contract manager if the grant agreement is in excess of $100,000 annually;
- Providing for the Chief Financial Officer's (CFO) audit of executed grant agreements and contracts;
- Providing that both the Department of Management Services (DMS) and the CFO are jointly responsible for contract management training;
- Requiring invitations to bid to be awarded to the lowest responsive bidder;
- Permitting the DMS to lead joint agreements with governmental entities; and
- Removing the requirement that an agency head certify emergency procurement documents.

SB 1410 – Fire Marshal Regulatory Reform:[14]

Chapter 2013-183, LOF; effective July 1, 2013; by Senator Simmons.

[13] Includes many provisions requested by Division of Accounting & Auditing such as enhanced contract manager training; creation of grant manager category with associated training; additional standards for grant agreements; clarifying language for audit of manager files; and specificity in redaction for contracts posted on FACTS.

Affected Division(s): State Fire Marshal; Legal

- The bill makes changes to ch. 633, F.S., Fire Prevention and Control, which is administered by the Division of State Fire Marshal within the Florida Department of Financial Services.
- The bill:
  - Substantially reorganizes Chapter 633.
  - Revises the renewal period for firesafety inspector certification from 3 years to 4.
  - Aligns requirements regarding criminal histories for firefighter certification to that of police and other emergency personnel, barring anyone from receiving certification who has been convicted of any felony, misdemeanor relating to the certification sought, perjury or false statements or a dishonorable discharge.
  - Authorizes the State Fire Marshal to deny, suspend, or revoke the licenses of certain persons, and provides terms and conditions of probation.
  - Revises provisions relating to hearings, investigations, and recordkeeping duties and the authority of the State Fire Marshal.
  - Revises provisions relating to the authority of agents of the State Fire Marshal.
  - Clarifies provisions relating to impersonating the State Fire Marshal, a firefighter, a firesafety inspector, or a volunteer firefighter, for which a criminal penalty is provided.
  - Provides penalties for rendering a fire protection system inoperative and provides penalties for using a certificate issued to another person.
  - Revises provisions to include investigation of explosions in fraudulent insurance claim investigations.
  - Authorizes the State Fire Marshal to adopt rules to implement provisions relating to an insurance company's investigation of a suspected explosion by intentional means.
  - Requires the division to establish by rule:
    - ✓ minimum curriculum requirements and criteria for the approval of education or training providers;
    - ✓ standards for the approval, denial of approval, probation, suspension, and revocation of approval of education or training providers and facilities for training firefighters and volunteer firefighters;
  - Specifies in law the licenses, certificates, and permits the Division is authorized to issue.
  - Requires notification of any felony actions against a licensee, permittee, or certificateholder.
  - Revises terminology to provide for declaratory statements rather than formal interpretations in nonbinding interpretations by the division regarding the Florida Fire Prevention Code.
  - Clarifies that a special district may enact any ordinance relating to firesafety codes that is identical to ch. 633, F.S., or any state law, except as to penalties.
  - Clarifies persons authorized to inspect buildings and structures.
  - Revises requirements of persons conducting firesafety inspections.
  - Increases from 3 to 4 the number of years a fire safety inspector certificate is valid.
  - Increases the continuing educations requirements for a fire safety inspector certificate from 40 hours to 54 hours.
  - Requires the department to provide by rule for the certification of Fire Code Administrators.
  - Authorizes, rather than requires, the State Fire Marshal or agents thereof to conduct performance tests on any electronic fire warning and smoke detection system, and any pressurized air-handling unit, in any state-owned building or state-leased building or space on a recurring basis.

[14] Requested by the Divisions of State Fire Marshal & Legal Services.

- Authorizes the Florida Fire Safety Board to review complaints and make recommendations, and, provides for the election of officers, quorum, and compensation of the board and requires the board to adopt a seal.
- Provides conditions that an applicant for a license of any class who has facilities located outside the state must meet in order to obtain a required equipment inspection.
- Provides for the adoption of rules with respect to the establishment and calculation of inspection costs.
- Revises and clarifies provisions that exclude from licensure for a specified period applicants having a previous criminal conviction and defines the term "convicted."
- Revises provisions that authorize the State Fire Marshal to suspend a fire protection system contractor's or permittee's certificate.
- Provides for an additional member of the Firefighters Employment, Standards, and Training council to be added from the Florida Forest Service; provides for organization of the council and its meetings, and compensation; and provides for special powers of the council in connection with the employment and training of firefighters.
- Specifies classes of certification awarded by the division and authorizes the division to establish specified additional certificates by rule, and:
  - ✓ Revises provisions relating to firefighter and volunteer firefighter training and certification.
  - ✓ Requires the division to establish by rule specified courses and course examinations.
  - ✓ Provides that courses may only be administered by specified education or training providers and taught by certified instructors.
  - ✓ Revises provisions with respect to payment of training costs and payment of tuition for attendance at approved courses.
  - ✓ Provides requirements for issuance by the division of a firefighter and volunteer firefighter certificate of compliance.
  - ✓ Authorizes the division to issue a Special Certificate of Compliance and provides requirements and limitations with respect thereto.
  - ✓ Increases the required number of hours of the structural fire training program from 40 to 54 hours.
  - ✓ Provides for a Forestry Certificate of Compliance and prescribes the rights, privileges, and benefits thereof.
  - ✓ Revises provisions relating to disqualifying offenses and provides requirements of the division with respect to suspension or revocation of a firefighter certificate.
- Prohibits a fire service provider from employing an individual as a firefighter or supervisor of firefighters and from retaining the services of an individual volunteering as a firefighter or a supervisor of firefighters without required certification.
- Requires a fire service provider to notify the division of specified hirings, retentions, terminations, decisions not to retain a firefighter, and determinations of failure to meet certain requirements.
- Authorizes the division to conduct site visits to fire departments to monitor compliance.
- Requires the State Fire Marshal to determine, and adopt by rule, course work or degrees that represent the best practices toward supplemental compensation goals, and:
  - ✓ Specifies that supplemental compensation shall be paid to qualifying full-time employees of a fire service provider.
  - ✓ Specifies that policy guidelines be adopted by rule, classifying the division as a fire service provider responsible for the payment of supplemental compensation to full-time firefighters employed by the division.
- Revises provisions relating to revocation of certification.

- Provides requirements with respect to application for certification.
- Revises provisions that require the division to make studies, investigations, inspections, and inquiries with respect to firefighter employee injuries, illnesses, safety-based complaints, or line-of-duty deaths in firefighter employee places of employment.
- Prescribes additional administrative penalties for firefighter employers for violation of, or refusal to comply with, part V of ch. 633, F.S., and provides for location of hearings.
- Clarifies requirements from which private firefighter employers are exempt.
- Requires reinspection after specified noncompliance.
- Revises provisions relating to adjustments in payments of accidental death benefits for firefighters.
- Repeals the retrofit of existing nursing homes through the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program.
- Repeals the State Fire Marshal Scholarship Grant Program.
- Specifies that independent special fire control districts may levy non-ad valorem assessments for emergency medical services and emergency transport services, and provides that if a district levies a non-ad valorem assessment for emergency medical services or emergency transport services, that district must cease charging an ad valorem tax for that service.
- Recognizes that the provision of emergency medical services and emergency transport services constitutes a benefit to real property.
- Provides that a district can levy non-ad valorem assessments on lands within the district (current law has allowed theses assessments on "benefitted property") for the exercise of the Independent Special Fire Control District Act, and removes the current law that had required that these assessments must be based on the specific benefit accruing to the benefitted property.

SB 1594 – Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act:[15] Chapter 2013-135, LOF; effective July 1, 2013; by Senator Bradley.

Affected Division(s): Accounting & Auditing

The bill authorizes a county school district, or an institution of higher education, including all state universities, colleges, and technical colleges, to enter into guaranteed energy, water, and wastewater performance savings contracts. It includes a building retrofit or renovation in the definition of the term "energy, water, and wastewater efficiency and conservation measure" and authorizes inclusion of a variety of new savings measures in a performance savings contract.

The bill provides that the Chief Financial Officer shall complete its review and approval of a contract or lease within 10 business days after receipt of the contract or lease.[16]

SB 1770 – Property Insurance:[17] Chapter 2013-60, LOF; effective July 1, 2013, except as otherwise provided; by Senate Banking and Insurance Committee.

Affected Division(s): Agent & Agency Services; Cabinet; Citizens; State Board of Administration; Office of Insurance Regulation

[15] Amended to address concerns of Division of Accounting & Auditing.
[16] Not a consequential change from current practice. Presently, there is an internal time limit of 10 days. Thus, Accounting & Auditing approved this language.
[17] Includes request of CFO: creation of Inspector General position within Citizens.

The bill makes the following changes to the Florida Hurricane Catastrophe Fund, Citizens Property Insurance Corporation, and Public Adjusters:

Florida Hurricane Catastrophe Fund (CAT Fund):

- Renames the "Florida Hurricane Catastrophe Fund Finance Corporation" to the "State Board of Administration Finance Corporation."
- Extends the CAT Fund assessment exemption for medical malpractice until May 31, 2016.
- Repeals outdated language for the $10M additional coverage for specified insurers and the Temporary Emergency Options for Additional Coverage.
- Requires the CAT Fund submit to the Legislature and Financial Services Commission an annual Probable Maximum Loss (PML) report for the upcoming storm season.

Citizens Property Insurance Corporation (Citizens)

- Exempts Citizens from "exchange of business" restrictions to facilitate the operations of the clearinghouse.
- Adds a professional structural engineer to the Florida Commission on Hurricane Loss Projection Methodology.
- Reduces the maximum Citizens' policy limit from $2 million to $1 million and further reduces this amount by $100,000 a year for 3 years to $700,000. Allows for an exemption in certain counties in which the Office of Insurance Regulation (OIR) determines do not have a reasonable degree of competition.
- Prohibits Citizens from covering structures commencing construction after July 1, 2014, seaward of the coastal construction control line.
- Allows the Governor of Florida to appoint a consumer representative to the Citizens Board of Governors in addition to the current two appointments.
- Clarifies a private company's offer within 15 percent of Citizens' rate for a new policy and no greater than the current rate for a renewal makes the policy ineligible for coverage with Citizens.
- Requires that Citizens disclose potential surcharge and assessment liabilities with each renewal notice.
- Allows insurers who take policies out of Citizens to use Citizens' policy forms for 3 years without approval from the OIR to use the forms.
- Establishes an office of Inspector General at Citizens to be appointed by the Financial Services Commission.
- Requires Citizens to prepare an annual report on Citizens' loss ratio for non-catastrophic losses on a statewide and county basis.
- Subjects Citizens to the purchasing of commodities restrictions under s. 287.057, F.S.
- Establishes the Citizens clearinghouse by January 1, 2014.
- Requires the establishment of a process to divert commercial residential policies.
- Requires that companies participating in the clearinghouse must either appoint the agent of record or offer a limited servicing agreement.
- Requires that agents are to be paid Citizens commission or the company's standard commission, whichever is greater.
- Clarifies that the 45-day notice of nonrenewal applies to policies submitted to the clearinghouse.
- Provides that independent and captiv10e agents are granted and must maintain ownership of records including policies placed in Citizens.
- Allows captive companies to approve their agents limiting servicing agreements with each participating company.

- Requires Citizens to submit to the Legislature and Financial Services Commission an annual PML report for the upcoming storm season.

Public Adjusters

- Prohibits a public adjuster from receiving compensation from any source over the statutory fee cap. Applies disciplinary provisions in current law to public adjusters who violate the statutory fee caps through any maneuver, shift, or device.
- Repeals the current provision that for any claim filed with Citizens, a public adjuster cannot charge more than 10 percent of the difference between Citizens' initial offer and the amount actually paid.
- Requires a public adjuster to meet or communicate with the insurer to try to settle. Prohibits a public adjuster from acquiring any interest in salvaged property, without the written consent of the policyholder.

SB 1802 – State Employee Health Insurance: Chapter 2013-52, LOF; effective July 1, 2013; by Senate Governmental Oversight and Accountability Committee.

Affected Division(s): Administration

This bill expands the group of employees eligible to participate in the State Employee Health Insurance Program (program). Under current law, no person paid from other-personal-services funds is eligible to participate regardless of the numbers of hours the employee works. Under the provisions of this bill, any state employee working an average of at least 30 or more hours per week will be eligible for health insurance coverage and premium subsidies. In addition, the proration of the state premium contribution will apply only to permanent employees working less than 30 hours per week on average. The bill requires employers participating in the program to submit certain information relating to employees paid from other-personal-services funds to ensure compliance with the federal law. These changes are effective December 1, 2013, so that insurance coverage will be available beginning January 1, 2014.

The bill authorizes the Department of Management Services to adopt emergency rules to modify the eligibility of persons paid with other-personal-services funds to comply with the federal Patient Protection and Affordable Care Act in order to mitigate the state's exposure to potential liability under the penalty provisions of that law. This provision is effective July 1, 2014, but the emergency rules must expire by June 30, 2014.

The bill continues the current level of state contributions into health savings accounts for employees participating in the high deductible health insurance plans under the State Employee Health Insurance Program. The current authority for the state to contribute to the health savings accounts expires on June 30, 2013. Under this bill, the state can continue to contribute at the current levels ($500 for individual coverage and $1,000 for family coverage) for FY 2013-2014. Beginning in FY 2014-2015, the amount of the contributions by the state will be established in the annual general appropriations act. This provision takes effect December 1, 2013.

This will have an effect on benefits paid by the Department for OPS employees. For example, the Division of Information Systems reports that it could pay an extra $38,970, based on an estimated cost of $1,299 PP/PM for 6 months. DFS' experience will be similar to that of other agencies.

SB 1810 – Florida Retirement System: Chapter 2013-53, LOF; effective July 1, 2013; by Senate Governmental Oversight and Accountability Committee.
Affected Division(s): Administration; Cabinet

The bill sets the employer-paid contribution rates for the Florida Retirement System (FRS) and the Retiree Health Insurance Subsidy (HIS) program, effective July 1, 2013.

The employer-paid contribution for the HIS program is increased from 1.11 percent of the employer's payroll to 1.20 percent of the employer's payroll. These funds will be deposited into the Retiree Health Insurance Subsidy Trust Fund to pay benefits to participating retirees.

The employer-paid contribution rates to pay the normal costs and amortization of the unfunded actuarial liability of the FRS are increased. These rates are based on the rates recommended in the "Blended Rate Study" associated with the 2012 Actuarial Valuation of the FRS. These funds will be deposited into the FRS Trust Fund to fund retirement benefits to members participating in the FRS.

The bill contains legislative findings that a proper and legitimate state purpose is served when public retirement systems, including health insurance subsidies, are administered and funded in a reasonable manner.

SB 1842 – Health Insurance:[18] Chapter 2013-101, LOF; effective May 31, 2013, except as otherwise provided; by Senate Banking and Insurance Committee.
Affected Division(s): Agent & Agency Services; Consumer Services; Rehabilitation & Liquidation; Office of Insurance Regulation

The bill makes changes to the Florida Insurance Code related to the requirements of the federal Patient Protection and Affordable Care Act (PPACA) that apply to health insurers and health insurance policies. PPACA preempts any state law that prevents the application of a provision of the PPACA. Each state may enforce the requirements of the PPACA, but if the U.S. Department of Health and Human Services (HHS) determines that a state has failed to substantially enforce any provisions, HHS must enforce those provisions.

The bill makes the following changes to the Florida Insurance Code:

- Provides that a provision of the Florida Insurance Code (Code) or rule adopted pursuant to the Code applies unless such provision or rule prevents the application of a provision of PPACA. This is substantially the same preemption provision that is included in PPACA.
- Authorizes the Office of Insurance Regulation (OIR) to assist HHS in enforcing the provisions of the PPACA by reviewing policy forms and performing market conduct examinations or investigations for compliance with PPACA. OIR must first notify the insurer of any noncompliance and then notify HHS if the insurer does not take corrective action.
- Authorizes the Division of Consumer Services within the Department of Financial Services (DFS) to respond to complaints by consumers relating to requirements of PPACA, by performing its current statutory responsibilities to prepare and disseminate information to consumers as it deems appropriate, provide direct assistance and advocacy to consumers, and require insurers to respond, in

[18] Includes the registration of "navigators" by Division of Agency & Agency Services; language developed by A&A and Legislative Affairs. Also includes the turnover of books and records of the FCHA to the Division of Rehab & Liquidation in 2015; agreed to by the Division.

writing, to a complaint, and further authorizes the division to report apparent or potential violations to OIR and to HHS.

- Temporarily suspends, for 2014 and 2015, the requirement that health insurers and HMOs (insurers) obtain approval from OIR for nongrandfathered health plans which, generally, are plans under which an individual was insured on March 23, 2010, and for which rates must be filed with HHS. Insurers will still be required to file rates and rate changes for such plans with OIR prior to use, but such rates may be used without OIR approval. For this 2-year period, the rates for nongrandfathered plans would be exempt from all rating requirements. These rating law changes are repealed on March 1, 2015. Under PPACA, insurers must file rate changes with HHS for nongrandfathered health plans, subject to review and determination of whether the rate increase is unreasonable. Grandfathered health plans are not subject to PPACA rate filing requirements and remain subject to the current Florida law requirements for filing rates for approval with OIR.
- Requires insurers to provide a notice to individual and small group policyholders of nongrandfathered health plans that describes or illustrates the estimated impact of PPACA on monthly premiums. This notice is required one time, when the policy is issued or renewed on or after January 1, 2014. The notice must be in a format established by rule by the Financial Services Commission. The OIR and DFS must develop a summary of the estimated impact of PPACA on monthly premiums as contained in the notices, which must be available on their respective websites by October 1, 2013.
- Requires individuals acting as a "navigator" under PPACA to be registered with DFS, beginning August 1, 2013. Under PPACA, beginning on October 1, 2013, individuals and small businesses will be able to purchase private health insurance through Affordable Insurance Exchanges (Exchanges). Exchanges must certify qualified health plans (QHPs) offered by insurers through the Exchange. PPACA directs Exchanges to award grants to "navigators" that will facilitate enrollment in QHPs and exercise certain other duties.
- To be registered as a navigator under the bill, an individual must certify completion of federally-required training, submit fingerprints for a criminal background check, and pay a $50 application fee (currently, there is a $50.30 fingerprint processing fee for agents, so the total cost for a navigator would be $100.30). Certain crimes would either permanently bar an individual from registration or disqualify an applicant for specified periods. A navigator will be prohibited from:
  - ✓ Recommending the purchase of a particular health plan or represent that one health plan is preferable over any other;
  - ✓ Recommending or assisting with the cancellation of insurance coverage purchased outside the Exchange;
  - ✓ Receiving compensation or anything of value from an insurer, health plan, business, or consumer in connection with performing activities as a navigator, other than from the Exchange or an entity or individual who has received a navigator grant under the PPACA.
- Specifies grounds for suspension or revocation of registration and authorizes DFS to impose an administrative fine in lieu of, or in addition to suspension or revocation. Any person who acts as a navigator without registration is subject to an administrative penalty not to exceed $1,500.
- Includes permissive rulemaking authority throughout to assist the Division in implementing the program.
- Appropriates $106,658 in recurring funds and $70,000 in nonrecurring funds and two FTEs with associated salary rates of $72,936 to DFS, requested by Division of Agent & Agency Services, for implementation.
- Makes the following changes that allow or require insurers to take certain actions that would preserve the status of grandfathered health plans which, in general, are plans under which an individual was insured on March 23, 2010, and which are exempt from many of the requirements of PPACA:

- ✓ If a policy form covers both grandfathered health plans and nongrandfathered health plans, the bill allows an insurer to non-renew coverage only for all of the nongrandfathered health plans, subject to certain conditions.
- ✓ Requires that the claims experience for grandfathered health plans be separated from nongrandfathered health plans for rating purposes, as also required by PPACA.
- ✓ Allows an insurer to discontinue a policy form that does not comply with PPACA without being subject to the current prohibition on selling a new, similar policy form after a policy form is discontinued.

- Provides two different definitions of "small employer" – one for grandfathered health plans, which is the current law definition, and one for nongrandfathered health plans, which is the same as the federal definition used for PPACA (but capped at 50 employees, as allowed by PPACA). For nongrandfathered health plans, any state law that applies to small group coverage will apply to coverage for a small employer as defined under PPACA and will no longer apply to an employer who is not a small employer under the federal definition.
- Requires the dissolution of the Florida Comprehensive Health Association (FCHA), which is the state's high risk pool for persons unable to obtain health insurance, by September 1, 2015 and transfers all records to the Department of Financial Services (Division of Rehabilitation and Liquidation). Coverage for current FCHA policyholders will be terminated by June 30, 2014. The FCHA is required to assist each policyholder in obtaining health insurance coverage, which is available to all persons on a guaranteed-issue basis under PPACA beginning October 1, 2013, with coverage beginning January 1, 2014.
- Specifies that health insurers and HMOs may nonrenew individual conversion policies if the individual is eligible for other similar coverage (which is available under PPACA).
- Repeals the statute that establishes the Florida Health Insurance Plan, which has never been implemented.

SB 1844 – Florida Health Choices Program: Chapter 2013-110, LOF; effective July 1, 2013; by Senate Health Policy Committee.
Affected Division(s): Consumer Services; Office of Insurance Regulation

The bill amends s. 408.910, F.S., and expands the current Florida Health Choices Program (FHCP) eligibility guidelines by modifying the participation criteria for individuals and employers as long as other program criteria are met. The bill also clarifies that products sold in the FHCP marketplace are not limited to those specifically listed or to risk-bearing products.

The bill provides Florida Health Choices Corporation (FHCC) more flexibility in setting open enrollment periods and removes product pricing guidelines that are in conflict with the provisions of the federal Patient Protection and Affordable Care Act.

The bill provides that any standard forms, website design, or marketing communication developed by the FHCC and used by the FHCC or any vendor is not subject to the Florida Insurance Code, as established under s. 624.01, F.S.

The bill provides the FHCC with an appropriation of $900,000 of non-recurring general revenue for FY 2013-2014.

SB 1850 – Public Records/Citizens Property Insurance Corporation Clearinghouse:

Chapter 2013-61, LOF; effective July 1, 2013; by Senate Banking and Insurance Committee.
Affected Division(s): Citizens; Office of Insurance Regulation

The bill exempts from public record proprietary business information which is owned or controlled by an insurer participating in the Citizens clearinghouse program created in CS/SB 1770, and:

- Is identified by the insurer as proprietary business information and is intended to be and is treated by the insurer as private in that the disclosure of the information would cause harm to the insurer, an individual, or the company's business operations and has not been disclosed unless disclosed pursuant to a statutory requirement, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public;
- Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to the clearinghouse; and,
- Includes, but is not limited to:
  - ✓ Trade secrets.
  - ✓ Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.
- Proprietary business information may be found in underwriting criteria or instructions which are used to identify and select risks through the program for an offer of coverage and are shared with the clearinghouse to facilitate the shopping of risks with the insurer.

- The clearinghouse may disclose confidential and exempt proprietary business information:
  - ✓ If the insurer to which it pertains gives prior written consent;
  - ✓ Pursuant to a court order; or
  - ✓ To another state agency in this or another state or to a federal agency if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information and has verified in writing its legal authority to maintain such confidentiality.

The bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

SB 1852 – Funding from the National Mortgage Settlement:

Chapter 2013-106, LOF; effective upon the deposit of $200,080,474 into the General Revenue Fund from the escrow account created as a result of the consent judgment entered into by the Attorney General on April 4, 2012, in the case of United States of America, et al. v. Bank of America Corp., et al., No. 12-0361-RMC, in the United States District Court for the District of Columbia; by Senate Appropriations Committee.
Affected Division(s): Office of Financial Regulation

This bill appropriates $200,080,474 to several state entities for various housing and foreclosure-related programs and services, contingent upon such funds being deposited into the state treasury from the National Mortgage Settlement (*United States of America, et al. v. Bank of America Corp., et al.,* No. 305 12-0361-RMC). The agreement settles state and federal lawsuits alleging that the country's five largest mortgage servicers routinely signed foreclosure related documents outside the presence of a notary public and without really knowing whether the facts they contained were correct. Both of these practices violate the law.

Funds are appropriated, with specific restrictions and requirements, as follows:

- $60 million for the State Apartment Incentive Loan Program (SAIL), including:
- $25 million for the elderly;
- $25 million for extremely low-income persons; and
- $10 million for rental developments in which 10 percent to 25 percent of the units are designed for persons with developmental disabilities.
- $40 million for the State Housing Initiatives Partnership Program (SHIP) to be used for:
- Rehabilitating or modifying owner-occupied houses (including blighted homes and neighborhoods);
- Assisting low income families to purchase existing housing;
- Providing housing counseling services;
- Providing lease-purchase assistance; and
- Implementing other approved strategies to assist households impacted by foreclosure, using existing housing stock.

Twenty percent of the SHIP funds must be used for persons with special needs, which includes disabled veterans, former foster care young adults, and domestic violence survivors. First priority for these funds will be for persons with developmental disabilities. The funds will be used for home modifications, including technological enhancements and devices which will allow homeowners to live independently and safely in their own homes.

- $31 million for the State Courts System for the backlog of foreclosure cases, including:
  - ✓ $16 million for temporary court staffing;
  - ✓ $9.7 million for temporary staffing for the clerks of court; and
  - ✓ $5.3 million for court technology improvements.
- $20 million for Habitat for Humanity for rehabilitation of existing housing stock for low-income persons;
- $10 million for legal aid services for low and moderate-income homeowners facing foreclosure;
- $10 million for competitive grants for housing for homeless persons;
- $10 million for competitive grants for housing for persons with disabilities;
- $10 million for competitive grants creating more domestic violence center beds; and
- $9.1 million for Take Stock in Children to purchase prepaid dormitory contracts for students in grades 10 and 11 who are participating in the Florida Prepaid Tuition Scholarship Program.

HB 5401 – Transparency in State Contracting:[19]

Chapter 2013-54, LOF; effective July 1, 2013; by House Government Operations Appropriations Subcommittee.
Affected Division(s): Accounting & Auditing; Information Systems

The Transparency Florida Act (act) requires specified government fiscal and contract information to be made publicly available via website or management system. Among other provisions, it requires:

- The Executive Office of the Governor to establish a website making certain information relating to the state budget open to the public; and
- The Chief Financial Officer to provide public access to a state contract management system providing specified information relating to government contracts.

[19] Requested by the Divisions of Accounting & Auditing and Legal Services.

This bill amends the act relating to government fiscal information websites as follows:

- Requires the creation of a single website through which all other websites required by the act may be accessed;
- Creates style and formatting requirements for all websites required by the act;
- Requires the creation of a website relating to state employee and officer data;
- Requires the creation of a website relating to state fiscal planning data; and
- Adds search criteria and informational requirements to the existing state budget website.

The bill amends the act relating to the state contract management system as follows:

- Renames the state contract management system the state contract tracking system;
- Expands the posting requirements to include the contract itself, certain related procurement documents, and additional related information;
- Creates an exemption from posting requirements for those records that could reveal attorney work product or strategy;
- Authorizes the Chief Financial Officer to regulate or prohibit the posting of certain records, including any that could jeopardize the health, safety, or welfare of the public;
- The Chief Financial Officer may adopt rules to administer the system;
- Requires redaction of confidential or exempt information in a record prior to its posting and creates related provisions; and
- Authorizes the Department of Legal Affairs and the Department of Agriculture and Consumer Services to post the required information on their own websites in lieu of in the state contract tracking system operated by the Chief Financial Officer.

The bill also creates a User Experience Task Force tasked with developing a design for consolidating existing state-managed websites that provide public access to state operational and fiscal information into a single website. The Chief Financial Officer or his/her designee is a member of the Task Force.

Tied to appropriation in the GAA of 4 FTE with associated salary rate of $231,409 and $713,167 from Administrative Trust Fund for staff to implement FACTS and provide capacity for imaging.

HB 7007 – Economic Development: Chapter 2013-39, LOF; effective May 17, 2013, except as otherwise expressly provided; by House Economic Affairs Committee.

The bill addresses a number of activities related to economic development as well as activities under the jurisdiction of the Department of Economic Opportunity (DEO). The only provision of the bill relative to the Department of Financial Services is the CFO or his designee participating on the Florida Small Business Development Network Statewide Advisory Board. The bill provided for the following with regard to the Florida Small Business Development Network:

- Links Florida's Small Business Development Center Network to the statewide strategic economic development plan and the statewide goals of the university system.
- Specifies the composition of the network's statewide advisory board and the support services offered by the network.
- Requires the network to match any direct state appropriation.
- Requires the network to establish incentives for the regional centers to create jobs, institute best practices, and serve new areas of the state or underserved areas.

- Requires the network to regularly report on its programs, services, and outcomes, including its economic benefit to the state.

HB 7083 – Death Penalty: Chapter 2013-216, LOF; effective July 1, 2013; by House Judiciary Committee.
Affected Division(s): Accounting & Auditing

This bill creates the Timely Justice Act of 2013 to increase efficiency in the postconviction or collateral review phase of capital cases. This bill provides that the Justice Administration Commission shall assume all responsibilities in the contracting process for legal respresentation in capital cases and, therefore, remove these responsibilities from the Chief Financial Officer.

HB 7135 – Public Records/Money Services Businesses:[20] Chapter 2013-155, LOF; effective July 1, 2013; by House Insurance and Banking Subcommittee.
Affected Division(s): Information Systems; Workers' Comp; Insurance Fraud; Office of Financial Regulation

This bill is a public records exemption that is linked to CS/CS/HB 217. In pertinent part, CS/CS/HB 217 requires specified information relating to a check cashing transaction exceeding $1,000 to be submitted to a database operated by the Office of Financial Regulation (OFR). This bill creates a public records exemption for payment instrument transaction information held in the database by the OFR. Specifically, any such information that identifies a licensee, payor, payee, or conductor is confidential and exempt from public records disclosure requirements.

This bill authorizes a licensee to access information that it submits to the OFR for inclusion in the database. It also authorizes the OFR to enter into information-sharing agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in certain circumstances, and requires those agencies to maintain the confidentiality of the information, except as otherwise required by court order.

This bill provides for repeal of the public records exemption on October 2, 2018, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

HB 7165 – Early Learning: Chapter 2013-___, LOF; effective July 1, 2013; by House Education Committee. *Presented to Governor 6/17 – action due by 7/2.*
Affected Division(s): Public Assistance Fraud

The bill changes the governance structure of the Office of Early Learning by establishing the Office of Early Learning within the Department of Education's Office of Independent Education and Parental Choice. The Office of Early Learning must be administered by an executive director who is fully accountable to the Commissioner of Education. The bill requires that the Office of Early Learning independently exercise all power, duties, and functions prescribed by law and must not be construed as part of the K-20 education system.

[20] Linked to HB 217, which was requested by Division of Insurance Fraud.

The bill increases accountability and transparency in the administration of early learning programs by requiring the Office of Early Learning to:

- Adopt a list of approved curricula and a process for reviewing and approving provider's curriculum that meets the performance standards.
- Identify a pre-assessment and post-assessment for school readiness program participants.
- Adopt a statewide, standardized contract to be used by coalitions with each school readiness program provider.
- Coordinate with other agencies to perform data matches on individuals or families participating in the School Readiness program.
- Revising procurement and expenditure requirements for early learning coalitions.
- Revising the methodology for calculating the market rate schedule to require that the Office of Early Learning biennially calculate the market rate at the average of the market rate by program care level and provider type in a predetermined geographic market.
- Revising the eligibility criteria for the enrollment of children in the School Readiness program.
- Requiring the Office of Early Learning and each early learning coalition to limit expenditures to no more than 22 percent of funds for any combination of administrative costs, nondirect services, and quality activities in any fiscal year.
- Including provisions for fraud investigations and penalties for early learning coalitions, providers, and parents who submit false information.
- Requiring private providers to maintain a minimum level of general liability insurance, any required workers' compensation, and any required reemployment assistance or unemployment compensation.
- Requiring the Early Learning Advisory Council to periodically analyze and provide recommendations to the office on the effective and efficient use of local, state, and federal funds; the content of professional development training programs; and best practices for the development and implementation of coalition plans.