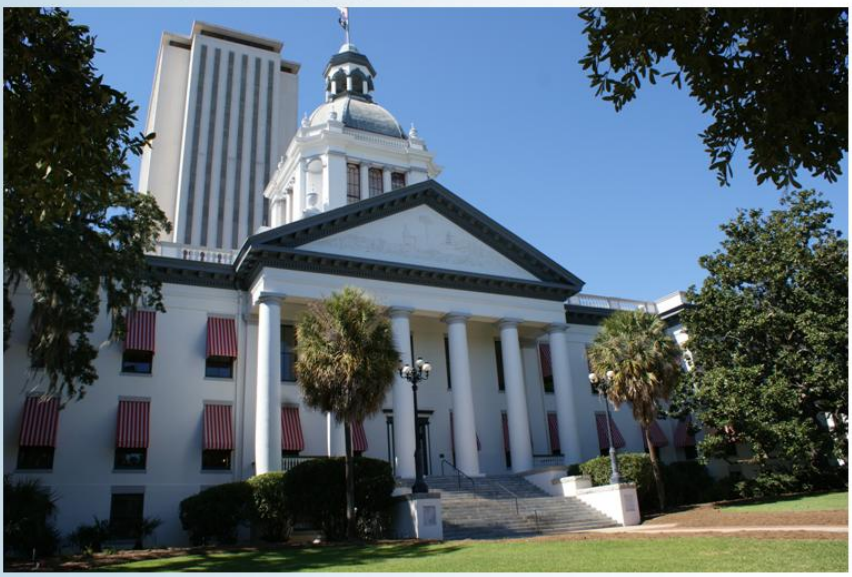
# 2015 Legislative Summary



Department of Financial Services

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Chief Financial Officer

# INTRODUCTION

This document is an overview of legislation passed by the Florida Legislature during the 2015 Regular Legislative Session affecting the Department of Financial Services.

Access to all bills, their final action, legislative staff analyses, floor amendments, bill history and Florida Statutes citations are available through the Internet. The Internet address for the Florida Legislature Online Sunshine web site is:

http://www.leg.state.fl.us

For additional information on legislation passed by the Florida Legislature you may contact the Office of Legislative Affairs at (850) 413-2863.

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## CS/CS/CS/HB 165 — Property and Casualty Insurance

Effective July 1, 2015; Chapter 2015-135, L.O.F.; by Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; and Rep. Santiago (CS/CS/SB 258 by Appropriations Committee; Banking and Insurance Committee; and Senator Brandes)
*Affected Division(s): Consumer Services; Rehabilitation & Liquidation; Office of Insurance Regulation*

The bill makes the following changes to statutes relating to property and casualty insurance:

- Limits the requirement that the chief executive officer or chief financial officer and the chief actuary of a property insurer must certify a rate filing to full property insurance rate filings. Most commercial nonresidential property insurers are not statutorily required to make full rate filings, and thus will no longer have to complete certifications.
- Current law requires the Office of Insurance Regulation (OIR) to consider projected hurricane losses using a model or method found reliable by the Florida Commission on Hurricane Loss Methodology when reviewing a rate filing. This bill increases from 60 days to 120 days the time an insurer is not required to use the newest version of an approved hurricane model.
- Clarifies that commercial property insurance and commercial casualty insurance, other than commercial residential multiperil insurance, is exempt from the requirement to make an annual base rate filing with the OIR.
- Establishes a uniform 120-day advance written notice of nonrenewal, cancellation, or termination for personal and commercial lines residential property insurance policies.
- Clarifies that an insurer has to notify a policyholder of the availability of neutral evaluation of a sinkhole claim only if there is coverage available under the policy and the claim was submitted within the statutory timeframe.
- Amends a provision in the personal injury protection statute to resolve an ambiguity relating to the applicability of medical fee schedules.
- Creates exemptions to the preinsurance inspection requirements for private passenger automobiles.
- Repeals a prohibition against using the existence of the Florida Insurance Guaranty Association (FIGA) for the purpose of sales, solicitation, or inducement to purchase insurance. Such solicitations are required to explain the coverage limits of FIGA which apply to the type of insurance described in the advertisement or solicitation.

## CS/HB 189 — Insurance Guaranty Associations

Effective July 1, 2015; Chapter 2015-167, L.O.F.; by Finance and Tax Committee and Rep. Cummings (CS/CS/SB 600 by Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Richter)
*Affected Division(s): Rehabilitation & Liquidation; Office of Insurance Regulation*

The bill clarifies the statutory accounting treatment of assessments levied by the Florida Insurance Guaranty Association (FIGA) and codifies the Office of Insurance Regulation's interpretation for such treatment. The FIGA provides a mechanism for payment of covered claims of an insolvent property and casualty insurer, and may levy regular assessments and emergency assessments to raise funds to pay the claims. An insurer may recoup such

assessments from policyholders. The bill provides that such assessments are generally admissible assets for purposes of determining the financial condition of an insurer.

The bill also clarifies that the Florida Life and Health Insurance Guaranty Association must review policies, contracts, and claims of both foreign and domestic insurer-members.

## HB 225 — All-American Flag Act

Effective July 1, 2015; Chapter 2015-138, L.O.F.; by Rep. Cortes (SB 590 by Senator Altman)
*Affected Division(s): Administration; Fire Marshal*

The bill requires all United States and state flags purchased on or after January 1, 2016, by the state, a county, or a municipality for public use to be made in the United States entirely from domestically grown, produced and manufactured materials.

## CS/CS/CS/SB 252 — Insurance

Effective July 1, 2015; Chapter 2015-42, L.O.F.; by Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senator Smith (CS/CS/HB 233 by Insurance and Banking Subcommittee; Regulatory Affairs Committee; and Rep. Santiago)
*Affected Division(s): Agent & Agency Services; Consumer Services; Workers' Compensation; Office of Insurance Regulation*
*Report(s): Date changes to current reports; no new reports.*

The bill provides that the absence of a countersignature does not affect the validity of a property, casualty, or surety insurance policy or contract. This could reduce the risk that an insured loses coverage due to events the insured cannot control. Current law provides that no property, casualty, or surety insurer shall assume direct liability unless the policy or contract of insurance is countersigned by a licensed agent.

The bill also:

- Amends the definition of financial guaranty insurance to provide that financial guaranty insurance does not include guarantees of higher education loans unless they are written by a financial guaranty insurance corporation.

- Allows a foreign or alien insurer applying for a certificate of authority to submit a copy of the report of the most recent examination that is up to 5 years old as of the date of the insurer's application.

- Changes the due date for certain annual and biennial reports to the President of the Senate and Speaker of the House of Representatives, specifically:
    - Health Flex Plans Program Evaluation Report jointly submitted by the Agency for Health Care Administration and the Office of Insurance Regulation annually by January 15 rather than January 1.
    - Recommendations submitted by the Workers' Compensation Three Member Panel by January 15 rather than January 1. With the date change, the recommendations will be due January 15, 2017, and biennially thereafter.

- Workers' Compensation Insurance Market Evaluation by the Office of Insurance Regulation annually by January 15 rather than January 1.

## CS/HB 273 — Insurer Notifications

Effective July 1, 2015; Chapter 2015-170; L.O.F.; by Insurance and Banking Subcommittee and Rep. Perry (CS/CS/SB 202 by Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Bradley)
*Affected Division(s): Agent & Agency Services; Consumer Services; Office of Insurance Regulation*

The bill allows a personal lines insurance policy to be electronically delivered to a policyholder who elects electronic delivery in lieu of delivery by U.S. Mail.

The bill allows a Notice of Change in Policy Terms to be sent separately from the Notice of Renewal Premium. Insurers must also provide a sample copy of the Notice of Change in Policy Terms to the insured's insurance agent before, or at the same time, the notice is provided to the insured. The bill prohibits the use of the Notice of Change in Policy Terms to add optional coverage if it increases the premium, unless the policyholder affirmatively approves of the addition of the optional coverage.

## CS/CS/CS/HB 275 — Intrastate Crowdfunding

Effective October 1, 2015; Chapter 2015-170, L.O.F.; by Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; and Rep. Santiago (CS/CS/SB 914 by Appropriations Committee; Banking and Insurance Committee; and Senator Richter)
*Affected Division(s): Office of Financial Regulation; Cabinet (Financial Services Commission)*
*Rule(s): Rule authority given to Financial Services Commission.*

The bill authorizes intrastate crowdfunding as a mechanism for small businesses to raise up to $1 million annually in crowdfunding securities. Issuers and intermediaries engaging in intrastate crowdfunding would be subject to specified requirements under the Florida Securities and Investor Protection Act, which is administered by the Office of Financial Regulation (OFR).

The bill creates an intrastate exemption for securities meeting certain state and federal requirements. The issuer, intermediary, investor, and transaction must be located in Florida in accordance with the federal intrastate exemption. Like the federal Jumpstart Our Business Startups Act (JOBS Act), the bill exempts an issuer and the offering for a 12-month period for an offering of up to $1 million of securities, requires registration for the intermediary, and mirrors the federal law's investment limitations for investors. The bill requires issuer notice filings and intermediary registration with the OFR, disclosures to investors, an escrow agreement for investor funds, a right of rescission, and financial reporting to investors and to the OFR. The bill also gives authority to the Financial Services Commission to adopt rules relating to notice-filings and registration forms, books and records, and investor protections.

The bill provides an appropriation of $120,000 from the Regulatory Trust Fund within the OFR for information technology and workload issues associated with implementation.

## CS/HB 359 — Miami-Dade County Lake Belt Area/Fire Marshal Blasting Study

Effective July 1, 2015; Chapter 2015-141, L.O.F.; by Agriculture and Natural Resources Subcommittee and Rep. M. Diaz (CS/SB 510 by Environmental Preservation and Conservation Committee and Senator Garcia)
*Affected Division(s): Fire Marshal*
*Study required – to be completed by December 1, 2016, or until funding for the study is complete, whichever comes earlier.*

The bill specifies that amendments to local zoning and subdivision regulations must be compatible with limestone mining activities. It prohibits amending zoning and subdivision regulations that increase residential density in the vicinity of mining activities. The bill allows the proceeds from mitigation funds to be used for monitoring, incrementally reduces the mitigation fee, and directs proceeds from the mitigation fee to be used for additional mitigation projects instead of solely for seepage mitigation projects. The bill decreases the water treatment plant upgrade fee to six cents per ton and specifies the water treatment plant upgrade fee expires on July 1, 2018.

The bill transfers two cents per ton of the water treatment plant upgrade fee to the State Fire Marshal to be used for the ground vibration study under s. 552.30, F.S., until December 1, 2016. The transferred funds may not exceed $300,000. Any funds that remain are directed to Miami-Dade County for mitigation and water quality monitoring.

The bill provides legislative findings regarding the water sampling around the Lake Belt and requires Miami-Dade County to submit reports to the Legislature that include an accounting of the water treatment plant upgrade fee and an analysis of the Northwest Wellfield water quality data.

## CS/CS/CS/HB 371 — Agency Inspectors General

Effective July 1, 2015; Chapter 2015-173, L.O.F.; by State Affairs Committee; Appropriations Committee; Government Operations Subcommittee; and Rep. Raulerson (CS/CS/SB 1304 by Fiscal Policy Committee; Governmental Oversight and Accountability Committee; and Senator Latvala)
*Affected Division(s): Inspector General; Administration; Accounting & Auditing; Legal*

The bill authorizes the Chief Inspector General or designee to hire or retain legal counsel and issue and enforce subpoenas under certain circumstances. The bill requires the Office of Early Learning to appoint an inspector general and to mandate additional hiring requirements, employment qualifications, and terms of employment for inspectors general appointed by agencies under the jurisdiction of the Governor.

The bill prohibits a former or current elected official from being appointed inspector general within 5 years after the end of his or her term and prohibits an inspector general and employees of inspector general from holding elective office and provides additional restrictions for an inspector general and their staff for specified political activities.

Also, the bill requires that records must be accessible to agency inspectors general during an audit or investigation. The bill requires specified personnel to cooperate with requests of agency inspectors general during investigations, audits, inspections, reviews and hearings.

Additionally, the bill requires certain language be included in state contracts, bids, and proposals regarding cooperation with the inspector general.

## ~~CS/CS/CS/HB 435 — Administrative Procedures~~ - *VETOED*

Effective July 1, 2015; Chapter 2015-___, L.O.F.; by State Affairs Committee; Government Operations Appropriations Subcommittee; Rulemaking Oversight and Repeal Subcommittee; and Rep. Adkins (CS/SB 718 by Appropriations Committee and Senator Lee)
*Affected Division(s): Legal; Office of Financial Regulation; Office of Insurance Regulation*
*Report(s): Report of rules which violation would be a minor violation by June 30, 2016.*

This bill makes a number of changes to the Administrative Procedure Act (APA), which relate to a state agency's reliance on unadopted or invalid rules and the provision of notices and information to the public. Among the most notable changes, the bill:

- Requires an agency that initiates rulemaking after a public hearing relating to an unadopted rule to file a notice of proposed rule within 30 days.
- Requires an agency to file a notice of proposed rule within 180 days after the notice of rule development unless, before the 180th day, the agency publishes in the Florida Administrative Register a statement explaining its reasons for not having filed the notice.
- Increases the amount of information relating to agency rulemaking which must be published in the Florida Administrative Register.
- Provides that the decision of an administrative law judge on the validity of the rule or unadopted rule is final agency action during a rule challenge that is asserted as a defense to agency action.
- Prohibits an administrative law judge from entering a summary final order with respect to a rule challenge asserted as a defense to agency action.
- Authorizes a the petitioner in a hearing that does not involve disputed facts to assert a rule challenge as a defense to agency action and have the rule challenge decided by an administrative law judge instead of the agency.
- No later than June 30, 2016, and subsequently within 3 months after any request of the rules ombudsman in the Executive Office of the Governor, each agency shall certify to the Senate President, Speaker of the House, the Administrative Procedures Committee, and the rules ombudsman those rules that have been designated as rules the violation of which would be a minor violation.

## CS/SB 466 — Low-voltage Alarm Systems

Effective July 1, 2015; Chapter 2015-50, L.O.F.; by Regulated Industries Committee and Senator Flores (CS/HB 413 by Business and Professions Subcommittee and Rep. Cortes)
*Affected Division(s): Fire Marshal*

The bill amends the definition of Low-voltage Alarm Systems, reduces the maximum permit fee for those systems, and eliminates permit requirements for wireless burglar alarms and smoke detectors. Any electrical device or signaling device used to signal or detect a burglary, fire,

robbery, or medical emergency is an alarm system. A system that is hardwired and operates at low voltage (with or without home-automation equipment, thermostats, and video cameras) is a low-voltage alarm system. The bill excludes wireless alarm systems (burglar alarms and smoke detectors) from all permitting requirements of any local enforcement agency with jurisdiction over building inspections and code enforcement, such as a local government, school board, community college, or university.

In addition to providing changes to the permitting requirements and fees, the bill authorizes local enforcement agencies to coordinate inspections with the owner or customer of low-voltage alarm system projects to ensure compliance with applicable codes and standards. However, the obligation to take corrective action if a project fails an inspection remains with the alarm system contractor.

## SB 520 — Long-Term Care Insurance

Effective July 1, 2015; Chapter 2015-21, L.O.F.; by Senator Grimsley (HB 221 by Rep. Drake)
*Affected Division(s): Consumer Services; Office of Insurance Regulation*

The bill allows an insurer to offer a nonforfeiture protection provision in a long-term care insurance policy that provides for the return of premium if the insured dies or the policy is completely surrendered or canceled.

## SB 522 — Division of Bond Finance

Effective July 1, 2015; Chapter 2015-22, L.O.F.; by Senator Brandes (HB 4007 by Rep. Gaetz)
*Affected Division(s): Cabinet; Treasury*

The bill repeals the requirement for the Division of Bond Finance to issue a regular newsletter containing information of interest relating to local and state bonds to issuers, underwriters, attorneys, investors, other parties within the bond community, and the general public.

## HB 553 — Public Libraries

Effective July 1, 2015; Chapter 2015-117, L.O.F.; by Rep. Perry (SB 434 by Senator Detert)
*Affected Division(s): Potentially All Divisions, Office of Financial Regulation, Office of Insurance Regulation.*
*Report(s): By December 31 annually report publications list. Need to designate a state publications liaison.*

The bill revises the powers and duties of the Division of Library and Information Services (Division) within the Department of State. The Division is required to coordinate with the Division of Blind Services of the Department of Education in the provision of library services to the blind and physically handicapped persons. Additionally, the bill establishes the State Publications Program requiring each state official, department, court, or agency to designate a state publications liaison who is required to maintain a list of their respective entity's state publications and to furnish an updated list to the Division by December 31 of each year.

The duties of the State Library Council are expanded to include advising and assisting the Division with planning, policy, and priorities related to the development of statewide information services. The composition of the Council is modified.

## SB 694 — Florida State Employees' Charitable Campaign

Effective July 1, 2015; Chapter 2015-61, L.O.F.; by Senator Ring (HB 719 by Rep. Cortes)
*Affected Division(s): Accounting & Auditing, Administration*

The bill allows state officers and employees to donate to the Florida State Employees' Charitable Campaign (FSECC) at agency fundraising events without designating specific organizations to receive the funds. The bill provides that the FSECC's fiscal agent must distribute these "undesignated" funds to participating charitable organizations in direct proportion to the percentage of designated funds or pledges received by the organization.

The bill removes additional eligibility requirements for independent unaffiliated agencies, international service agencies, and national agencies wanting to participate in the FSECC.

The bill removes the statutory requirement to establish a local steering committee in each fiscal agent area.

## CS/HB 715 — Eligibility for Coverage by Citizens Property Insurance Corporation

Effective July 1, 2015; Chapter 2015-094, L.O.F.; by Insurance and Banking Subcommittee; and Rep. Raschein (CS/SB 842 by Banking and Insurance Committee; and Senator Benacquisto)
*Affected Division(s): Consumer Services; Office of Insurance Regulation*

The bill prohibits Citizens Property Insurance Corporation from issuing coverage to a major structure as defined in s. 161.54(6)(a), F.S., that is located within the Coastal Construction Control Line or Coastal Barrier Resources System if the permit to build or to increase the total square footage of the structure by more than 25 percent is applied for after July 1, 2015.

## CS/CS/HB 731 — Employee Health Care Plans

Effective July 1, 2015; Chapter 2015-121, L.O.F.; by Insurance and Banking Subcommittee; Health Innovation Subcommittee; and Rep. Plakon (CS/SB 968 by Banking and Insurance Committee and Senator Detert)
*Affected Division(s): Consumer Services; Office of Insurance Regulation*

The bill revises and streamlines provisions relating to the 1992 Employee Health Care Access Act (act) which was enacted to promote the availability of health insurance coverage for small employers (50 or fewer employees) regardless of their claims experience, on a guaranteed issue basis. Many provisions of this act are outdated or conflict with the federal Patient Protection and Affordable Care Act (PPACA). The bill also amends the stop loss insurance provisions for self-insured small employers and self-insured large employers. The bill removes the following requirements from the act:

- Mandated offer of standard, basic, and high deductible plans to small employers with specified benefits. The PPACA requires health plans to provide coverage for ten essential health benefits and other benefits, which are not included in the standard, basic, or high deductible plans;
- Annual August open enrollment period for one-person employer groups. The PPACA requires continuous open enrollment for small groups;
- Submission by insurers of an annual premium report to the Office of Insurance Regulation (OIR); and
- Submission by insurers of the semiannual rating report to the OIR.

## CS/HB 749 — Continuing Care Communities

Effective October 1, 2015; Chapter 2015-122, L.O.F.; by Insurance and Banking Subcommittee and Rep. Van Zant (CS/CS/SB 1126 by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Altman)
*Affected Division(s): Rehabilitation & Liquidation; Office of Insurance Regulation*

The bill revises laws governing continuing care retirement communities (CCRCs), which are facilities that provide shelter and nursing care or personal services to residents upon the payment of an entrance fee. The bill requires continuing care facilities to provide refunds of entrance fees within 90 days after the continuing care contract is terminated and the unit is vacated, instead of within 120 days of the notice to cancel under current law. The bill requires continuing care contracts to specify one of three sources of payment for refunds paid from the proceeds of subsequent entrance fees and prohibits refunds conditioned on receipt of the entrance fee for the same unit after October 1, 2016.

The bill requires continuing care retirement communities (CCRCs) to establish residents' councils, whose activities must be independent of the CCRC.

The bill specifies that continuing care and continuing care at-home contracts are preferred claims in the event of receivership or liquidation and are subordinate only to secured claims.

The bill revises disclosure requirements for third-party audits of the CCRC and notice requirements related to examination reports and any related corrective action plan.

## CS/CS/SB 778 — Local Government Construction Preferences

Effective July 1, 2015; Chapter 2015-63, L.O.F.; by Governmental Oversight and Accountability Committee; Community Affairs Committee; and Senator Hays (CS/CS/CS/HB 113 by Government Operations Subcommittee; Local Government Affairs Subcommittee; State Affairs Committee; and Rep. Perry)
*Affected Division(s): Accounting & Auditing; Legal*

The bill prohibits any local laws that give preference to a local contractor in circumstances involving a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds. The bill requires a state college, county, municipality, school district, or other political subdivision to disclose in the solicitation

document that a local preference is not in effect for that project if the prohibitions contained within the bill apply.

## CS/CS/SB 806 — Regulation of Financial Institutions

Effective October 1, 2015; Chapter 2015-64, L.O.F.; by Rules Committee; Banking and Insurance Committee; and Senator Richter (CS/HB 703 by Insurance and Banking Subcommittee and Rep. Broxson)
*Affected Division(s): Office of Financial Regulation*

The bill makes the following changes to the regulation of financial institutions by the Office of Financial Regulation (OFR):

- Simplifies the process by which a financial institution can notify the OFR when re-designating its main or principal office.
- Specifies the methods for electronically transmitting semiannual assessments and the dates by which assessments must be received by the OFR.
- Deletes the requirement that the OFR select an appraiser to conduct certain real-estate appraisals.
- Provides that the production of books and records of a Florida office of an international banking corporation is not required in response to a subpoena issued in a matter governed by rules of civil procedure if such books and records are maintained outside of the United States and are not in the possession, control, or custody of the international banking corporation's office, agency, or branch established in Florida. This provision does not apply to a subpoena issued on behalf of a federal, state, or local government law enforcement agency, legislative body, or grand jury. Currently, such subpoena requests may relate to records not in the possession of the Florida office or may conflict with the privacy laws of the foreign country regulating the international banking corporation thereby subjecting the Florida office and its officers and employees to be in violation of such privacy laws.
- Specifies the date by which an international banking corporation must provide its annual certification of capital accounts to the OFR.

## CS/SB 836 — Florida Insurance Guaranty Association

Effective July 1, 2015; Chapter 2015-65, L.O.F.; by Banking and Insurance Committee and Senator Latvala (CS/CS/HB 557 by Insurance and Banking Subcommittee; Regulatory Affairs Committee; and Rep. Raburn)
*Affected Division(s): Rehabilitation & Liquidation; Office of Insurance Regulation*

The bill revises provisions governing the Florida Insurance Guaranty Association (FIGA), which provides a mechanism for the payment of covered claims, including unearned premiums, of insolvent property and casualty insurance companies. After an insolvency occurs, FIGA determines if an assessment is needed to pay claims, administrative costs, or bonds issued by FIGA and certifies the need for an assessment levy to the Office of Insurance Regulation (OIR). Then OIR reviews the certification, and if it is sufficient, issues an order to all insurance companies to pay their assessment to FIGA. Generally, insurers must pay regular assessments within 30 days of the levy, and emergency assessments can be paid in a single payment, or over 12 months, at the option of FIGA. For both types of assessments, once an insurance company

pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at policy issuance or renewal. The bill provides the following changes:

- The bill creates a uniform assessment percentage to be collected from policyholders.
- The bill authorizes FIGA to use a monthly installment method for the collection of emergency or regular assessments from insurers in addition to the current pay and recoup method or a combination of both.
- The bill streamlines the reconciliation of collections and eliminates a regulatory filing with OIR.
- The bill codifies OIR's interpretation of an admissible asset for purposes of statutory accounting treatment of FIGA assessments.
- The bill exempts regular assessments from the insurance premium tax. Currently, emergency assessments are exempt from the insurance premium tax.

## HB 887 — Unclaimed Property[4]

Effective July 1, 2015; Chapter 2015-152, L.O.F.; by Rep. Trumbull (SB 1138 by Senator Brandes)
*Affected Division(s): Accounting & Auditing; Legal*
*Action(s): DFS to seek outside council to file a civil action in a court of competent jurisdiction in Leon County, Florida, to determine that title to unclaimed U.S. Savings bonds to escheat to the state. There is no timeline set forth in the bill but General Counsel anticipates it will be within one to two months after the bill is signed.*

The bill creates a process under Florida's Uniform Unclaimed Property Act, whereby the Department of Financial Services (DFS) may commence a civil action for a determination that a U.S. savings bonds may escheat to the State of Florida. The bill specifies that a U.S. savings bond in the possession of the DFS or registered to a person with a last known address in the state is presumed abandoned and unclaimed 5 years after the bond reaches maturity and no longer earns interest. Once such U.S. savings bonds are abandoned and unclaimed, the DFS may file a civil action in a court of competent jurisdiction in Leon County, Florida for a determination that the bond escheats to the state. Prior to any escheat hearing, the DFS must undertake specific efforts to notify registered owners, co-owners, and beneficiaries of the escheat proceedings through notice of publication, as it must do when parties cannot be found through reasonable and customary due diligence efforts. If a person files a claim for a bond, and the court determines the claimant is entitled to the bond, judgment is entered for the claimant. If no person files a claim with the court for the bond, or the court determines the claimant is not entitled to the bond or its proceeds, the court is to enter a default judgment that the bond or its proceeds has escheated to the state.

If the DFS obtains title to these bonds, it places the DFS in the same position as the record owner of the bond, which is necessary to recover proceeds from the Treasury. Once the DFS obtains title to these bonds, it may petition the Treasury for redemption of these bonds in possession, and if necessary, to render a full accounting of the necessary information of absent bonds, which would identify the class of bonds registered with the last known address in Florida. If the

[4] DFS initiated legislation.

proceeds from such bonds are received by the DFS, the bill requires the proceeds to be deposited in the same manner as other forms of unclaimed property in accordance with s. 717.123, F.S. Once bonds escheat to the state, the owners, co-owners, and beneficiaries may recover a bond or the proceeds from a bond by making a claim to the DFS and providing sufficient proof of the validity of the claim.

## CS/CS/HB 893 — Blanket Health Insurance Eligibility

Effective July 1, 2015; Chapter 2015-124, L.O.F.; by Health and Human Services Committee; Health Innovation Subcommittee; and Rep. Ingoglia (CS/CS/SB 1134 by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Hays)
*Affected Division(s): Consumer Services*

The bill expands the types of individuals and entities that are eligible for blanket health insurance coverage. Blanket health insurance policies and contracts are issued to a policyholder, such as a school, business, or an organization, and provide coverage to a group of individuals or participants who share a common activity or operation of the policyholder. The coverage is for persons participating in specific activities and coverage begins and ends with the covered activity.

## CS/HB 927 — Title Insurance

Effective July 1, 2015; Chapter 2015-154, L.O.F.; by Insurance and Banking Subcommittee and Rep. Hager (CS/SB 1136 by Banking and Insurance Committee and Senator Hukill)
*Affected Division(s): Rehabilitation & Liquidation; Office of Insurance Regulation*
*Rule(s): Rule authority given to the DFS and Financial Services Commission*

The bill revises procedures for dealing with insolvent title insurers. There is no guaranty fund for title insurers in Florida. If funds are necessary to pay the claims against insolvent of title insurers, all title insurers doing business in Florida are liable for an assessment to pay those claims. The Department of Financial Services (DFS) acting as receiver, and the Office of Insurance Regulation (OIR) determine the amount of money necessary and order an assessment. The title insurers recover the assessment by collecting a surcharge on each title policy issued in Florida.

To prevent an insurer from gaining a competitive advantage, each title insurer is required to continue to collect the surcharge until all title insurers have recovered their assessments. Current law provides that surcharges collected in excess of the assessment amount are paid to the state.

The bill creates a mechanism for using excess surcharges to reduce the time that surcharges are collected. It provides that when a company has collected surcharges in excess of the amount it was assessed, the company shall pay the excess to the receiver. The receiver must maintain the money in an excess surcharge account and may use the excess surcharges only:

- To reduce or eliminate the amount of a future assessment for a title insurer currently in receivership or that later enters receivership; or
- To reduce the amount of time that consumers in the state are subject to surcharges by transferring the excess to title insurers that have not fully collected surcharges equal to the amount of the aggregate assessments they paid pursuant to s. 631.400, F.S.

If the receiver has no active title insurer receiverships for 12 consecutive months or there have been no payable claims against any title insurer receivership for 60 consecutive months, all excess surcharges held by the receiver must be paid to the Insurance Regulatory Trust Fund within DFS.

The bill also allows the OIR to order an additional surcharge in situations where a surcharge is being collected. If a surcharge is already in effect at the time of an assessment, the bill allows OIR to order an additional surcharge based on a new assessment.

DFS is provided with rule authority to specify procedures for claiming, distributing, and using excess surcharge account funds held by the receiver.

## SB 984 — Exemption from Legislative Lobbying Requirements

Effective July 1, 2015; Chapter 2015-28, L.O.F.; by Senator Braynon (HB 599 by Rep. Rogers)
*Affected Division(s): Administration; Legal; Risk Management*

The bill clarifies that the use of a public facility or public property provided from a governmental entity to a legislator for a public purpose is not an expenditure for purposes of the "legislative expenditure ban" in s. 11.045, F.S., regardless of whether the governmental entity is a principal. Unlike the current Rules of the Florida Senate and the Administrative Policy Manual of the Florida House of Representatives, this statutory exception does not include any requirement for approval by the presiding officers prior to the expenditure being made between the governmental entity and the legislator.

## CS/HB 985 — Maintenance of Agency Final Orders

Effective July 1, 2015; Chapter 2015-155, L.O.F.; by Rulemaking Oversight and Repeal Subcommittee and Rep. Eisnaugle (CS/SB 1284 by Governmental Oversight and Accountability Committee and Senator Soto)
*Affected Division(s): Legal*
*Report(s): Beginning July 1, 2015 submit electronically to DOAH's electronic data base specified final orders.*
*Action(s): Maintain a list of final orders by subject-matter for final orders prior to July 1, 2015.*

The bill revises the requirements governing the maintenance of all agency final orders and requires each state agency to electronically transmit specified final orders rendered on or after July 1, 2015, to the electronic database of the Division of Administrative Hearings (DOAH) within 90 days of rendering such order. The bill provides database requirements for DOAH.

The bill requires that each state agency maintain a list of all final orders that are not required to be electronically transmitted to DOAH's database. A state agency must maintain a subject-matter index for final orders rendered before July 1, 2015, and identify the location of this index on the agency's website. DOAH'S database will constitute the official compilation of administrative final orders rendered after July 1, 2015, for each agency.

The bill revises the duties of the Department of State (DOS) to coordinate the transmittal and listing of agency final orders. DOS is required to provide standards and guidelines for the certification, electronic transmittal, and maintenance of agency final orders in DOAH's database.

The bill authorizes DOS to adopt rules that are binding on state agencies and DOAH, which acts in the capacity of official compiler of final orders. DOS is also authorized to designate an alternative official compiler under certain circumstances.

Further, the technical assistance advisements issued by the Department of Revenue continue to be exempt from the final order maintenance requirements specified in s. 120.53, F.S.

## SB 1010 — False Personation

Effective October 1, 2015; Chapter 2015-29, L.O.F.; by Senator Braynon (HB 117 by Rep. Watson)
*Affected Division(s): Fire Marshal*

This bill revises the list of officials who are prohibited from being falsely personated to include firefighters and fire or arson investigators of the Department of Financial Services.

For purposes of the prohibition of falsely personating a "watchman," the bill clarifies that a "watchman" is a security officer licensed under ch. 493, F.S. The bill also removes reference to falsely personating an "officer of the Department of Transportation." False personation of these officers is covered under the current prohibition against falsely personating an "officer of the Florida Highway Patrol."

The bill also prohibits the use of badges or indicia of authority bearing in any manner or combination the words "fire department" and the ownership or operation of vehicles marked by the words "fire department." Further, relevant to these offenses, the bill modifies criminal intent language to require proof that the offender had the intent to mislead or cause another person to believe that:

- The offender is a member of a criminal justice agency or fire department or is authorized by such agency or department to wear or display its badge; or
- The vehicle the offender owns or operates is an official law enforcement vehicle or fire department vehicle and its use by the offender is authorized by such agency or department.

## ~~CS/CS/HB 1087 — Operations of the Citizens Property Insurance Corporation~~ - *VETOED*

Effective July 1, 2015; Chapter 2015-___, L.O.F.; by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Rep Bileca (CS/CS/SB 1006 by Appropriations Committee; Banking and Insurance Committee; and Senator Flores)
*Affected division(s): Agent & Agency Services; Legal; Office of Insurance Regulation*

The bill makes the following changes relating to Citizens Property Insurance Corporation:

- Allows the consumer representative to the Citizens Board of Governors to be afforded the same conflict of interest exemption as other board members.
- Requires agents who write business for Citizens to hold an appointment with an admitted carrier that is currently writing or renewing policies in the state.
- Allows Citizens to share underwriting and claims files data with entities that have obtained a permit to become an authorized insurer, reinsurer, broker, or modeling company. Such data may not be used for direct solicitations and must be kept confidential.
- Requires Citizens to make changes, by January 1, 2016, to their plan of operation as it relates to take-out agreements made with private insurers.
- Requires that private companies must include in their take-out offers to Citizens policyholders, a comparison of coverages and rate between the insurer's policy and Citizens policy.
- Allows a Citizens policyholder who declines a take-out offer the option to be excluded from future take-out agreements for up to 6 months.
- Allows a Citizens policyholder, who accepts a take-out offer, the ability to reapply to Citizens and be treated as a renewal through the clearinghouse if within 36 months of leaving Citizens their premium is increased above the rate allowed under the Citizens glide path.

## CS/CS/CS/SB 1094 — Peril of Flood

Effective July 1, 2015; Chapter 2015-69, L.O.F.; by Rules Committee; Community Affairs Committee; Banking and Insurance Committee; and Senator Brandes (CS/CS/HB 895 by Insurance and Banking Subcommittee; Regulatory Affairs Committee; and Rep. Ahern)
*Affected Division(s): Agent & Agency Services; Consumer Services; Insurance Fraud; Office of Insurance Regulation*

The bill expands the flood insurance that may be offered by admitted insurance carriers, requires local governments to include a redevelopment component to reduce the risk of flood when drafting comprehensive coastal management plans, and requires surveyors and mappers to submit elevation certificates to the Division of Emergency Management.

The bill allows insurers to issue flood insurance policies, contracts, or endorsements on a flexible flood insurance basis. Flexible flood insurance coverage is defined as coverage for the peril of flood that may include water intrusion coverage and differs from standard or preferred coverage by including one or more of the following:

- An agreed upon amount of coverage between the insurer and policyholder.
- A deductible as authorized in s. 627.701, F.S.
- Adjustment in accordance with s. 627.7011(3), F.S., or adjusted only on the basis of the actual cash value of the property.
- Limitation of coverage to only the principal building, as defined in the policy.
- Provisions including or excluding coverage for additional living expenses.
- Provisions excluding coverage for personal property or contents.

The bill revises other provisions related to flood insurance. It deletes the prohibition against supplemental flood insurance including excess flood coverage over other flood insurance. The

bill requires the insurer to provide an appropriate credit or discount to an insured whose rate is determined to be excessive or unfairly discriminatory by the Office of Insurance Regulation (OIR).

The bill allows an insurer to request from the OIR a certification that acknowledges that the insurer provides a policy, contract, or endorsement for the flood insurance that provides coverage equaling or exceeding the flood coverage offered by the NFIP. A certified policy must be in compliance with 42 U.S.C. s. 1042a(b), which requires federally regulated lending institutions to accept private flood insurance that insures the building and personal property securing the loan for the term of the loan in an amount not less than the outstanding principal balance of the loan or the limit of NFIP flood insurance coverage, whichever is less. An insurer or its agent may reference or include such certification in advertising and communications with an agent, a lending institution, an insured, and a potential insured. The authorized insurer may also include a statement that notifies an insured of the certification on the declarations page or other policy documentation related to flood coverage. Knowingly misrepresenting that a flood insurance policy is certified is an unfair or deceptive act.

The bill requires local governments, when drafting their comprehensive coastal management plans, to include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas. Such plans must encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency. Plans should also identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state. The plan must be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60. The plan must require any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053, F.S., be consistent with chapter 161. Plans must also encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

The bill requires surveyors and mappers to submit elevation certificates to the Division of Emergency Management. The bill defines an elevation certificate as the certificate used to demonstrate the elevation of property which has been developed by Federal Emergency Management Agency under federal floodplain management regulation or which is completed by a surveyor and mapper. Beginning January 1, 2017, a surveyor and mapper who completes an elevation certificate must, within 30 days of completion, submit a copy of the certificate to the Division of Emergency Management.

## CS/CS/HB 1127 — Insurance Fraud[5]

Effective October 1, 2015; Chapter 2015-179, L.O.F.; by Appropriations Committee; Insurance and Banking Subcommittee; and Rep. Sullivan (CS/CS/SB 1306 by Appropriations Committee; Banking and Insurance Committee; and Senator Bradley)
*Affected Division(s): CFO Appointments Manager; Insurance Fraud; Legal*
*Action(s): Motor Vehicle Insurance Fraud Direct-Support Organization (s. 626.9895, F.S.) is repealed. Notify Board of Directors of the "Automobile Insurance Fraud Strike Force" of the dissolution. Repeal rule(s) relating to DSO. Notify Department of State of dissolve of Automobile Insurance Fraud Strike Force, Inc. non-profit corporation registration (Document N12000004279). Notify Internal Revenue Service of dissolution (Employer Identification No. 80-0810394).*

The bill provides that knowingly making an unlawful claim for reimbursement made on behalf of an unlicensed clinic or a clinic operating in violation of the Health Care Clinic Act is considered theft, regardless of whether payment is made. The bill also specifies that an knowingly owning, operating, managing or maintaining an unlicensed clinic; or offering or advertising services without licensure under the Health Care Clinic Act or the Health Care Licensing Procedures Act is a third degree felony, regardless of whether the Agency for Health Care Administration (agency) has provided notice to the entity that it is illegally engaging in unlicensed activity. If the agency provides a notice of unlicensed activity or a person is arrested for such actions, each day during which the above violations occur is a separate offense. A person convicted of a second or subsequent violation commits a second degree felony. The bill also specifies that a person commits a third degree felony if the person fails to report required information to the agency.

In 2012, the Department of Financial Services established a direct-support organization to support the prosecution, investigation, and prevention of motor vehicle insurance fraud.[6] The direct support organization has engaged in limited organizational activity during its existence. The bill repeals the statute authorizing the direct support organization.

## CS/CS/HB 1133 — Division of Insurance Agent and Agency Services[7]

Effective July 1, 2015; Chapter 2015-180, L.O.F.; by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Rep. Fant (CS/CS/SB 1222 by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Richter)
*Affected Division(s): Agent & Agency Services; Information Systems; Legal*
*Action(s): Update DFS website information; rule adoption*
*Rule(s): The Department shall adopt rules establishing standards for the approval of curriculum.*

The bill revises certain insurance agent responsibilities and licensing requirements as follows:
***General Lines Agents:***

- Repeals a restriction that limits general lines agents to selling health insurance only for companies which also sell property, casualty, or surety insurance;

[5] DFS initiated legislation.
[6] The direct-support organization (Automobile Insurance Fraud Strike Force) was established in Chapter 2012-197, LOF.
[7] DFS initiated legislation.

- Revises the experience and educational requirements for general lines agent applicants and personal lines agent applicants; and
- Exempts applicants for licensure as general lines agents or all-lines adjusters from certain examination requirements if they have a degree in insurance or designations from various insurance industry organizations.

***Life and Health Agents:***

- Revises the qualifications for licensure of life and health agents by modifying the course work requirements, requiring specific designations, and repealing obsolete references to correspondence courses.

***Agents in Charge of an Insurance Agency:***

- Provides that the agent-in-charge of an insurance agency must be licensed to transact at least two of the lines of insurance being handled at an agency location instead of being licensed to handle all lines of insurance.

***General Agent Provisions:***

- Requires agents to maintain certain policy records for 5 years after policy expiration;
- Clarifies that licensed agents can charge and collect the "exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card" in addition to the premium charged by insurers; and
- Permits agents to deliver notices of insolvency by electronic mail with delivery receipt required.

***Customer Representatives:***

- Modifies the licensure requirements for customer representative and repeals the written examination requirement;
- Revises the educational requirements and repeals the examination requirement for applicants for licensure as a customer representative;
- Allows customer representatives to receive commissions as long as the commissions are not the primary source of compensation; and
- Allows agents to divide commissions with a customer representative.

***Licensure Examinations:***

- Provides that applicants for licensure as a personal lines agent, a life agent, or a health agent is subject to an examination only on pertinent provisions of the Florida Insurance Code if the applicant meets specified educational requirements; and
- Specifies that a prelicensure course provider may not grant completion credit unless the student completes at least 75 percent of the required course hours.

The bill also defines the term "surrender" for purposes of premiums related to the surrender of an annuity or life insurance policy and revises the notice requirements for recommending the surrender of an annuity contract or life insurance policy by including e-mail delivery with delivery receipt.

## CS/HB 4011 — Motor Vehicle Insurance

Effective July 1, 2015; Chapter 2015-158, L.O.F.; by Insurance and Banking Subcommittee and Rep. Goodson (CS/CS/SB 234 by Judiciary Committee; Banking and Insurance Committee; and Senator Montford)

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

The bill removes the limitation that no more than four automobiles may be insured on the same private passenger motor vehicle insurance policy. This would allow any number of automobiles to be insured under one private passenger motor vehicle insurance policy.

## SB 7008 — OGSR/Licensure Examination Questions/Board of Funeral, Cemetery, and Consumer Services

Effective October 1, 2015; Chapter 2015-71, L.O.F.; by Banking and Insurance Committee (HB 7051 by Government Operations Subcommittee)
*Affected Division(s): Funeral, Cemetery & Consumer Services*

The bill is the result of an Open Government Sunset Review (OGSR) by the Banking and Insurance Committee professional staff of the public-meeting exemption for portions of meetings of the Board of Funeral, Cemetery, and Consumer Services ("board") at which licensure examination questions or answers are discussed. The exemption also includes the recording of the portion of the meeting that is closed for discussion of licensure examination questions or answers.

The board enforces provisions of ch. 497, F.S., relating to funeral and cemetery services. It also has broad authority over licensure and examination of applicants for various licenses. That authority includes specifying the content of examinations for licensure, striking any examination question determined before or after an examination to be inappropriate, and specifying which national examinations shall or shall not be required or accepted in Florida.

Current law provides that those portions of meetings of the board at which licensure examination questions or answers are discussed are exempt from public meetings requirements. The closed meeting must be recorded, and no portion of the closed meeting may be off the record. The recording shall be maintained by the board. The recording of a closed portion of a meeting is exempt from public record requirements. This bill repeals the scheduled expiration of the public meetings exemption and takes effect on October 1, 2015.

## SB 7012 — OGSR/Credit History Information and Credit Scores/Office of Financial Regulation

Effective October 1, 2015; Chapter 2015-73, L.O.F.; by Banking and Insurance Committee (HB 7089 by Government Operations Subcommittee)
*Affected Division(s): Office of Financial Regulation*

The bill reenacts the public records exemption that makes credit history information and credit scores held by the Office of Financial Regulation (OFR) confidential and exempt from public-records requirements. The OFR regulates loan originators (non-depository mortgage brokers and mortgage lenders). Applicants for initial licensure or renewal of a license must meet minimum requirements in order to demonstrate character, financial responsibility, and general fitness, as required by the federal SAFE Mortgage Licensing Act of 2008. As part of this licensure process, an applicant must authorize the release of an independent credit report and credit score to the OFR.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2015, unless reenacted by the Legislature. The reenactment of the exemption would continue to protect sensitive personal financial information of applicants from being disclosed. The release of such sensitive personal information would be defamatory and make those persons vulnerable to identity theft and other crimes.

## HB 7023 — Administrative Procedures

Effective July 1, 2015; Chapter 2015-162, L.O.F.; by Rulemaking Oversight and Repeal Subcommittee and Rep. Ray (CS/SB 7056 by Appropriations Committee, and Governmental Oversight and Accountability Committee)
*Affected Division(s): Information Systems; Legal*
*Report(s): Changes are made to current rule reporting requirements and timeframes. Regulatory Plans prior to July 1, 2014 are to be maintained online for 10 years after the date of initial publication.*
*Action(s): By October 1 of each year, each agency shall prepare a regulatory plan.*

The bill replaces the biennial summary reporting requirement with an expanded, annual regulatory plan prepared by each agency. It requires each state agency to determine whether each new law creating or affecting the agency's authority will require new or amended rules. If so, the agency must initiate rulemaking by November 1. If not, the agency must state concisely why the law may be implemented without additional rulemaking. The regulatory plan also must identify each existing law for which the agency will initiate rulemaking in the current fiscal year. The agency head and the agency's principal legal advisor must certify that they have reviewed the plan and that the agency conducts a review of its rulemaking authority.

The existing 180-day requirement is revised to coincide with the specific publishing requirements for state agencies that consist of October 1 for the regulatory plan, November 1 for the rule development and April 1 (of the year following the deadline for the regulatory plan) for the notice of proposed rule. The deadline for notice of proposed rule may be extended if the state agency publishes a notice of extension and includes a concise statement identifying issues causing the delay. This extension will expire on October 1; however, the regulatory plan published on October 1 may further extend the proceeding.

The bill repeals s. 120.7455, F.S., pertaining to the online survey of regulatory impacts. Additionally, the bill rescinds the suspension of rulemaking authority made under s. 120.745, F.S.

## SB 7024 — State Board of Administration

Effective July 1, 2015; Chapter 2015-75, L.O.F.; by Governmental Oversight and Accountability Committee (HB 913 by Rep. Trumbull)
*Affected Division(s): Cabinet; Treasury*

The bill repeals the current limitation on the authority of the State Board of Administration to invest the funds of the Florida Retirement System Trust Fund in institutions doing business in or with Northern Ireland. The bill directs the State Board of Administration to distribute any residual balance in the Fund B Surplus Funds Trust Fund, after the original principal balance has

been repaid to the trust fund participants, based on each's participant's proportional share of the November 2007 interest earnings that were withheld from distribution and transferred to the Fund B Surplus Funds Trust Fund.

## HB 7061 — Public Records/Florida RICO Act

Effective July 1, 2015; Chapter 2015-99, L.O.F.; by Civil Justice Subcommittee and Rep. Passidomo (CS/SB 1536 by Criminal Justice Committee and Senator Flores)
*Affected Division(s): Fire Marshal; Insurance Fraud; Public Assistance Fraud; Legal*

This bill makes confidential and exempt from public disclosure information held by an investigative agency pursuant to an investigation of a violation of the Florida Racketeer Influenced and Corrupt Organization (RICO) Act. The bill provides a public necessity statement in support of the exemption.

This confidential and exempt information may be disclosed by the investigative agency to a governmental entity in the performance of its official duties and to a court or tribunal. The information is no longer confidential and exempt once all investigations to which the information pertains are completed, unless the information is otherwise protected by law. An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.