

FLORIDA INSURANCE REPORT

Legislative Issue

KEEPING YOU INFORMED ABOUT FLORIDA

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Breaking Down the “Insurer Accountability” Bill

The 2023 Florida Legislature passed SB 7052, commonly referred to as the insurer accountability bill. The bill came as a surprise to some after the legislature adopted meaningful property insurance reforms in a December 2022 special session and enhanced those reforms earlier in the 2023 session. Some observers commented that SB 7052 will reduce the effectiveness of the earlier reforms and moderate capital providers’ interest in returning to the Florida property market. The bill’s supporters, on the other hand, argue that it is necessary to retain balance between increasing the Florida market’s attractiveness to capital providers and ensuring insurers’ compliance with the insurance code. In sum, the bill’s supporters believe increased regulatory scrutiny and penalties are needed to make up for the reduced role of civil actions in compelling insurers’ compliance (due to the elimination of the statutory right to attorneys’ fees and other reforms).

On balance, the prior reforms should result in an improved market over the next 18-24 months. The extent to which these benefits are mitigated by counterbalancing measures such as the insurer accountability bill remains to be seen.

As of this publication, the bill has been presented to Governor Ron DeSantis and remains in its 15-day window in which the bill may become law or is subject to veto. If










the bill becomes law, its provisions generally will take effect July 1, 2023. The following takes a closer look at key changes in the bill:

OIR Report of Actions Against Insurers - The bill requires the Office of Insurance Regulation to publish a report of insurer violations on its website and provide the report to the Financial Services Commission, the President of the Senate, the Speaker of the House of Representatives, and the relevant legislative committees overseeing insurance. The Financial Services Commission consists of the Governor, Chief Financial Officer, Attorney General, and Commissioner of Agriculture. The report must identify regulatory actions taken against insurers such as license revocations and suspensions, license denials, consent orders, examination results, and fines. The reports must be published at quarterly and annual intervals.

Examinations Based on Risk Assessment - Under existing law, OIR must examine insurers at least once every five years (and may examine insurers more frequently in its discretion). SB 7052 retains the five-year requirement for insurers deemed to present average or low risk, but reduces

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the interval to every three years for insurers deemed to present high risk. The bill identifies 11 factors for the OIR to consider in determining the risk presented by an insurer. Among these factors, the OIR must consider the insurer's level of capitalization, negative trends in profitability, certain ratios commonly used in regulatory analyses, and the results of examinations or regulatory actions. The bill also gives OIR discretion to consider circumstances other than the specifically-identified factors.

Mandated Examinations After Hurricanes - The legislature has updated existing post-hurricane examination criteria and made them mandatory. Under the bill, the OIR must examine an insurer after a hurricane if it is among the top 20% in its ratio of hurricane claim-related complaints to its hurricane claims. Likewise, the OIR must examine an insurer if it is in the top 20% in ratio of hurricane claims closed without payment to total hurricane claims, if it has made signifi-

cant payments to an MGA after a hurricane, or if the OIR otherwise believes there are factors warranting examination. The bill tasks the OIR with adopting a rule related to scheduling examinations. The rule also dictates circumstances in which the OIR must review the claims-handling practices of liability insurers.

Increased Penalties for Non-Compliance - SB 7052 significantly increases the monetary penalties for violations of the insurance code. Penalties for nonwillful violations increase from up to \$5,000 per occurrence and \$20,000 for all violations arising from the same action, to \$12,500 per occurrence and \$50,000 for all violations arising from the same action. For nonwillful violations arising from covered losses or claims related to a declared emergency, the penalties will increase up to \$25,000 per occurrence and \$100,000 for all violations arising from the same action.

As under current law, the penalties for willful violations are much higher than those for nonwillful violations. SB 7052 provides that the penalties for willful violations related to declared emergencies will be up to \$200,000 (\$1,000,000 aggregate) and for other circumstances will up to \$100,000 (\$500,000 aggregate).

Required Notice for Temporary Suspension of Writing New Residential Property Policies - With limited exceptions, the bill requires an insurer to notify the Office of Insurance Regulation "before temporarily suspending writing new residential property insurance policies in this state." The notice must specify the insurer's reasons for the suspension, the effective dates of the suspension, and the proposed communication to agents. The notice must be provided on a form to be adopted by OIR rule.

Determination of Hazardous Condition - SB 7052 establishes standards by which the OIR may determine that an insurer is in hazardous condition. The bill includes 30 standards for the OIR in making this determination, including a broad discretionary standard. Some of the statutory standards include adverse findings in examinations, the sufficiency of an insurer's reinsurance program, the magnitude of operating losses, and the insurer's reliance on debt or capital infusions. The bill then allows the OIR to issue an order addressing the identified concerns, including among other things reducing writings, filing additional reports, correcting governance deficiencies, and adjusting rates.

Altering Adjuster's Reports - The bill defines as an unfair trade practice altering an insurance adjuster's report without (i) providing an explanation of changes reducing the estimate of loss, (ii) including a list of changes to the report and the identity of persons making them, and (iii) retaining all versions of the report.

Identification of Discounts - By October 1, 2023, a residential property insurer must provide information on its website describing the mitigation discounts available to policyholders. The information must be accessible on, or through a link located on, the website's home page or the primary page for policyholders or applicants for property insurance coverage in Florida. The bill also requires the Office of Insurance Regulation by January 1, 2025, and every five years thereafter, to reevaluate the discounts.

Regulatory Filing of Claims Manuals - Each authorized residential property insurer will be required to file its claims manual by August 1, 2023, and

annually thereafter by May 1. At a minimum, the claims manual must address eight areas listed in the bill including the process for receiving and acknowledging initial claims, making estimates of covered damages, paying or denying claims, and complying with applicable laws pertaining to claims-handling.

Limitation on Cancelling or Nonrenewing Damaged Property - SB 7052 amends an existing law that limits cancellation or nonrenewal of policies covering property damaged in a hurricane or wind loss. As revised, the law would preclude a residential property insurer from cancelling or nonrenewing a policy for a period of 90 days after the property has been repaired for property damaged as a result of a declared emergency that also is subject

to an order filed by OIR, and until the earlier of the repairs or one year after the insurer's final payment for property damaged by any other hurricane or wind loss. The revised law would encompass property damaged in Hurricane Ian and Hurricane Nicole.

Reduced Time to Respond to Service Requests - The bill reduces the time for insurers to respond to service requests (typically received from the Department of Financial Services) from 20 days to 14 days. The bill also increases the penalty for a late response from \$2,500 to \$5,000.

Consideration of Law Changes in Rate Filings - On and after July 1, 2023, every residential property insurer and motor vehicle insurer will be

required in its rate filings to reflect the projected savings associated with reductions in claims frequency, severity and loss adjustment expenses due to 2021, 2022 and 2023 law changes. The bill authorizes the OIR to contract with a vendor to assist in evaluating the combined effect of the recent law changes. The bill is not intended to create a mandatory minimum rate decrease for insurers, but instead to ensure that filed rates are not excessive, inadequate or unfairly discriminatory while allowing insurers a reasonable rate of return. This law change does not apply to reinsurance cost filings submitted pursuant to section 627.062(2)(k), Florida Statutes.

- Travis Miller

Law Changes Expected to Produce OIR Rulemaking

The Florida Legislature increased regulatory oversight over the insurance industry in its insurer accountability bill (SB 7052) as summarized separately in this report. The law changes will require the Office of Insurance Regulation to adopt a series of administrative rules. In several cases, the rulemaking process should result in rule workshops this summer as the OIR seeks to meet the October 1, 2023, deadline for presenting proposed rules to the state's Financial Services Commission.

Examination Scheduling—SB 7052 will require the OIR to adopt a rule related to its risk-based approach for scheduling insurer examinations. High-risk insurers will be examined at least once every three years, whereas other insurers will be examined every five years. The OIR must propose a rule and a plan for implementing the new examination schedule by October 1, 2023.

NAIC Financial Analysis Handbook—The OIR is authorized to adopt the NAIC Financial Analysis Handbook to the extent not inconsistent with the new examination requirements of SB 7052.

Market Conduct Examinations—The OIR is charged with adopting a rule related to scheduling market conduct examinations. The rule must prioritize examinations for insurers subject to certain regulatory actions in another state and insurers that have adverse ratios for certain types of complaints. The OIR must present its proposed rule to the Financial Services Commission by October 1, 2023.

Claims Manual Filing Requirement—The new bill grants emergency rulemaking authority for implementing the requirement for authorized residential property insurers to file their claims manuals by August 1, 2023, and annually thereafter by May 1. The emergency rules may be renewed during the pendency of subsequent rulemaking by the OIR to adopt permanent rules.

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Auto Glass Reform Heads to Governor's Desk

The Florida Legislature overwhelmingly passed SB 1002 to address abusive auto glass claim and litigation practices. Similar legislation was filed but had failed to pass in five prior legislative sessions. The bill addresses inducements and required disclosures by repair shops, assignment of benefits, anti-steering, and discounts for managed repair auto glass programs.

Unlawful Inducements. The bill amends section 559.920, Florida Statutes, and prohibits a motor vehicle repair shop from providing inducements such as rebates, gifts, gift cards, cash, coupons or any other thing of value, in exchange for making an insurance claim for motor vehicle glass replacement or repair, including the calibration or recalibration of an advanced driver assistance system (ADAS). Nonemployees who are compensated for soliciting insurance claims are also prohibited from offering such inducements. Motor vehicle repair shops are subject to disciplinary actions for engaging in these prohibited inducements.

Required Disclosures Relating to ADAS. Repair shops must also provide electronic or written notice to a customer addressing whether the calibration or recalibration of an ADAS is required as part of the replacement or repair of motor vehicle glass to make the ADAS operable and to ensure that the service meets or exceeds the specifications of the vehicle manufacturer. Motor vehicle repair shops would be subject to disciplinary actions for failing to provide such written disclosures.

Assignment of Benefits (AOBs). SB 1002 creates section 627.7289 which prohibits a policyholder, or any other person, from entering an assignment agreement of post-loss benefits for motor vehicle glass replacement or repair, including for calibration or recalibration of ADAS. The bill specifies that an "assignment agreement" includes any agreement whereby post-loss benefits under a motor vehicle insurance policy are assigned or transferred to a person providing services for motor vehicle glass replacement or repair, including inspecting, protecting, repairing, restoring, or replacing the motor vehicle glass or calibrating or

recalibrating advanced driver assistance systems.

Anti-Steering. SB 1002 also creates a new statute in section 627.7289 which prohibits any person from requiring a claimant to use a particular company for motor vehicle

windshield glass replacement, repair, or calibration services. This provision addresses auto glass repair shops' concern that insurers steer their customers to certain repair facilities with whom the insurer has a contractual relationship. However, the bill also specifies that an insurer or a person acting on the insurer's behalf may provide an explanation of motor vehicle comprehensive coverage benefits and any applicable limit of liability to a claimant, and the bill does not create a private cause of action.

Managed Repair Programs. The bill also requires insurers to provide policyholders with an actuarially sound discount if the insurer offers a policy, and the insured accepts such policy, that contains a managed repair arrangement for the provision of windshield glass replacement, repair, or calibration services. Insureds agree to use certain repair facilities for auto glass repairs under such arrangements and would receive a discount for agreeing to those provisions.

The bill was signed by Governor DeSantis on May 25, 2023. Except as otherwise provided in the bill, SB 1002 will take effect when it becomes law. The anti-assignment provisions in the bill have a separate effective date and apply to "a policy of motor vehicle insurance issued or renewed in this state by an authorized insurer on or after July 1, 2023."



- Bert Combs

Rulemaking - Cont. from Page 3

Temporary Suspensions of New Business Writings—SB 7052 envisions that the OIR will adopt a form by which authorized insurers must notify it before temporarily suspending writing new residential insurance policies in Florida. There is no defined time period for proposing the form or associated rule.

Determinations of Hazardous Financial Condition—The OIR is authorized, but not required, to adopt rules related

to statutes governing administrative supervision and hazardous financial condition.

Mitigation Discounts—SB 7052 requires OIR to reevaluate mitigation discounts by January 1, 2025, and every five years thereafter. It is granted rulemaking authority to adopt rules and forms necessitated by the reevaluation.

- Travis Miller

Property Insurance Bill Passes

HB 799 provides a number of changes affecting property insurers in Florida, including several related to Citizens Property Insurance Corporation (CPIC). As with other insurance-related legislation this session, this bill contained a number of statutory changes that are related only in that they all are tied to insurance in some way. The bill includes the following changes:

- CPIC insureds with condominium unit owner policies or policies that exclude wind are not required to purchase flood insurance;
- New or renewal CPIC policies will not be subject to the statutory rate limits if they do not cover a primary residence or were last insured by an unsound insurer or one placed in receivership;
- CPIC can now adopt policy forms that provide for the resolution of its claim disputes at the Division of Administrative Hearings (DOAH). Such proceeding will not be considered a Chapter 120 administrative proceeding. The DOAH proceedings will be subject to attorney fee provisions;
- Rate filings by residential property insurers must include appropriate discounts for mitigation actions that may reduce windstorm losses. “Wind uplift prevention” has been added to such mitigation measures;
- If a residential or commercial property insurer requires flood insurance, in order to write wind coverage, the insurer must verify that such flood insurance is in place at the time of issuance of the wind policy. If the insurer fails to verify such flood insurance, the insurer cannot later deny the wind claim solely due to a lack of flood insurance, unless the insurer did verify the existence of flood insurance at the time of issuance, but the flood insurance was no longer in effect at the time of loss; and
- The Legislature appropriated a one-time sum of \$750,000 from the Insurance Regulatory Trust Fund to obtain a wind-loss mitigation study. The Office of Insurance Regulation will competitively procure the study in conjunction with the Department of Business and Professional Regulation and the Florida Building Commission.

Except as otherwise provided in the bill, the effective date of HB 799 is July 1, 2023.

- Karen Asher-Cohen

DFS Bill Regulating Insurance Agencies, Agents, and Other DFS Licensees Passed

The House and Senate passed HB 487, an act entitled, Department of Financial Services (DFS). The bill was signed by the Governor on May 25, 2023, and will take effect upon becoming law except as otherwise expressly provided in the bill. The 135-page bill addresses various areas of the law regulated by DFS including insurance agencies, insurance agents, and other persons licensed by DFS. The bill also revises laws relating to workers' compensation insurance and DFS receiverships, and makes other miscellaneous statutory changes.

Among many changes, the law:

- Expands the type of criminal background that allows DFS to suspend, revoke, or refuse to renew or continue the license or appointment of a licensee to include a misdemeanor related to the financial services business, this is in addition to any felony or crime punishable by one year or more in prison.
- Allows DFS to suspend, revoke, or refuse to renew or continue the license or appointment of a licensee who has lost their resident license in another state.
- Permits DFS to suspend, revoke, or refuse to renew or continue the license or appointment of a title agent or agency that: (1) misappropriates, converts, or unlawfully withholds funds related to an escrow agreement, real estate sales contract, or settlement of a real estate transaction; or (2) is the subject of an adverse action against a license or similar credential in another state, a court of competent jurisdiction, or federal agency, or similar.
- Removes a prohibition on licensees holding a limited license in motor vehicle damage and mechanical breakdown insurance, industrial fire insurance, burglary insurance, or credit insurance from holding multiple licenses.
- Requires licensed public adjusters to be both licensed and appointed in order to be paid for work.
- Broadens the qualifying continuing education courses that public adjusters may take from those specially designed for public adjusters to any related to commercial and residential property and casualty coverage, claim adjusting, and any other adjuster courses approved by DFS.
- Removes the requirement that applicants be fingerprinted at a designated examination center; but, retains the remaining fingerprinting options that include a law enforcement agency or other DFS-approved entity.
- Relieves title insurance, life insurance, and annuity insurance agents and agencies from the requirement that they notice all active policyholders of an office closure that is more than 30 days because the related policies are not continually serviced by the agent or agency.
- Clarifies that a licensee that possesses an advanced degree beyond a Bachelor's degree is eligible for a reduced continuing education requirement; six hours every two years, rather than 20 hours every two years, or other variations thereof depending on experience and credential.
- Reduces a reinsurance intermediary credential from a license to an appointment and removes the \$50 application and license fee for a reinsurance intermediary; such intermediaries are otherwise licensed as another type of insurance licensee.
- Allows DFS to cancel an insurer's ability to appoint agents when an insurer fails to timely pay the exchange of business fee that the insurer is beholden to pay for the agent and applicable to reported agent production activity.
- For the purposes of title agents and agencies, changes the authority to act as an escrow agent from the title agent to the title agency and removes the obligation to invest the escrow funds consistent with the requirements applicable to state investment of funds.

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- Allows DFS to deny the privileges of a temporary adjuster who has been lawfully appointed during a catastrophe or emergency for any violation described in Ch. 626, F.S., rather than only those in ss. 626.611 and 626.621, F.S.
 - Provides for expiration of a health insurance navigator's registration if the navigator fails to maintain a valid, active federal registration.
 - Creates a limited insurance license to allow already licensed preneed funeral sales agents to be appointed to represent the preneed insurer.
- The bill also addresses workers' compensation insurance by:
- Ratifying the 2020 Workers' Compensation Health Care Provider Reimbursement Manual; eliminating the need for future Reimbursement Manual ratifications; and
 - Ratifying rules relating to the workers' compensation "Health Care Provider Medical Billing and Reporting Responsibilities" rule and "Insurer Authorization and Medical Bill Review Responsibilities."
- With regard to insurer receiverships administered by DFS, the bill:
- Authorizes DFS as the Receiver to transfer estate property to a solvent insurer and share records with a prospective assuming insurer to the extent necessary to conduct due diligence in the possible transfer of obligations.
 - Permits the receivership court to set a date requested by the Receiver for policy cancellation as an earlier alternative to dates currently specified in statute.

- Bert Combs

Life and Health Insurance Law Change

The House and Senate unanimously passed SB 312 which contains changes impacting life and health insurance insurers and agents. The bill reduces the number of hours of precursure coursework a life insurance agent applicant must complete in life insurance, annuities, and variable contracts – from 40 hours to 30 hours.

The bill also revises Florida's Unfair Trade Practices Act. Those changes authorize a life or health insurer, or a life or health agent of the life or health insurer, to offer or provide value-added products or services at no or reduced cost when such products or services are not specified in the insurance policy. Such products or services must relate to the insurance coverage and be primarily designed to do one or more of the following:

- Provide loss mitigation or control.
- Reduce claim or claim settlement costs.
- Provide education about liability risks or risk of loss to people or property.
- Monitor or assess risk, identify sources of risk, or develop strategies to eliminate or reduce risk.
- Enhance health.
- Enhance financial wellness through items such as education or financial planning services.
- Provide post-loss services.
- Incentivize behavioral changes to improve the health, or reduce the risk of death or disability.
- Assist in the administration of employee or retiree benefit insurance coverage.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

- Karen Asher-Cohen

Hurricanes Take Toll on FHCF Capacity

The Florida Hurricane Catastrophe Fund (FHCF) recently projected a potential shortfall in its claims-paying capacity for the first time in many years. By statute, the FHCF provides up to \$17 billion in reimbursement capacity to residential property insurers each year. However, that obligation is limited to the amount the FHCF actually can pay, if less than \$17 billion. In recent years, the FHCF has projected that the combination of its cash on hand, pre-event notes and post-event bonding would exceed its intended \$17 billion commitment to insurers. The FHCF's most recent projection released in May 2023 suggests this might no longer be the case.

The FHCF projects its ultimate losses from Hurricane Ian will be \$10 billion. It also expects Hurricane Irma losses will reach \$7.8 billion and Hurricane Michael losses will total \$1.45 billion. After making provisions for these losses, the FHCF expects that it will have only \$3.7 billion in cash on hand for losses arising during the 2023-24 contract year. The FHCF also has \$3.5 billion in pre-event note proceeds, bringing its liquid claims-paying resources to \$7.2 billion. This would leave the FHCF \$9.8 billion short of its \$17 billion goal. Its advisors then estimate that the FHCF could issue up to \$8.6 billion in post-event bonds within 12 months of an event, reducing the shortfall to \$1.2 billion.

The FHCF's projected shortfall adds a potential risk to the Florida property insurance market. However, the estimate based on the FHCF's 12-month binding capacity might be conservative when taking into account the likely circumstances following one or more potential hurricanes in 2023. Hurricane losses tend to develop over time and therefore might not require the FHCF maximize its bonding within the first 12 months. The FHCF's advisors estimate it could issue an additional \$7.8 billion in bonds 12-24 months after an event, which could allow the FHCF to reach its \$17 billion in single-season capacity.

Even so, one of the key benefits of the FHCF for the Florida market is that it provides not just single-season capacity but also that it provides protection in subsequent seasons. The FHCF's projection that its claims-paying capacity has been significantly reduced by recent hurricanes signals that the Florida market faces increased risk of a FHCF shortfall whether in an initial season or a subsequent season. This risk enters the Florida regulatory picture as the market continues to search for stability while recent legislative reforms take effect. This risk will continue through 2023 and might be compounded in 2024 as the RAP program no longer exists and the FHCF retention continues to rise much faster than insurers are earning surplus.

- Travis Miller

Being Green?

Being environmentally aware is more mainstream than ever. And with that comes a desire to receive mail electronically and less clutter of paper.



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Catch-All Bill Goes to Governor

SB 418 is a 14-page catch-all bill that affects and/or revises various sections of the Insurance Code. It was presented to Governor DeSantis on May 16, 2023 and he has until the end of the month to sign it, veto it, or let it become law. The bill will go into effect July 1st.

- Residential property insurers may now use a weighted or straight average of two or more hurricane loss projection models that have been approved by the Florida Commission on Hurricane Loss Projection Methodology, to estimate projected hurricane losses;
- Residential property insurers can also now file a personal lines rating plan that provides premium discounts, credits, and other differentials based on independently developed windstorm mitigation construction standards;
- The hurricane loss deductibles required for a personal lines residential property insurance policy have been revised: an insurer does not need to offer the \$500 hurricane deductible for policy limits of \$250,000 to \$1 million; for limits of \$1 million up to \$3 million, the insurer can offer a 3% deductible rather than 2%; and for limits of \$3 million or more, the insurer no longer needs to offer the 2% deductible;
- A policyholder's waiver of residential windstorm or contents coverage no longer needs to be in the person's own handwriting – it can now be typed;
- A notice no longer needs to be stamped on the dec page of a limited coverage automobile policy;
- The types of documents and policies that can be electronically transmitted to a policyholder has been expanded;
- The Executive Director of CPIC and the Director of the Division of Emergency Management can now each designate a member for the Commission on Hurricane Loss Projection Methodology;
- Revises the required notice by an insurer to a policyholder with an automatic bank withdrawal agreement to only those withdrawals being increased by more than \$10;
- Revises the insurance requirements for liveries, *i.e.*, boat rental businesses;
- Requires for any local governmental entity that is also a member of a self-insurer, that only an elected official of that governmental entity can be the entity's representative on the self-insurer's board.

- Karen Asher-Cohen



We are saddened by the passing of Sandra Starnes, who most recently served the Florida Office of Insurance Regulation as its Director of Property & Casualty Product Review. Sandra was a long-time public servant, having joined the Office of Insurance Regulation (then-Department of Insurance) in 1996 after graduating from Florida State University with a degree in mathematics. She remained at the former DOI for about five years before joining NCCI as an actuarial consultant. She was with NCCI for just under six years before returning to the Office of Insurance Regulation. She served OIR for more than 15 years until her recent retirement for health reasons. Since 2011, she was the OIR's Director of Property & Casualty Product Review. We extend our condolences to Sandra's family.

She will be sorely missed for her sharp mind, quick wit, and warm friendship and as a tireless advocate for Florida's consumers.

Consumer Protection Bill Passes Legislature

The Florida Legislature adopted HB 1185 during the 2023 legislative session. The bill was signed by Governor Ron DeSantis on May 24, 2023. The bill's consumer protection provisions are not limited to the insurance industry. However, several relate directly to insurers or insurance-related organizations. The following are among the key insurance-related changes in the bill:

Adjusting Firm Names: The bill extends existing limitations on insurance agency names to the names of adjusting firms. The Department of Financial Services will be authorized to reject the name of an adjusting firm if it finds the name to be misleading or to imply that the organization is an insurer, governmental agency, charity or other type of non-insurance organization.

Scope of Public Adjuster Requirements: The bill would extend public adjuster regulations to a person performing services typically associated with public adjusters, without regard to how the person describes or presents his or her services. The bill also would prevent a public adjuster from collecting a fee for services without a written contract with the insured. Additionally, the bill would regulate the ability of public adjusters to contract with third parties to provide services on behalf of an insured. An insured also will be able to cancel a public adjuster's contract if the public adjuster does not provide an estimate within 60 days after executing the contract.

The bill further would extend the time period in which an insured may cancel a public adjuster contract in the case of declared emergencies. In those situations, insureds will be able to cancel a public adjuster's contract within 30 days after the date of loss or ten days after the contract is executed, whichever is longer. HB 1185 also limits the amount of compensation public adjusters can receive on certain claims for which the policyholder receives policy limits, and precludes compensation for amounts paid before the public adjuster's contract is executed.

Adjusting Firm Licenses: HB 1185 requires independent adjusters and public adjusters to post their licenses in a conspicuous place in the principal place of business of the license holder. If the licensee is conducting business away from that place of business such that the license cannot be posted, the licensee must have the license in his or her possession at the time of carrying on business. The bill also specifies types of records that an adjuster must maintain.

Proof of Loss Fraud Statements: The bill newly requires the fraud statement on proofs of loss to be displayed in at least 18-point type before the space reserved for the signature of the insured.

Unfair Trade Practices: The bill defines as an unfair insurance trade practice the failure to disclose a third party that receives royalties, referral fees or other remuneration for sponsoring, marketing or use of third-party branding for a policy of health insurance.

Duration of a Hurricane: HB 1185 adjusts the definition of a hurricane found at section 627.4025, Florida Statutes. By statute, a hurricane will begin when a hurricane warning is first issued for any part of Florida as contrasted with current law, in which a hurricane is deemed to begin when a watch or warning is issued for any part of the state. The revised statute also eliminates the phrase "continuing for the time period during which the hurricane conditions exist anywhere in Florida." This phrase arguably is unnecessary given that the statute specifies the beginning and end of a hurricane.

Reduction in Underwriting Period to 60 Days: HB 1185 reduces the so-called underwriting period at the beginning of a property and casualty insurance policy term from 90 days to 60 days.

Annuity Suitability Law: The bill makes significant changes to section 627.4554 related to suitability in annuity transactions. In general, the revisions are intended to ensure agents act in the best interests of consumers when making recommendations about annuity transactions. Statutory revisions define standards by which agents will be deemed to have acted in the best interests of consumers. The revisions also include rulemaking authority for adoption of the NAIC Suitability in Annuity Transactions Model Regulation Appendix A – Insurance Agent (Producer) Disclosure for Annuities, Appendix B – Consumer Refusal to Provide Information, and Appendix C – Consumer Decision to Purchase an Annuity Not Based on a Recommendation.

- Travis Miller

Continuing Care Retirement Community Law Changes

The Florida Legislature has passed HB 1573 relating to continuing care retirement communities (CCRCs). The changes are described as modernizing the law to revise regulatory oversight and increase transparency for residents.

The bill:

- allows a CCRC provider to keep their escrow account in any state or federally chartered institution, rather than only institutions with a Florida branch;
- permits the release of expansion-related escrow funds when 75 percent of the total units are reserved, rather than when only half of the total units have been paid in full, plus, the provider must submit an attestation concerning use of the entrance fees collected;
- revises when a provider may withdraw funds from its debt service reserves;
- reduces the timeline for review of a CCRC expansion application by the Office of Insurance Regulation (OIR) from 45 days to 30 days;
- expands the list of financial institutions that may sup-

ply a provider with a letter of credit in order to satisfy the statutory minimum liquid reserve requirements, including institutions without a Florida branch;

- changes the conditions under which an individual must pay a penalty for cancelling a contract with a CCRC; and
- shortens the lookback period for required OIR market conduct examinations of a CCRC.

The bill increases transparency for the benefit of authorized resident councils in connection with CCRC operations, budgeting, planning, pricing, and regulatory examinations. The bill also clarifies that a residents' council has the authority to establish and maintain its own governance documents and that residents have the right to participate in resident council matters, including elections; and would require facilities with common ownership to each have their own resident representative and specifies resident representative obligations of good faith as a fiduciary to the residents. If approved by the Governor, the bill has an effective date of July 1, 2023.

- Bert Combs



DeSantis Announces Presidential Candidacy



Governor Ron DeSantis has launched his campaign for President of the United States. The Governor, and Florida in general, can be expected to factor prominently in national politics over the next year and a half. At the same time, insurers and others interested in the Florida market will begin to speculate about the possibilities for DeSantis' successor and how that might affect Florida's Cabinet positions.

Due to a recent change in Florida's resign-to-run law, Governor DeSantis is not required to vacate his position while running for President. The Governor therefore will continue to lead the state in the near term. Assuming Governor DeSantis is successful in his bid for the White House, current Lt. Governor Jeanette Nunez then would become Governor for the remainder of DeSantis' unexpired term. Lt. Governor Nunez served eight years in the Florida House of Representatives before becoming Governor De-

Santis' running mate in his first campaign. She would be able to run for a full term at the end of the unexpired term, if she were to so choose. Of course, other candidates from both parties also could run for a full term at that time.

Due to term limits in Florida, Governor DeSantis cannot run for another term as Florida's Governor even absent his presidential campaign. Therefore, the potentially open seat might be attractive to candidates other than the Lt. Governor. Statewide elected officials who might consider running include Attorney General Ashley Moody, Chief Financial Officer Jimmy Patronis, and Commissioner of Agriculture Wilton Simpson. Regardless of how this plays out, the Florida political landscape will warrant watching over the next couple of years for both its national and statewide implications.



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The Radey Law Firm believes that service to clients must be efficient and dedicated. Our location in Tallahassee, Florida, provides us the opportunity to be at the heart of the regulatory, legislative, and judicial arenas. The Florida Insurance Report is provided to our clients and friends in a condensed summary format and should not be relied upon as a complete report nor be considered legal advice or opinion.

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Save the Date - June 13, 2023

"Florida's New E-Verify Requirement on July 1st – Is Your Company Ready?"

On May 10, 2023, SB 1718 was passed requiring that Florida's private employers with 25 or more employees use E-Verify. This new law goes into effect July 1, 2023. Employers who do not use E-Verify will be subject to strict penalties. Will your company be affected? Have you prepared to comply with E-Verify?

Please join Christopher B. Lunny and Jordann Wilhelm of the Radey Law Firm for a webinar on Tuesday, June 13 from 12:00 PM - 1:00 PM where you will receive timely information that will help your company.

If you would like more information please send us an email at webinar@radeylaw.com.

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