

## CHAPTER 2011-59

### Senate Bill No. 2132

An act relating to the Department of Financial Services; repealing ss. 17.53 and 17.556, F.S., relating to the Chief Financial Officer's authorization to operate a personal check-cashing service or a remote financial service unit at the capitol and to employ additional persons to assist in performing such services; abolishing appropriations from the General Revenue Fund to pay the salaries of the additional employees; amending s. 20.121, F.S.; revising the duties of the Division of Consumer Services; amending ss. 284.01 and 284.36, F.S.; revising the criteria for premiums charged to agencies and departments for purposes of the State Risk Management Trust Fund; amending s. 284.42, F.S.; revising requirements for reports concerning the state insurance program; requiring the Division of Risk Management to analyze and report on certain agency return-to-work programs and activities; amending s. 284.50, F.S.; requiring certain agencies to establish and maintain return-to-work programs for certain employees; providing program goals; requiring the Division of Risk Management to evaluate agency risk management programs; requiring reports; requiring agencies to respond to the division's evaluation and recommendations; requiring the division to submit certain evaluation reports to the legislative appropriations committees; amending s. 440.50, F.S.; providing for reversion of certain unencumbered and undisbursed funds to the Workers' Compensation Administration Trust Fund; creating s. 626.9894, F.S.; authorizing the department to accept any donation or grant of property or moneys from certain entities for purposes of anti-fraud efforts; providing for the vesting of certain rights in the Division of Insurance Fraud upon donation; providing for deposit of donations and grants to the division into the Insurance Regulatory Trust Fund; authorizing the department to request annual appropriations from such donations and grants; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 17.53, Florida Statutes, is repealed.

Section 2. Section 17.556, Florida Statutes, is repealed.

Section 3. Paragraph (h) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

(h) The Division of Consumer Services.

1. The Division of Consumer Services shall perform the following functions concerning products or services regulated by the department of ~~Financial Services~~ or by either office of the Office of Insurance Regulation ~~Financial Services Commission~~:

- a. Receive inquiries and complaints from consumers.
- b. Prepare and disseminate such information as the department deems appropriate to inform or assist consumers.
- c. Provide direct assistance and advocacy for consumers who request such assistance or advocacy.
- d. With respect to apparent or potential violations of law or applicable rules by a person or entity licensed by the department or ~~by either office of the commission~~, report such apparent or potential ~~violations~~ violation to the office or the appropriate division of the department ~~or office of the commission~~, which may take such further action as it deems appropriate.
- e. Designate an employee of the division as primary contact for consumers on issues relating to sinkholes.

2. Any person licensed or issued a certificate of authority by the department or by the Office of Insurance Regulation shall respond, in writing, to the Division of Consumer Services within 20 days after receipt of a written request for information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the ~~this~~ complaint. The division may, ~~in its discretion~~, impose an administrative penalty for failure to comply with this subparagraph of ~~in an amount~~ up to \$2,500 per violation upon any entity licensed by the department or the office of ~~Insurance Regulation~~ and \$250 for the first violation, \$500 for the second violation, and up to \$1,000 per violation thereafter upon any individual licensed by the department or the office of ~~Insurance Regulation~~.

3. The department may adopt rules to administer ~~implement~~ the ~~provisions of~~ this paragraph.

4. The powers, duties, and responsibilities expressed or granted in this paragraph do ~~shall~~ not limit the powers, duties, and responsibilities of the Department of Financial Services, the Financial Services Commission, the Office of Insurance Regulation, or the Office of Financial Regulation set forth elsewhere in the Florida Statutes.

Section 4. Subsection (5) of section 284.01, Florida Statutes, is amended to read:

284.01 State Risk Management Trust Fund; coverages to be provided.

(5) Premiums charged to agencies for coverage shall be adopted ~~promulgated~~ on a retrospective rating arrangement based upon actual losses accruing to the fund and loss prevention results, taking into account

reasonable expectations, maintenance, and stability of the fund and cost of reinsurance.

Section 5. Section 284.36, Florida Statutes, is amended to read:

284.36 Appropriation deposits; premium payment.—Premiums for coverage by the State Risk Management Trust Fund as calculated on all coverages shall be billed and charged to each state agency according to coverages obtained by the fund for their benefit, and such obligations shall be paid promptly by each agency from its operating budget upon presentation of a bill therefor. After the first year of operation, premiums to be charged to all departments of the state are to be computed on a retrospective rating arrangement based upon actual losses accruing to the fund and loss prevention results, taking into account reasonable expectations, the maintenance and stability of the fund, and the cost of insurance.

Section 6. Subsection (1) of section 284.42, Florida Statutes, is amended to read:

284.42 Reports on state insurance program.—

(1)(a) The Department of Financial Services, with the Department of Management Services, shall conduct ~~make~~ an analysis of the state insurance program each year and submit the results on or before January 1 in a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually, which shall include:

1.(a) Complete underwriting information as to the nature of the risks accepted for self-insurance and those risks that are transferred to the insurance market.

2.(b) The funds allocated to the Florida Casualty Risk Management Trust Fund and premiums paid for insurance through the market.

3.(c) The method of handling legal matters and the cost allocated.

4.(d) The method and cost of handling inspection and engineering of risks.

5.(e) The cost of risk management service purchased.

6.(f) The cost of managing the State Insurance Program by the Department of Financial Services and the Department of Management Services.

(b) Beginning January 1, 2013, the Division of Risk Management shall include in its annual report an analysis of agency return-to-work efforts, including, but not limited to, agency return-to-work program performance metrics and a status report on participating return-to-work programs. The report shall specify benchmarks, including, but not limited to, the average lost-time claims per year, per agency; the total number of lost claims; and

specific agency measurable outcomes indicating the change in performance from year to year.

Section 7. Subsections (3) and (4) are added to section 284.50, Florida Statutes, to read:

284.50 Loss prevention program; safety coordinators; Interagency Advisory Council on Loss Prevention; employee recognition program.—

(3) The Department of Financial Services and all agencies that are provided workers' compensation insurance coverage by the State Risk Management Trust Fund and employ more than 3,000 full-time employees shall establish and maintain return-to-work programs for employees who are receiving workers' compensation benefits. The programs shall have the primary goal of enabling injured workers to remain at work or return to work to perform job duties within the physical or mental functional limitations and restrictions established by the workers' treating physicians. If no limitation or restriction is established in writing by a worker's treating physician, the worker shall be deemed to be able to fully perform the same work duties he or she performed before the injury.

(4) The Division of Risk Management shall evaluate each agency's risk management programs, including, but not limited to, return-to-work, safety, and loss prevention programs, at least once every 5 years. Reports, including, but not limited to, any recommended corrective action, resulting from such evaluations shall be provided to the head of the agency being evaluated, the Chief Financial Officer, and the director of the Division of Risk Management. The agency head must provide to the Division of Risk Management a response to all report recommendations within 45 days and a plan to implement any corrective action to be taken as part of the response. If the agency disagrees with any final report recommendations, including, but not limited to, any recommended corrective action, or if the agency fails to implement any recommended corrective action within a reasonable time, the division shall submit the evaluation report to the legislative appropriations committees.

Section 8. Subsection (5) is added to section 440.50, Florida Statutes, to read:

440.50 Workers' Compensation Administration Trust Fund.—

(5) Funds appropriated by an operating appropriation or a nonoperating transfer from the Workers' Compensation Administration Trust Fund to the Department of Education, the Agency for Health Care Administration, the Department of Business and Professional Regulation, the Department of Management Services, the First District Court of Appeal, and the Justice Administrative Commission remaining unencumbered as of June 30 or undisbursed as of September 30 each year shall revert to the Workers' Compensation Administration Trust Fund.

Section 9. Section 626.9894, Florida Statutes, is created to read:

626.9894 Gifts and grants.—

(1) The department may accept, for purposes of anti-fraud efforts, any donation or grant of property or moneys from any governmental unit, public agency, institution, person, firm, or corporation.

(2) All rights to, interest in, and title to such donated or granted property shall immediately vest in the Division of Insurance Fraud upon donation. The division may hold such property in coownership, sell its interest in the property, liquidate its interest in the property, or dispose of its interest in the property in any other reasonable manner.

(3) All donations or grants of moneys to the division shall be deposited into the Insurance Regulatory Trust Fund and shall be separately accounted for and may be used by the division to carry out its duties and responsibilities, or for the subgranting of such funds to state attorneys for the purpose of funding or defraying the costs of dedicated fraud prosecutors.

(4) Moneys deposited into the Insurance Regulatory Trust Fund pursuant to this section may be appropriated by the Legislature, pursuant to the provisions of chapter 216, for the purpose of enabling the division to carry out its duties and responsibilities, or for the purpose of funding or defraying the costs of dedicated fraud prosecutors.

(5) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance of moneys deposited into the Insurance Regulatory Trust Fund pursuant to this section remaining at the end of any fiscal year shall be available for carrying out the duties and responsibilities of the division. The department may request annual appropriations from the grants and donations received pursuant to this section and cash balances in the Insurance Regulatory Trust Fund for the purpose of carrying out its duties and responsibilities related to the division’s anti-fraud efforts, including the funding of dedicated prosecutors and related personnel.

Section 10. This act shall take effect July 1, 2011.

Approved by the Governor May 26, 2011.

Filed in Office Secretary of State May 26, 2011.