

## HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

<b>BILL #:</b>	HB 5505	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Government Operations Appropriations Subcommittee and Hooper	82 Y's	34 N's
<b>COMPANION BILLS:</b>	N/A	<b>GOVERNOR'S ACTION:</b> Pending	

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### SUMMARY ANALYSIS

House Bill 5505 passed the House on March 9, 2012, and subsequently passed the Senate on March 9, 2012. The bill amends the statutes to achieve efficiencies and cost savings measures within the Department of Financial Services (DFS) and is linked to the FY 2012-2013 General Appropriations Act.

The bill amends the Workers' Compensation statutes to allow for the electronic submission of workers' compensation exemption applications, with streamlined reporting requirements. In addition, the bill will require applicants for workers' compensation exemptions to report their date of birth, Florida driver's license number or Florida identification card number. Applicants for a construction industry exemption will also provide a statement of ownership interest. The bill also provides that all certificates of election to be exempt issued on or after January 1, 2013 are valid for 2 years from the effective date stated on the certificate.

The bill repeals s. 440.59, F.S., which requires the DFS to prepare, and submit by September 15 of each year, an annual report to the Legislature and the Governor on the administration of the workers' compensation laws for the preceding calendar year.

The bill amends s. 516.031(3)(9), F.S., requiring the Chief Financial Officer of the DFS to annually adjust the delinquent finance charge associated with consumer finance loans. The bill requires for the current cap of \$10 for each payment in default to be adjusted based on the consumer price index.

The bill amends ss. 560.1092 and 560.144, F.S., to technically align positions and budget in the Office of Financial Regulation based on the agency's recent reorganization. The bill provides that revenues collected for money transmitter (transmit cash by wire, electronic transfer, internet, etc.) and payment instrument (drafts, money orders, traveler's checks, etc.) functions will be deposited into the Financial Institutions Regulatory Trust Fund rather than the Regulatory Trust Fund.

Finally, the bill authorizes the Governor, at his option, to direct the State Board of Administration (SBA) to create the Florida Insurance Premium Tax Pre-Payment Program, in order to provide an additional funding mechanism for the Florida Hurricane Catastrophe Fund (CAT Fund). If the Governor approves, the SBA may sell up to \$1.5 billion in tax credits that can be applied to reduce future tax liabilities. The bill limits the amount of tax credits that can be applied each year to \$150 million. The SBA will loan the proceeds of the tax credit sale to the CAT Fund. Loan repayments are to be deposited in the state's General Revenue Fund. Further, the loan repayment schedule is to be designed so that, in each fiscal year, the General Revenue Fund receives an amount equal to the amount of the tax credits that are being applied in that fiscal year.

The provisions of this bill will allow for a reduction of 9.00 FTE positions and an annual cost savings of \$348,289 from the Workers' Compensation Administration Trust Fund. The cost savings have been included in the FY 2012-2013 General Appropriations Act.

Subject to the Governor's veto powers, the effective date of the bill is July 1, 2012.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Present Situation**

##### **Workers' Compensation Exemptions<sup>1</sup>**

Section 440.05, F.S., "Election of exemption; revocation of election; notice, certification," permits corporate officers to elect to be exempt from workers' compensation coverage requirements. Individuals who make such election are not considered employees for premium calculation purposes, and are not eligible to receive workers' compensation benefits if they suffer a workplace injury. The term "corporate officers" is defined in s. 440.02(9), F.S., to include members of limited liability companies (LLCs) in the construction industry who own at least 10% of the LLC.

##### **Construction Industry and Non-Construction Exemptions**

The Division of Workers' Compensation (DWC) processes applications for construction industry exemptions (which are valid for 2 years) and non-construction industry exemptions (which have no expiration date). In the construction industry, corporate officers and members of limited liability companies (LLCs) with a minimum 10% ownership interest in the corporation or LLC, respectively, may elect to be exempt. There is no ownership requirement associated with non-construction industry exemptions. However, as non-construction LLC members are not considered corporate officers, they are not eligible for an exemption. The total number of exemption applications has been in decline for the past four years. In FY 2010-11, 62,293 construction industry exemption applications were processed, representing a 9% decrease from the previous year. Non-Construction industry exemption applications also fell in FY 2010-11 to 11,448, representing a 9.6% decrease from the previous year. As of June 30, 2011, there were 1,123,275 active exemptions.<sup>2</sup>

##### **Applications for Exemption<sup>3</sup>**

Currently, applicants for exemption complete a "Notice of Election to be Exempt" form (DWC-250). The application must be notarized, and submitted to the Division of Workers' Compensation. Construction industry applications must also be accompanied by a \$50 application fee and proof of requisite ownership (a copy of the stock certificate or documentation of 10% ownership of the LLC). A construction industry exemption is valid for 2 years, while there is no time limit on non-construction exemptions.

##### **Workers' Compensation Annual Report**

Section 440.59, F.S., requires the DFS to prepare an annual report of the administration of ch. 440, F.S., for the preceding calendar year. The report is to include a detailed statement of the receipts of and expenditures from the Workers' Compensation Administration Trust Fund and a statement of the causes of the accidents leading to the injuries for which the awards were made. On or before September 15 of each year, the DFS is required to submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican

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<sup>1</sup>For an overview of the exemption process and eligibility requirements, see the Department of Financial Services website: <http://www.myfloridacfo.com/wc/employer/exemption.html> (last accessed November 9, 2011).

<sup>2</sup>Information can be found here; [www.myfloridacfo.com/wc/pdf/DWC-Annual-Report-2011.pdf](http://www.myfloridacfo.com/wc/pdf/DWC-Annual-Report-2011.pdf)

<sup>3</sup>The application fee for a construction industry exemption is \$50. There is no application fee for a non-construction industry exemption application. Pursuant to s. 440.05(8)(b), F.S., monies collected by the Division of Workers' Compensation are used to fund the division's investigative efforts, most of which relate to the construction industry.

Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation.

The 2011 Annual Report of the Florida Division of Workers' Compensations contains narrative, as well as charts and graphs depicting the activities of the division. In addition, the report includes information regarding claims, such as the nature of the injury, cause of the injury, body location of workplace injuries, and medical data.

DFS indicates that a total of 2,223 work hours by the Division of Workers' Compensation employees is devoted each year to producing the annual report.

### **The Office of Financial Regulation – Money Services Businesses**

Chapter 560, F.S., currently authorizes The Office of Financial Regulation (OFR) to examine and investigate any licensee, and take disciplinary actions against licensees violating the act. Under s. 560.1092(2), F.S., the OFR can collect moneys from the examination of the licensees and must deposit the fees collected from licensees into the Regulatory Trust Fund. In turn, the office may make deposits into such fund from moneys appropriated for the operation of the office.

### **Consumer Finance – Finance Charge**

Under Chapter 516, F.S., the Florida Consumer Finance Act, the law provides the lender the ability to charge a delinquency fee of up to \$10 for each payment in default for a period not less than 10 days. In addition, both parties must agree to the delinquency fee in writing before imposing the charge. That fee has been unchanged since 2000.

### **Effect of the Bill**

#### **Paperless Exemption Application Process**

The bill allows for the electronic submission of workers' compensation exemption applications, with streamlined reporting requirements (e.g., elimination of notarization requirement and, for construction industry exemptions, the filing of copies of stock certificates). Additional data elements to be reported by all applicants electronically are date of birth, Florida driver's license number or Florida identification card number. Construction industry applicants will also provide a statement of ownership interest. Within 60 days of expiration of a construction industry exemption, the Department of Financial Services (DFS) is required to send notice to the exemption holder, either at the address on the exemption certificate or to the e-mail on file with DFS.

The bill provides that all certificates of exemption issued by the Division of Workers' Compensation on or after January 1, 2013 are valid for 2 years.

#### **Repeal of the Workers' Compensation Annual Report**

The bill repeals section 440.59, F.S., which requires the DFS to prepare an annual report on the administration of the workers' compensation laws of the prior year.

The Division of Workers' Compensation maintains a website that provides much of the information currently contained in the annual report. In addition, the division's website contains forms, publications, and other information to assist injured workers, employers, insurance carriers, health care providers, and other interested parties.

The bill will allow for the reduction of 1.00 FTE position and a cost savings annually of \$46,473 from the Workers' Compensation Administration Trust Fund. DFS indicates that a total of 2,223 work hours by DFS employees is devoted each year to producing the annual report. Based on the number of hours devoted to producing the workers' compensation annual report the enactment of this bill would allow for a reduction of 1.00 FTE (Insurance Analyst II) and a cost saving annually of \$46,473.

### **The Office of Financial Regulation – Money Services Businesses**

The bill amends ss. 560.1092 and 560.144, F.S., to allow the OFR to deposit revenues collected for money transmitter and payment instrument functions into the Financial Institutions Regulatory Trust Fund rather than the Regulatory Trust Fund. This better aligns the agency functions and correlates with the recent reorganization of the agency.

### **Consumer Finance – Finance Charge**

The bill amends s. 516.031(3)(9), F.S., requiring the Chief Financial Officer to annually adjust, on July 1<sup>st</sup> of each year, the delinquent finance charge associated with consumer finance loans. The bill requires the current cap of \$10 for each payment in default to be adjusted based on the consumer price index for the calendar year immediately preceding. The adjusted charge shall be rounded to the nearest hundredth of a dollar.

### **Florida Insurance Premium Tax Pre-Payment**

The bill authorizes the Governor, at his option, to direct the State Board of Administration (SBA) to create the Florida Insurance Premium Tax Pre-Payment Program, in order to provide an additional funding mechanism for the Florida Hurricane Catastrophe Fund (CAT Fund). If the Governor approves, the SBA may sell up to \$1.5 billion in tax credits that can be applied to reduce future tax liabilities. The bill limits the amount of tax credits that can be applied each year to \$150 million. The SBA will loan the proceeds of the tax credit sale to the CAT Fund. Loan repayments are to be deposited in the state's General Revenue Fund. Further, the loan repayment schedule is to be designed so that, in each fiscal year, the General Revenue Fund receives an amount equal to the amount of the tax credits that are being applied in that fiscal year.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

Upon the Governor's approval, the SBA may sell up to \$1.5 billion in tax credits that can be applied to reduce future tax liabilities. The bill limits the amount of tax credits that can be applied each year to \$150 million. It is unknown how many insurers will choose to participate in the Florida Insurance Premium Tax Pre-Payment plan therefore the amount of revenue to be collected is indeterminate at this time.

#### **2. Expenditures:**

The DFS indicates that providing for an electronic application process for workers' compensation exemptions in addition to repealing annual report requirements in section 440.59, F.S., will eliminate the need for 9.00 FTE staff (8.00 FTE who review and process the exemptions; 1.00 FTE

who prepares the annual report). The potential reduction in staff represents a total annual cost savings of \$348,289 from the Workers' Compensation Administration Trust Fund, which has been incorporated into the FY 2012-2013 General Appropriations Act. The cost savings of \$348,289 will be from two appropriation categories: \$333,998 from Salaries and Benefits and \$14,291 from Expenses.

The cost of providing and implementing the electronic web-based application for exemption to workers' compensation will be covered from within existing DFS budget authority.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The changes will streamline the exemption process and make it easier for applicants to complete and submit an exemption. The elimination of the requirement to notarize the exemption application will reduce a regulatory step for applicants and eliminate the cost associated with using a notary.

With an established expiration period for all exemptions, persons with non-construction industry exemptions will have to apply for an exemption every 2 years. Presently, non-construction industry exemptions do not have an expiration date. The bill, however, will not result in new fees, as there continues to be no application fee for non-construction industry exemptions.

**D. FISCAL COMMENTS:**

The streamlining of the exemption reporting process with an electronic submission process (which allows for a reduction of 8.00 positions and an annual cost savings of \$301,816) is part of the DFS' Legislative Budget Request and Schedule VIII-B-2 submission for FY 2012-2013. DFS indicates that costs associated with modifying its exemption technology to provide for electronic submissions will be minimal and completed within current budget authority.

DFS indicates that a total of 2,223 work hours by the Division of Workers' Compensation (DWC) employees is devoted each year to producing the annual report. Based on the number of hours devoted to producing the workers' compensation annual report the enactment of this bill would allow for a reduction of 1.00 FTE (Insurance Analyst II) and a cost saving annually of \$46,473 from the Workers' Compensation Administration Trust Fund.

Upon the Governor's approval, the SBA may sell up to \$1.5 billion in tax credits that can be applied to reduce future tax liabilities. The bill limits the amount of tax credits that can be applied each year to \$150 million. It is unknown how many insurers will choose to participate in the Florida Insurance Premium Tax Pre-Payment plan therefore the amount of revenue to be collected is indeterminate at this time.