2016 Florida Legislative Session – Final Summary

March 15, 2016
Aon Benfield’s Final 2016 Florida Legislative Session Update focuses on the adjournment of the Florida Legislature.

2016 Florida Legislative Session Summary

The Florida Legislature adjourned on Friday, March 11th at 6:46pm. 2016 property and casualty related bills focused on topics including assignment of benefits, sinkhole insurance, Citizens, flood insurance, and insurer reporting.

Notable bills that did not pass include HB 1097, SB 596, HB 671, and SB 1248 - all designed to address the abuses under assignments of benefits.

Also not passed are HB 929 and SB 584. These bills would have extended to October 1, 2025 the period in which insurers may develop and use flood insurance rates without first obtaining approval from the OIR. It also would have extended to July 1, 2020 the exemption permitting the export of coverage to a surplus lines carrier without meeting statutory “diligent effort” conditions.

Below is a summary of the bills that Aon Benfield tracked and that were successfully ordered enrolled by the House or the Senate.

HB 931 – Citizens Property Insurance Corporation (CPIC): Operations (Passidomo)

HB 931 requires Citizens to revise the depopulation program for personal lines residential policies to maximize policyholder options and encourage increased participation by insurers and agents. After January 1, 2017, a policy may not be taken out from Citizens unless the following occurs:

- Companies requesting to take-out a policy must notify Citizens and include with the notification coverage information and an estimated premium. The information must be communicated in a form prescribed by Citizens.
- Citizens must provide premium estimate information to the policyholder and the agent.
- Citizens must provide the policyholder and the agent of record written notice of all insurers requesting to take out a policy and of the policyholder’s right to accept an offer or to reject all offers and remain with Citizens. The notice must include the amount of the estimated premium; a description of coverage; and a comparison of both the offered coverage and estimated premium to the coverage and premium that is provided by Citizens.

Current law allows Citizens to share confidential underwriting and claims files with an insurer that is contemplating underwriting a risk insured by the corporation, provided the insurer executes a notarized agreement to retain their confidentiality. Citizens may also make specified information from the underwriting and claims files available to general lines insurance agents. The law requires the agent to keep the information confidential. HB 931 expands the list of who may receive information from the confidential underwriting and claims files to include an entity that has obtained a permit to become an authorized insurer, a reinsurer, a licensed reinsurance broker, a licensed rating organization, or a modeling company. The information may be used by these entities only for the purpose of developing a take-out plan or rating plan or analyzing risks for underwriting in the private insurance market. In addition, the bill expressly prohibits an insurance agent from using the data to solicit policyholders.

In addition, the bill requires an insurance agent to have at least one appointment with an insurer in order to retain eligibility to write insurance with Citizens, and allows Citizens to use the public hurricane loss projection model results in combination with the results of private models to calculate windstorm rates.

Recent action: HB931 - Ordered enrolled on March 11, 2016
HB 1327 – Property Insurance: Sinkhole Insurance (Ingoglia) and identical SB 1274 (J. Latvala)

Allows insurers to offer a new type of limited sinkhole insurance coverage. Limited sinkhole coverage would, as under current law, only provide coverage for “sinkhole loss,” which is structural damage to the covered building, including the foundation, caused by sinkhole activity. Limited sinkhole coverage would also be subject to the current statutory requirements for sinkhole insurance, with the following exceptions:

- Coverage is only available for personal lines residential insurance;
- Coverage may be limited to repairs to stabilize the building and repair the foundation;
- Deductibles may be in an amount agreed to by the insured and insurer;
- Policy limits may be in an amount agreed to by the insured and insurer, provided policy limits below $50,000 are not allowed unless that amount exceeds full replacement costs of the property;
- A notice signed by the applicant is required that the applicant has read and understands the coverages of limited sinkhole coverage, including when insuring for less than replacement cost or agreeing to a deductible greater than allowed under a personal lines residential policy.
- Insurers are allowed to establish limited sinkhole policy forms not subject to filing with and approval by the Office of Insurance Regulation (OIR);
- Until October 1, 2019, insurers may file rates for limited sinkhole coverage that are not subject to the filing and review requirements of the OIR; and
- Until July 1, 2020, surplus lines agents may export coverage to eligible surplus lines insurers without obtaining three declinations from admitted insurers.

The bill establishes surplus requirements of $7.5 million for new and existing insurers that solely transact limited sinkhole coverage insurance. Insurers providing limited sinkhole coverage must notify the OIR at least 30 days prior to offering the coverage and are required to file a plan of operation and financial projections with the OIR.

Recent action: HB 1327 - Companion Bill passed, refer to CS/CS/SB 1274 on March 07, 2016; HB Laid on Table and SB 1274 - Ordered enrolled on March 8, 2016

HB 1163 – Insurer Reporting (Hager) and identical SB 1422 (Simmons)

SB 1422 implements the NAIC's Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act and the Corporate Governance Annual Disclosure Model Act.

The bill requires insurers or insurance groups to:

- Maintain a risk management framework for identifying, assessing, monitoring, managing, and reporting on its material, relevant risks.
- Conduct an ORSA at least annually, consistent with and comparable to the process in the ORSA Guidance Manual.
- Annually, file an ORSA summary report, based on the ORSA Guidance Manual, with their domestic regulator or lead state (for an insurance group), beginning in 2017.
- Submit a Corporate Governance Annual Disclosure every June 1, which must be signed by the chief executive officer or corporate officer and must describe the insurer or insurance group’s governance framework and structure, relevant policies and practices, and processes for overseeing critical risk areas affecting business activities.

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SB 1422 provides that the ORSA and Corporate Governance filings and related documents are privileged and not subject to subpoena or discovery directed to the OIR and if obtained from the OIR are not admissible in evidence in any private civil action.

The bill authorizes the OIR to retain third-party consultants to assist the OIR with ORSA and Corporate Governance Annual Disclosure responsibilities. These third-party consultants must adhere to confidentiality and conflict of interest standards through a written agreement with the OIR.

Additionally, the OIR may impose sanctions for failure to submit ORSA summary reports or Corporate Governance reports and may exempt certain insurers and insurance groups and to provide waivers of ORSA requirements.

Recent action: **HB 1163** - Companion Bill passed, refer to CS/CS/SB 1422 on March 07, 2016; HB Laid on Table and **SB 1422** - Ordered enrolled on March 8, 2016

**HB 1165** – Insurer Reporting: Public Records Exemption/Insurer Reporting Requirements (Hager) and identical **SB 1416** (Simmons)

Public Records/Own-risk and Solvency Assessment/Corporate Governance Annual Disclosure; Providing an exemption from public records requirements for certain reports and documents submitted to the Office of Insurance Regulation related to an own-risk and solvency assessment by an insurer or insurance group; providing an exemption from public records requirements for a corporate governance annual disclosure and supporting documents submitted to the office; providing for and revising future legislative review and repeal; providing a statement of public necessity. Effective Date: On the same date that SB 1422 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Recent action: **HB 1165** - Companion Bill passed, refer to CS/CS/SB 1416 on March 07, 2016; HB Laid on Table and **SB 1416** - Ordered enrolled on March 8, 2016

**HB 55** – Trade Secrets and Public Records: Trade Secrets (Pilon) and identical **SB 180** (Richter)

The bill expands the definition of the term “trade secret,” to expressly include financial information. An individual who steals, copies without authorization, or misappropriates financial information which meets the criteria of a trade secret is guilty of a third degree felony. These provisions were approved by the Governor and take effect on October 1, 2016.

Recent action: **HB 55** Companion Bill passed, refer to CS/SB 180 on January 26, 2016; HB Laid on Table- and **SB 180** - Ordered enrolled; Approved by Governor on February 24, 2016.

**HB 57** – Trade Secrets and Public Records: Trade Secrets/Public Records Exemptions (Pilon) and identical **SB 182** (Richter)

The bill reenacts several public records exemptions of trade secret information to conform to the definition of “trade secret,” which was amended by CS/SB 180 to expressly include financial information. These exemptions protect financial information deemed to be trade secrets from public disclosure. The bill provides that the public record exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a public necessity statement as required by the Florida Constitution. These provisions were approved by the Governor and take effect on October 1, 2016.

Recent action: **HB 57** - Companion Bill passed, refer to CS/CS/SB 182 on January 26, 2016; HB Laid on Table and **SB 182** - Ordered enrolled; Approved by Governor on February 24, 2016.
HB 699 – Reciprocal Insurers: Unassigned Funds (Grant) and identical SB 812 (Diaz de la Portilla)

This bill creates an alternative process for a domestic reciprocal insurer to distribute unassigned funds, such as unused premiums, savings, and credits, to policyholders. The process created by the bill differs from current law primarily by not requiring the reciprocal insurer to create subscriber accounts to make distributions to policyholders. Distributions using this method may not exceed 50 percent of the insurer’s net income from the previous calendar year and may be up to 10 percent of the insurer’s surplus. If approved by the Governor, these provisions take effect July 1, 2016.

Recent action: HB 699 - Companion Bill passed, refer to SB 812 on March 07, 2016; HB Laid on Table and SB 812 - Ordered enrolled on March 8, 2016

HB 651 – Department of Financial Services (DFS): DFS Administration (Beshears) and identical SB 992 (Brandes)

Authorizes DFS to create Internet-based transmission system for electronic transmission to accept service of process; removes requirement that EOG review & approve certain alternative retirement income security program; revises responsibilities of CFO; revises requirements for state-funded contracts or agreements between state awarding agency & higher education entity; revises responsibilities of DHSMV; names Board of Commissioners of Florida Inland Navigation District as entity that receives & approves certain surety bonds of commissioners; revises provisions relating to service of legal process; provides fee; provides additional ground for disqualification of neutral evaluator; provides requirements related to sinkhole insurance; provides requirements for firefighter & volunteer firefighter certificates of compliance & completion; establishes Firefighter Assistance Program for certain purposes; provides appropriation.

Recent action: HB 651 - Signed by Officers and presented to Governor on Friday, March 11, 2016 and SB 992 – Companion Bill passed, refer to HB 651 on March 07, 2016; SB Laid on Table
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