

Insurance Regulation Unification

Summary

This proposal removes the Office of Insurance Regulation (OIR) from its administrative housing within the Department of Financial Services (DFS) and streamlines the regulation of all aspects of insurance under the Insurance Commissioner. The OIR will remain a cabinet agency led by the Commissioner who is appointed by the Governor subject to a majority vote of the Governor and Cabinet, adding confirmation by the Senate.

The OIR would be tasked with overseeing and regulating all aspects of insurance under the Florida Insurance Code. All duties powers and funds for overseeing and regulating insurance, currently split between DFS and OIR, would be transferred to the OIR, including all corresponding employees and resources, via Type 2 transfer.¹

Rationale for Changes

Florida is the only state in the country to bifurcate insurance regulation between two separate state entities. This bifurcation has hindered the state's ability to adequately protect consumers.

First, the bifurcation has resulted in the inefficient use of state resources when investigating consumer complaints and agent misconduct. In a five-year period, DFS referred to OIR to be evaluated for possible statutory violations, only 5.2% of 52,160 property and casualty complaints. Nevertheless, in 2024 alone, the Office of Insurance Regulation's market regulation division finalized more than 20 market conduct exams and completed over 620 investigations, helping consumers receive over \$8 million in restitution.

Second, it has hindered the state's ability to evaluate and regulate the entire insurance market. For example, under section 624.404, Florida Statutes (2024), OIR is tasked with determining whether officers and directors of insolvent companies were a "significant contributing cause" of the insolvency. The state entity tasked with developing reports on the causes of insolvencies is the Division of Rehab and Liquidation currently housed within DFS. In order to conduct OIR's statutory duty to review the role of insurer officers and directors in the company's insolvency, OIR had to enter into a legal agreement with DFS to obtain information related to insolvencies and hire an outside firm to assist with a financial investigation already conducted by DFS in their duplicative duty.

Third, it has created unnecessary bureaucratic hurdles for OIR effectively operating with respect to human resources, facilities, and administrative operations. The influence DFS has maintained over OIR operations is in violation of the clear language of chapter 20 which clearly states that DFS cannot control OIR functions "The commission shall not be subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters."

¹ Legislative proposal includes language directing the filing of a revisors bill to modify all statutory references to the Department of Financial Services in the insurance code to the Office of Insurance Regulation that correspond to the powers transferred via this legislation.

By consolidating insurance regulation under the OIR, the Office will be able to maximize the value of its expertise for consumers through an efficient process, avoiding unnecessary delay and ensuring consumer complaints are thoroughly reviewed and addressed. By having all aspects of the insurance industry under one agency, from complaint intake to market regulation, OIR would be able to more effectively assist consumers, evaluate trends in consumer experience and react more succinctly to market needs.

Statutory Changes to Chapter 20

Modify section 20.121, Florida Statutes, to remove the OIR from its administrative housing within DFS and remove references to the Financial Services Commission. All divisions relating to insurance regulation within the DFS are removed and placed within OIR.

Structure of the Department of Insurance

OIR will have the following Divisions and Offices:

1. The Division of Life & Health
 - a. L&H Financial Oversight
 - b. L&H Product Review
2. The Division of Property & Casualty
 - a. P&C Financial Oversight
 - b. P&C Product Review
 - c. My Safe Florida Home program*
3. The Division of Market Regulation
 - a. Consumer Services Investigations*
 - b. Insurance Agent and Agency Services Investigations*
 - c. All regulatory investigations and exams of Life & Health and Property & Casualty
4. The Division of Insurance Fraud*
5. Office of Chief of Staff
 - a. Budget**
 - b. Communications
 - c. Market Research
 - d. Information Technology**
 - e. Purchasing**
 - f. Accounting**
 - g. Human Resources**
6. Office of General Counsel**
 - a. Legal Service of Process*
7. The Division of Rehabilitation and Liquidation*
8. The Office of Insurance Consumer Advocate*

** unit/office/program currently within DFS*

*** transfer would supplement FTE from DFS to OIR*

Statutory Changes to the Insurance Code (Ch. 624-651)

1. Within the Insurance Code, references to DFS and OIR are modified to expressly state which agency has jurisdiction over a matter. References to the Financial Services Commission are stricken from the Insurance Code.
2. Modifies section 624.523, Florida Statutes, to shift budget authority from the Insurance Regulatory Trust Fund to be utilized by OIR.
3. Transfers all appointment powers related to insurance from the Chief Financial Officer to the Insurance Commissioner.
4. Modifies areas in the Insurance Code where Chief Financial Officer is appointed/designated as agent solely for the purpose of receiving service of legal documents to have the Insurance Commissioner appointed/designated.
5. Creates a unit within Consumer Services to address Complex Consumer Complaints.
6. Creates/Modifies statutory language concerning the use of mediation and alternative dispute resolution for consumer services. Ensures language providing for funding to advertise/promote the availability of this service to the public.
7. Modifies statutory language moving My Safe Florida Home from DFS to OIR.
8. Clarifies in the Insurance Code that OIR has oversight of the Florida Surplus Lines Service Office (OIR currently approves their budget).

Proposed changes for unified regulation

1. Division of Fraud Investigation:
 - a. Operate and manage a crime and abuse phone line to address abuse in the insurance industry.
 - b. Create an intra-agency anti-fraud Office to cover fraud in all areas of insurance.
2. Promote availability of mediation and alternative dispute resolutions available for consumers.
3. House the consumer services office within the division of Market Regulation so that consumer complaints are handled by experts, including a new unit for complex scenarios, which allows the market regulation team to more wholly realize trends in consumer complaints for company intervention.
4. Modernize the complaint intake process to national standards in claims handling monitoring and to rapidly identify potential patterns and practices violating Florida Law.

Insurance Regulation Unification

Background: Florida is unique among national insurance regulators in the way it divides insurance regulatory authority between two separate state entities. As the Office of Insurance Regulation (OIR) regulates one of the largest and most complex insurance industries in the world, this bifurcation of responsibilities is not beneficial for consumers and hinders efficiency.

Impact: This split system hurts consumers and is most clearly seen within the Department of Financial Services' (DFS) Consumer Services division.

- In a five-year period, only 5.2% out of 52,160 property and casualty complaints from consumers were referred to OIR to be evaluated for possible statutory violations. This indicates potential underreporting to OIR by DFS.
- Out of the 5.2% referred to OIR, only 3.4% contained confirmed statutory violations, a likely indicator that DFS staff is not adequately trained to identify violations.
- The issue is made even more stark in the light of recent Pharmacy Benefit Manager (PBM) legislation. In 2024, DFS recorded 142 PBM complaints. Out of this 142, only 34 complaints are recorded as closed, and only 11 referred to OIR.
- PBM complaints only reflect those filed by pharmacists and do not reflect consumer complaints. This is due to DFS not amending coding or training staff to cease coding prescription drug related complaints as health insurance complaints. By inaccurately coding consumer PBM issues, OIR is hindered from identifying potential unlicensed PBM's doing business in Florida.

Solution: By placing Consumer Services under OIR, the Office will be able to use real time market trends and insurance expertise to mount a proper response to consumer complaints. This will unify insurance fraud investigations, consumer advocacy, and the My Safe Florida Home Program under OIR to better serve consumers.

- In the area of insurance consumer advocacy, OIR is already at the forefront of protecting consumers and ensuring that their best interests are served. In 2024, OIR's market regulation division helped consumers receive \$8 million in restitution. Still, more could be done if OIR had the regional offices currently under DFS. OIR could send out experienced field representatives to meet with consumers face-to-face,

Insurance Regulation Unification

provide insurance education, and get a better idea of issues facing consumers at a grass-roots level.

- OIR currently performs research on fortification efforts and promulgates the wind mitigation discount forms. Therefore, OIR is well situated to be charged with facilitating the My Safe Florida Home program, as those funds are provided to help consumers fortify their homes.
- OIR is not only better able to ensure program funds are used towards fortification efforts that will benefit the homeowner and the property insurance market, but OIR is better able to analyze the effectiveness of these efforts, as the Office regularly conducts industry data calls and analyzes property market initiatives.

Insurance Agent and Agency Services also finds itself affected by split state regulatory scheme.

- Placing Insurance Agent and Agency Services under OIR would enable the Office to identify statute violations by insurance agents or agencies in real time, and promptly address any issues.
- Many Florida domestic insurance companies utilize Managing General Agencies (MGAs) to facilitate the functions of insurance companies. Currently, the only statutory licensing requirement for an MGA is that a licensed insurance agent works at the MGA. Combining this oversight into OIR's wheelhouse would greatly enhance oversight of insurance companies, group capital, and holding company systems.
- The Division of Investigative and Forensic Services received 19,853 insurance fraud referrals during fiscal year (FY) 2022/2023. This was an increase of 15% over the previous year. Of these, approximately 1,283 or 6% were opened as cases for further investigation.
- OIR would set up a fraud task force to identify and fight fraud across every aspect of the insurance industry including insurer fraud, consumer fraud, and agent fraud.

Goal: OIR is at the forefront of streamlining the regulatory process to greatly improve efficiency. Ending the divided regime will enable the Office to improve transparency, government responsiveness, and service to Florida consumers.