



1 A bill to be entitled
2 An act relating to insurance; amending s. 625.151,
3 F.S.; providing an exception from valuation rules for
4 stocks in subsidiaries for certain foreign insurers
5 under certain conditions; amending s. 625.325, F.S.;
6 exempting foreign insurers from investment
7 requirements relating to subsidiaries and corporations
8 under certain conditions; amending s. 626.221, F.S.;
9 providing an exception from an examination requirement
10 for an all-lines adjuster license applicant with a
11 specified designation; repealing s. 626.918(2)(a),
12 F.S., relating to eligibility of certain surplus lines
13 insurers; amending s. 626.9651, F.S.; revising
14 requirements for rules adopted by the Department of
15 Financial Services and the Financial Services
16 Commission relating to the privacy of certain consumer
17 information; amending s. 627.416, F.S.; revising
18 requirements for execution of insurance policies;
19 amending s. 627.43141, F.S.; revising the requirements
20 for notice of change in policy terms; amending s.
21 627.7015, F.S.; authorizing insurers to participate in
22 mediations requested by third parties; revising
23 terminology; amending s. 627.728, F.S.; providing
24 requirements for sufficient proof of notice for
25 certain motor vehicle insurance notices; amending s.



26 628.4615, F.S.; revising the definition of the term
27 "specialty insurer" to include viatical settlement
28 providers; providing requirements and procedures for a
29 person seeking to rebut a presumption of control in a
30 specialty insurer; amending s. 628.8015, F.S.;
31 revising the type of documents that are not admissible
32 in evidence in a private civil action; amending s.
33 629.401, F.S.; revising reserve requirements for
34 reciprocal insurers; amending s. 634.121, F.S.;
35 providing definitions; providing that provisions
36 relating to the delivery of insurance policy documents
37 by insurers to policyholders apply to certain motor
38 vehicle service agreements provided by motor vehicle
39 service agreement companies; deleting specified
40 methods for the delivery of such documents; amending
41 s. 641.3107, F.S.; providing definitions; providing
42 that provisions relating to the delivery of insurance
43 policy documents by insurers to policyholders apply to
44 delivery of such documents by health maintenance
45 organizations to subscribers; providing effective
46 dates.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Paragraph (c) is added to subsection (3) of



51 section 625.151, Florida Statutes, to read:

52 625.151 Valuation of other securities.—

53 (3) Stock of a subsidiary corporation of an insurer may
54 ~~shall~~ not be valued at an amount in excess of the net value
55 thereof as based upon those assets only of the subsidiary which
56 would be eligible under part II for investment of the funds of
57 the insurer directly.

58 (c) This subsection does not apply to stock of a
59 subsidiary corporation or related entities of a foreign insurer
60 that is permissible under the laws of its state of domicile if
61 the state of domicile is a member of the National Association of
62 Insurance Commissioners.

63 Section 2. Subsection (7) is added to section 625.325,
64 Florida Statutes, to read:

65 625.325 Investments in subsidiaries and related
66 corporations.—

67 (7) APPLICABILITY.—This section does not apply to a
68 foreign insurer's investments in its subsidiaries or related
69 corporations if:

70 (a) The foreign insurer is domiciled in a state that is a
71 member of the National Association of Insurance Commissioners.

72 (b) Such investments in the foreign insurer's subsidiaries
73 or related corporations are:

74 1. Permitted under the laws of the foreign insurer's state
75 of domicile.



76 2.a. Assigned a rating of 1, 2, or 3 by the Securities
77 Valuation Office of the of the National Association of Insurance
78 Commissioners; or

79 b. Qualify for the National Association of Insurance
80 Commissioners' filing exemption rule and assigned a rating by a
81 nationally recognized statistical rating organization that would
82 be equivalent to a rating of 1, 2, or 3 by the Securities
83 Valuation Office.

84 Section 3. Paragraph (j) of subsection (2) of section
85 626.221, Florida Statutes, is amended to read:

86 626.221 Examination requirement; exemptions.—

87 (2) However, an examination is not necessary for any of
88 the following:

89 (j) An applicant for license as an all-lines adjuster who
90 has the designation of Accredited Claims Adjuster (ACA) from a
91 regionally accredited postsecondary institution in this state,
92 Associate in Claims (AIC) from the Insurance Institute of
93 America, Professional Claims Adjuster (PCA) from the
94 Professional Career Institute, Professional Property Insurance
95 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
96 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
97 (CCA) from AE21 Incorporated, Claims Adjuster Certified
98 Professional (CACP) from WebCE, Inc., or Universal Claims
99 Certification (UCC) from Claims and Litigation Management
100 Alliance (CLM) whose curriculum has been approved by the



101 department and which includes comprehensive analysis of basic
102 property and casualty lines of insurance and testing at least
103 equal to that of standard department testing for the all-lines
104 adjuster license. The department shall adopt rules establishing
105 standards for the approval of curriculum.

106 Section 4. Paragraph (a) of subsection (2) of section
107 626.918, Florida Statutes, is repealed.

108 Section 5. Section 626.9651, Florida Statutes, is amended
109 to read:

110 626.9651 Privacy.—The department and commission must ~~shall~~
111 each adopt rules consistent with other provisions of the Florida
112 Insurance Code to govern the use of a consumer's nonpublic
113 personal financial and health information. These rules must be
114 based on, consistent with, and not more restrictive than the
115 Privacy of Consumer Financial and Health Information Regulation,
116 adopted September 26, 2000, by the National Association of
117 Insurance Commissioners; however, the rules must permit the use
118 and disclosure of nonpublic personal health information for
119 scientific, medical, or public policy research, in accordance
120 with federal law. In addition, these rules must be consistent
121 with, and not more restrictive than, the standards contained in
122 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
123 102, as amended in Title LXXV of the Fixing America's Surface
124 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
125 determines that a health insurer or health maintenance



126 organization is in compliance with, or is actively undertaking
127 compliance with, the consumer privacy protection rules adopted
128 by the United States Department of Health and Human Services, in
129 conformance with the Health Insurance Portability and
130 Affordability Act, that health insurer or health maintenance
131 organization is in compliance with this section.

132 Section 6. Subsection (1) of section 627.416, Florida
133 Statutes, is amended, and subsection (4) is added to that
134 section, to read:

135 627.416 Execution of policies.—

136 (1) Except as set forth in subsection (4), ~~every~~ insurance
137 policy shall be executed in the name of and on behalf of the
138 insurer by its officer, attorney in fact, employee, or
139 representative duly authorized by the insurer.

140 (4) An insurer may elect to issue an insurance policy that
141 is not executed by an officer, attorney in fact, employee, or
142 representative, provided that such policy may not be rendered
143 invalid by reason of the lack of execution thereof.

144 Section 7. Subsection (2) of section 627.43141, Florida
145 Statutes, is amended to read:

146 627.43141 Notice of change in policy terms.—

147 (2) A renewal policy may contain a change in policy terms.
148 If such change occurs, the insurer shall give the named insured
149 advance written notice summarizing ~~of~~ the change, which may be
150 enclosed along with the written notice of renewal premium



151 required under ss. 627.4133 and 627.728 or sent separately
152 within the timeframe required under the Florida Insurance Code
153 for the provision of a notice of nonrenewal to the named insured
154 for that line of insurance. The insurer must also provide a
155 sample copy of the notice to the named insured's insurance agent
156 before or at the same time that notice is provided to the named
157 insured. Such notice shall be entitled "Notice of Change in
158 Policy Terms."

159 Section 8. Subsections (1), (3), (6), and (9) of section
160 627.7015, Florida Statutes, are amended to read:

161 627.7015 Alternative procedure for resolution of disputed
162 property insurance claims.—

163 (1) This section sets forth a nonadversarial alternative
164 dispute resolution procedure for a mediated claim resolution
165 conference prompted by the need for effective, fair, and timely
166 handling of property insurance claims. There is a particular
167 need for an informal, nonthreatening forum for helping parties
168 who elect this procedure to resolve their claims disputes
169 because most homeowner and commercial residential insurance
170 policies obligate policyholders to participate in a potentially
171 expensive and time-consuming adversarial appraisal process
172 before litigation. The procedure set forth in this section is
173 designed to bring the parties together for a mediated claims
174 settlement conference without any of the trappings or drawbacks
175 of an adversarial process. Before resorting to these procedures,



176 policyholders and insurers are encouraged to resolve claims as
177 quickly and fairly as possible. This section is available with
178 respect to claims under personal lines and commercial
179 residential policies before commencing the appraisal process, or
180 before commencing litigation. Mediation may be requested only by
181 the policyholder, as a first-party claimant, a third-party, as
182 an assignee of the policy benefits, or the insurer. However, an
183 insurer is not required to participate in any mediation
184 requested by a third-party assignee of the policy benefits. If
185 requested by the policyholder, participation by legal counsel is
186 permitted. Mediation under this section is also available to
187 litigants referred to the department by a county court or
188 circuit court. This section does not apply to commercial
189 coverages, to private passenger motor vehicle insurance
190 coverages, or to disputes relating to liability coverages in
191 policies of property insurance.

192 (3) The costs of mediation must ~~shall~~ be reasonable, and
193 the insurer must ~~shall~~ bear all of the cost of conducting
194 mediation conferences, except as otherwise provided in this
195 section. If a policyholder ~~an insured~~ fails to appear at the
196 conference, the conference must ~~shall~~ be rescheduled upon the
197 policyholder's ~~insured's~~ payment of the costs of a rescheduled
198 conference. If the insurer fails to appear at the conference,
199 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual
200 cash expenses incurred in attending the conference if the



201 insurer's failure to attend was not due to a good cause
202 acceptable to the department. An insurer will be deemed to have
203 failed to appear if the insurer's representative lacks authority
204 to settle the full value of the claim. The insurer shall incur
205 an additional fee for a rescheduled conference necessitated by
206 the insurer's failure to appear at a scheduled conference. The
207 fees assessed by the administrator must ~~shall~~ include a charge
208 necessary to defray the expenses of the department related to
209 its duties under this section and must ~~shall~~ be deposited in the
210 Insurance Regulatory Trust Fund.

211 (6) Mediation is nonbinding; however, if a written
212 settlement is reached, the policyholder ~~insured~~ has 3 business
213 days within which the policyholder ~~insured~~ may rescind the
214 settlement unless the policyholder ~~insured~~ has cashed or
215 deposited any check or draft disbursed to the policyholder
216 ~~insured~~ for the disputed matters as a result of the conference.
217 If a settlement agreement is reached and is not rescinded, it is
218 ~~shall be~~ binding and acts as ~~act~~ as a release of all specific
219 claims that were presented in that mediation conference.

220 (9) For purposes of this section, the term "claim" refers
221 to any dispute between an insurer and a policyholder relating to
222 a material issue of fact other than a dispute:

223 (a) With respect to which the insurer has a reasonable
224 basis to suspect fraud;

225 (b) When ~~Where~~, based on agreed-upon facts as to the cause



226 of loss, there is no coverage under the policy;

227 (c) With respect to which the insurer has a reasonable
228 basis to believe that the policyholder has intentionally made a
229 material misrepresentation of fact which is relevant to the
230 claim, and the entire request for payment of a loss has been
231 denied on the basis of the material misrepresentation;

232 (d) With respect to which the amount in controversy is
233 less than \$500, unless the parties agree to mediate a dispute
234 involving a lesser amount; or

235 (e) With respect to a windstorm or hurricane loss that
236 does not comply with s. 627.70132.

237 Section 9. Subsection (5) of section 627.728, Florida
238 Statutes, is amended to read:

239 627.728 Cancellations; nonrenewals.—

240 (5) United States postal proof of mailing, ~~or~~ certified or
241 registered mailing, or other mailing using the Intelligent Mail
242 barcode or other similar tracking method used or approved by the
243 United States Postal Service of notice of cancellation, of
244 intention not to renew, or of reasons for cancellation, or of
245 the intention of the insurer to issue a policy by an insurer
246 under the same ownership or management, to the first-named
247 insured at the address shown in the policy, are ~~shall be~~
248 sufficient proof of notice.

249 Section 10. Subsections (11) through (14) of section
250 628.4615, Florida Statutes, are renumbered as subsections (12)



251 through (15), respectively, subsections (1) and (7) of that
252 section are amended, and a new subsection (11) is added to that
253 section, to read:

254 628.4615 Specialty insurers; acquisition of controlling
255 stock, ownership interest, assets, or control; merger or
256 consolidation.—

257 (1) For the purposes of this section, the term "specialty
258 insurer" means any person holding a license or certificate of
259 authority as:

260 (a) A motor vehicle service agreement company authorized
261 to issue motor vehicle service agreements as those terms are
262 defined in s. 634.011;

263 (b) A home warranty association authorized to issue "home
264 warranties" as those terms are defined in s. 634.301;

265 (c) A service warranty association authorized to issue
266 "service warranties" as those terms are defined in s.
267 634.401(13) and (14);

268 (d) A prepaid limited health service organization
269 authorized to issue prepaid limited health service contracts, as
270 those terms are defined in chapter 636;

271 (e) An authorized health maintenance organization
272 operating pursuant to s. 641.21;

273 (f) An authorized prepaid health clinic operating pursuant
274 to s. 641.405;

275 (g) A legal expense insurance corporation authorized to



276 engage in a legal expense insurance business pursuant to s.
277 642.021;

278 (h) A provider that is licensed to operate a facility that
279 undertakes to provide continuing care as those terms are defined
280 in s. 651.011;

281 (i) A multiple-employer welfare arrangement operating
282 pursuant to ss. 624.436-624.446;

283 (j) A premium finance company authorized to finance
284 insurance premiums pursuant to s. 627.828; ~~or~~

285 (k) A corporation authorized to accept donor annuity
286 agreements pursuant to s. 627.481; or

287 (l) A viatical settlement provider authorized to do
288 business in this state under part X of chapter 626.

289 (7) The office may disapprove any acquisition subject to
290 ~~the provisions of~~ this section by any person or any affiliated
291 person of such person who:

292 (a) Willfully violates this section;

293 (b) In violation of an order of the office issued pursuant
294 to subsection (12) ~~(11)~~, fails to divest himself or herself of
295 any stock or ownership interest obtained in violation of this
296 section or fails to divest himself or herself of any direct or
297 indirect control of such stock or ownership interest, within 25
298 days after such order; or

299 (c) In violation of an order issued by the office pursuant
300 to subsection (12) ~~(11)~~, acquires an additional stock or



301 ownership interest in a specialty insurer or controlling company
302 or direct or indirect control of such stock or ownership
303 interest, without complying with this section.

304 (11) A person may rebut a presumption of control by filing
305 a disclaimer of control with the office on a form prescribed by
306 the commission. The disclaimer must fully disclose all material
307 relationships and bases for affiliation between the person and
308 the specialty insurer as well as the basis for disclaiming the
309 affiliation. In lieu of such form, a person or acquiring party
310 may file with the office a copy of a Schedule 13G filed with the
311 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
312 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
313 of 1934, as amended. After a disclaimer has been filed, the
314 specialty insurer is relieved of any duty to register or report
315 under this section which may arise out of the specialty
316 insurer's relationship with the person unless the office
317 disallows the disclaimer.

318 Section 11. Subsection (4) of section 628.8015, Florida
319 Statutes, is amended to read:

320 628.8015 Own-risk and solvency assessment; corporate
321 governance annual disclosure.—

322 (4) CONFIDENTIALITY.—The required filings and related
323 documents submitted pursuant to subsections (2) and (3) are
324 privileged such that they may not be produced in response to a
325 subpoena or other discovery directed to the office, and any such



326 filings and related documents, ~~if obtained from the office,~~ are
327 not admissible in evidence in any private civil action. However,
328 the department or office may use these filings and related
329 documents in the furtherance of any regulatory or legal action
330 brought against an insurer as part of the official duties of the
331 department or office. A waiver of any applicable claim of
332 privilege in these filings and related documents may not occur
333 because of a disclosure to the office under this section,
334 because of any other provision of the Insurance Code, or because
335 of sharing under s. 624.4212. The office or a person receiving
336 these filings and related documents, while acting under the
337 authority of the office, or with whom such filings and related
338 documents are shared pursuant to s. 624.4212, is not permitted
339 or required to testify in any private civil action concerning
340 any such filings or related documents.

341 Section 12. Paragraph (b) of subsection (6) of section
342 629.401, Florida Statutes, is amended to read:

343 629.401 Insurance exchange.—

344 (6)

345 (b) In addition to the insurance laws specified in
346 paragraph (a), the office shall regulate the exchange pursuant
347 to the following powers, rights, and duties:

348 1. General examination powers.—The office shall examine
349 the affairs, transactions, accounts, records, and assets of any
350 security fund, exchange, members, and associate brokers as often



351 as it deems advisable. The examination may be conducted by the
352 accredited examiners of the office at the offices of the entity
353 or person being examined. The office shall examine in like
354 manner each prospective member or associate broker applying for
355 membership in an exchange.

356 2. Office approval and applications of underwriting
357 members.—No underwriting member shall commence operation without
358 the approval of the office. Before commencing operation, an
359 underwriting member shall provide a written application
360 containing:

361 a. Name, type, and purpose of the underwriting member.

362 b. Name, residence address, business background, and
363 qualifications of each person associated or to be associated in
364 the formation or financing of the underwriting member.

365 c. Full disclosure of the terms of all understandings and
366 agreements existing or proposed among persons so associated
367 relative to the underwriting member, or the formation or
368 financing thereof, accompanied by a copy of each such agreement
369 or understanding.

370 d. Full disclosure of the terms of all understandings and
371 agreements existing or proposed for management or exclusive
372 agency contracts.

373 3. Investigation of underwriting member applications.—In
374 connection with any proposal to establish an underwriting
375 member, the office shall make an investigation of:



376 a. The character, reputation, financial standing, and
377 motives of the organizers, incorporators, or subscribers
378 organizing the proposed underwriting member.

379 b. The character, financial responsibility, insurance
380 experience, and business qualifications of its proposed
381 officers.

382 c. The character, financial responsibility, business
383 experience, and standing of the proposed stockholders and
384 directors, or owners.

385 4. Notice of management changes.—An underwriting member
386 shall promptly give the office written notice of any change
387 among the directors or principal officers of the underwriting
388 member within 30 days after such change. The office shall
389 investigate the new directors or principal officers of the
390 underwriting member. The office's investigation shall include an
391 investigation of the character, financial responsibility,
392 insurance experience, and business qualifications of any new
393 directors or principal officers. As a result of the
394 investigation, the office may require the underwriting member to
395 replace any new directors or principal officers.

396 5. Alternate financial statement.—In lieu of any financial
397 examination, the office may accept an audited financial
398 statement.

399 6. Correction and reconstruction of records.—If the office
400 finds any accounts or records to be inadequate, or inadequately



401 kept or posted, it may employ experts to reconstruct, rewrite,
402 post, or balance them at the expense of the person or entity
403 being examined if such person or entity has failed to maintain,
404 complete, or correct such records or accounts after the office
405 has given him or her or it notice and reasonable opportunity to
406 do so.

407 7. Obstruction of examinations.—Any person or entity who
408 or which willfully obstructs the office or its examiner in an
409 examination is guilty of a misdemeanor of the second degree,
410 punishable as provided in s. 775.082 or s. 775.083.

411 8. Filing of annual statement.—Each underwriting member
412 shall file with the office a full and true statement of its
413 financial condition, transactions, and affairs. The statement
414 shall be filed on or before March 1 of each year, or within such
415 extension of time as the office for good cause grants, and shall
416 be for the preceding calendar year. The statement shall contain
417 information generally included in insurer financial statements
418 prepared in accordance with generally accepted insurance
419 accounting principles and practices and in a form generally
420 utilized by insurers for financial statements, sworn to by at
421 least two executive officers of the underwriting member. The
422 form of the financial statements shall be the approved form of
423 the National Association of Insurance Commissioners or its
424 successor organization. The commission may by rule require each
425 insurer to submit any part of the information contained in the



426 financial statement in a computer-readable form compatible with
427 the office's electronic data processing system. In addition to
428 information furnished in connection with its annual statement,
429 an underwriting member must furnish to the office as soon as
430 reasonably possible such information about its transactions or
431 affairs as the office requests in writing. All information
432 furnished pursuant to the office's request must be verified by
433 the oath of two executive officers of the underwriting member.

434 9. Record maintenance.—Each underwriting member shall have
435 and maintain its principal place of business in this state and
436 shall keep therein complete records of its assets, transactions,
437 and affairs in accordance with such methods and systems as are
438 customary for or suitable to the kind or kinds of insurance
439 transacted.

440 10. Examination of agents.—If the department has reason to
441 believe that any agent, as defined in s. 626.015 or s. 626.914,
442 has violated or is violating any provision of the insurance law,
443 or upon receipt of a written complaint signed by any interested
444 person indicating that any such violation may exist, the
445 department shall conduct such examination as it deems necessary
446 of the accounts, records, documents, and transactions pertaining
447 to or affecting the insurance affairs of such agent.

448 11. Written reports of office.—The office or its examiner
449 shall make a full and true written report of any examination.
450 The report shall contain only information obtained from



451 examination of the records, accounts, files, and documents of or
452 relative to the person or entity examined or from testimony of
453 individuals under oath, together with relevant conclusions and
454 recommendations of the examiner based thereon. The office shall
455 furnish a copy of the report to the person or entity examined
456 not less than 30 days prior to filing the report in its office.
457 If such person or entity so requests in writing within such 30-
458 day period, the office shall grant a hearing with respect to the
459 report and shall not file the report until after the hearing and
460 after such modifications have been made therein as the office
461 deems proper.

462 12. Admissibility of reports.—The report of an examination
463 when filed shall be admissible in evidence in any action or
464 proceeding brought by the office against the person or entity
465 examined, or against his or her or its officers, employees, or
466 agents. The office or its examiners may at any time testify and
467 offer other proper evidence as to information secured or matters
468 discovered during the course of an examination, whether or not a
469 written report of the examination has been either made,
470 furnished, or filed in the office.

471 13. Publication of reports.—After an examination report
472 has been filed, the office may publish the results of any such
473 examination in one or more newspapers published in this state
474 whenever it deems it to be in the public interest.

475 14. Consideration of examination reports by entity



476 examined.—After the examination report of an underwriting member
477 has been filed, an affidavit shall be filed with the office, not
478 more than 30 days after the report has been filed, on a form
479 furnished by the office and signed by the person or a
480 representative of any entity examined, stating that the report
481 has been read and that the recommendations made in the report
482 will be considered within a reasonable time.

483 15. Examination costs.—Each person or entity examined by
484 the office shall pay to the office the expenses incurred in such
485 examination.

486 16. Exchange costs.—An exchange shall reimburse the office
487 for any expenses incurred by it relating to the regulation of
488 the exchange and its members, except as specified in
489 subparagraph 15.

490 17. Powers of examiners.—Any examiner appointed by the
491 office, as to the subject of any examination, investigation, or
492 hearing being conducted by him or her, may administer oaths,
493 examine and cross-examine witnesses, and receive oral and
494 documentary evidence, and shall have the power to subpoena
495 witnesses, compel their attendance and testimony, and require by
496 subpoena the production of books, papers, records, files,
497 correspondence, documents, or other evidence which the examiner
498 deems relevant to the inquiry. If any person refuses to comply
499 with any such subpoena or to testify as to any matter concerning
500 which he or she may be lawfully interrogated, the Circuit Court



501 of Leon County or the circuit court of the county wherein such
502 examination, investigation, or hearing is being conducted, or of
503 the county wherein such person resides, on the office's
504 application may issue an order requiring such person to comply
505 with the subpoena and to testify; and any failure to obey such
506 an order of the court may be punished by the court as a contempt
507 thereof. Subpoenas shall be served, and proof of such service
508 made, in the same manner as if issued by a circuit court.
509 Witness fees and mileage, if claimed, shall be allowed the same
510 as for testimony in a circuit court.

511 18. False testimony.—Any person willfully testifying
512 falsely under oath as to any matter material to any examination,
513 investigation, or hearing shall upon conviction thereof be
514 guilty of perjury and shall be punished accordingly.

515 19. Self-incrimination.—

516 a. If any person asks to be excused from attending or
517 testifying or from producing any books, papers, records,
518 contracts, documents, or other evidence in connection with any
519 examination, hearing, or investigation being conducted by the
520 office or its examiner, on the ground that the testimony or
521 evidence required of the person may tend to incriminate him or
522 her or subject him or her to a penalty or forfeiture, and the
523 person notwithstanding is directed to give such testimony or
524 produce such evidence, he or she shall, if so directed by the
525 office and the Department of Legal Affairs, nonetheless comply



526 | with such direction; but the person shall not thereafter be
527 | prosecuted or subjected to any penalty or forfeiture for or on
528 | account of any transaction, matter, or thing concerning which he
529 | or she may have so testified or produced evidence, and no
530 | testimony so given or evidence so produced shall be received
531 | against him or her upon any criminal action, investigation, or
532 | proceeding; except that no such person so testifying shall be
533 | exempt from prosecution or punishment for any perjury committed
534 | by him or her in such testimony, and the testimony or evidence
535 | so given or produced shall be admissible against him or her upon
536 | any criminal action, investigation, or proceeding concerning
537 | such perjury, nor shall he or she be exempt from the refusal,
538 | suspension, or revocation of any license, permission, or
539 | authority conferred, or to be conferred, pursuant to the
540 | insurance law.

541 | b. Any such individual may execute, acknowledge, and file
542 | with the office a statement expressly waiving such immunity or
543 | privilege in respect to any transaction, matter, or thing
544 | specified in such statement, and thereupon the testimony of such
545 | individual or such evidence in relation to such transaction,
546 | matter, or thing may be received or produced before any judge or
547 | justice, court, tribunal, grand jury, or otherwise; and if such
548 | testimony or evidence is so received or produced, such
549 | individual shall not be entitled to any immunity or privileges
550 | on account of any testimony so given or evidence so produced.



551 20. Penalty for failure to testify.—Any person who refuses
552 or fails, without lawful cause, to testify relative to the
553 affairs of any member, associate broker, or other person when
554 subpoenaed and requested by the office to so testify, as
555 provided in subparagraph 17., shall, in addition to the penalty
556 provided in subparagraph 17., be guilty of a misdemeanor of the
557 second degree, punishable as provided in s. 775.082 or s.
558 775.083.

559 21. Name selection.—No underwriting member shall be formed
560 or authorized to transact insurance in this state under a name
561 which is the same as that of any authorized insurer or is so
562 nearly similar thereto as to cause or tend to cause confusion or
563 under a name which would tend to mislead as to the type of
564 organization of the insurer. Before incorporating under or using
565 any name, the underwriting syndicate or proposed underwriting
566 syndicate shall submit its name or proposed name to the office
567 for the approval of the office.

568 22. Capitalization.—An underwriting member approved on or
569 after July 2, 1987, shall provide an initial paid-in capital and
570 surplus of \$3 million and thereafter shall maintain a minimum
571 policyholder surplus of \$2 million in order to be permitted to
572 write insurance. Underwriting members approved prior to July 2,
573 1987, shall maintain a minimum policyholder surplus of \$1
574 million. After June 29, 1988, underwriting members approved
575 prior to July 2, 1987, must maintain a minimum policyholder



576 surplus of \$1.5 million to write insurance. After June 29, 1989,
577 underwriting members approved prior to July 2, 1987, must
578 maintain a minimum policyholder surplus of \$1.75 million to
579 write insurance. After December 30, 1989, all underwriting
580 members, regardless of the date they were approved, must
581 maintain a minimum policyholder surplus of \$2 million to write
582 insurance. Except for that portion of the paid-in capital and
583 surplus which shall be maintained in a security fund of an
584 exchange, the paid-in capital and surplus shall be invested by
585 an underwriting member in a manner consistent with ss. 625.301-
586 625.340. The portion of the paid-in capital and surplus in any
587 security fund of an exchange shall be invested in a manner
588 limited to investments for life insurance companies under the
589 Florida insurance laws.

590 23. Limitations on coverage written.-

591 a. Limit of risk.-No underwriting member shall expose
592 itself to any loss on any one risk in an amount exceeding 10
593 percent of its surplus to policyholders. Any risk or portion of
594 any risk which shall have been reinsured in an assuming
595 reinsurer authorized or approved to do such business in this
596 state shall be deducted in determining the limitation of risk
597 prescribed in this section.

598 b. Restrictions on premiums written.-If the office has
599 reason to believe that the underwriting member's ratio of actual
600 or projected annual gross written premiums to policyholder



601 surplus exceeds 8 to 1 or the underwriting member's ratio of
602 actual or projected annual net premiums to policyholder surplus
603 exceeds 4 to 1, the office may establish maximum gross or net
604 annual premiums to be written by the underwriting member
605 consistent with maintaining the ratios specified in this sub-
606 subparagraph.

607 (I) Projected annual net or gross premiums shall be based
608 on the actual writings to date for the underwriting member's
609 current calendar year, its writings for the previous calendar
610 year, or both. Ratios shall be computed on an annualized basis.

611 (II) For purposes of this sub-subparagraph, the term
612 "gross written premiums" means direct premiums written and
613 reinsurance assumed.

614 c. Surplus as to policyholders.—For the purpose of
615 determining the limitation on coverage written, surplus as to
616 policyholders shall be deemed to include any voluntary reserves,
617 or any part thereof, which are not required by or pursuant to
618 law and shall be determined from the last sworn statement of
619 such underwriting member with the office, or by the last report
620 or examination filed by the office, whichever is more recent at
621 the time of assumption of such risk.

622 24. Unearned premium reserves.—An underwriting member must
623 at all times maintain an unearned premium reserve equal to 50
624 percent of the net written premiums of the subscribers on
625 policies having 1 year or less to run, and pro rata on those for



626 longer periods, All unearned premium reserves for business
627 written on the exchange shall be calculated on a monthly or more
628 frequent basis or on such other basis as determined by the
629 office; except that all premiums on any marine or transportation
630 insurance trip risk shall be deemed unearned until the trip is
631 terminated. For the purpose of this subparagraph, the term "net
632 written premiums" means the premium payments made by subscribers
633 plus the premiums due from subscribers, after deducting the
634 amounts specifically provided in the subscribers' agreements for
635 expenses, including reinsurance costs and fees paid to the
636 attorney in fact, provided that the power of attorney agreement
637 contains an explicit provision requiring the attorney in fact to
638 refund any unearned subscribers fees on a pro-rata basis for
639 cancelled policies. If there is no such provision, the unearned
640 premium reserve shall be calculated without any adjustment for
641 fees paid to the attorney in fact. If the unearned premium
642 reserves at any time do not amount to \$100,000, there shall be
643 maintained on deposit at the exchange at all times additional
644 funds in cash or eligible securities which, together with the
645 unearned premium reserves, equal \$100,000. In calculating the
646 foregoing reserves, the amount of the attorney's bond, as filed
647 with the office and as required by s. 629.121, shall be included
648 in such reserves. If at any time the unearned premium reserves
649 is less than the foregoing requirements, the subscribers, or the
650 attorney in fact, shall advance funds to make up the deficiency.



651 Such advances shall only be repaid out of the surplus of the
652 exchange and only after receiving written approval from the
653 office.

654 25. Loss reserves.—All underwriting members of an exchange
655 shall maintain loss reserves, including a reserve for incurred
656 but not reported claims. The reserves shall be subject to review
657 by the office, and, if loss experience shows that an
658 underwriting member's loss reserves are inadequate, the office
659 shall require the underwriting member to maintain loss reserves
660 in such additional amount as is needed to make them adequate.

661 26. Distribution of profits.—An underwriting member shall
662 not distribute any profits in the form of cash or other assets
663 to owners except out of that part of its available and
664 accumulated surplus funds which is derived from realized net
665 operating profits on its business and realized capital gains. In
666 any one year such payments to owners shall not exceed 30 percent
667 of such surplus as of December 31 of the immediately preceding
668 year, unless otherwise approved by the office. No distribution
669 of profits shall be made that would render an underwriting
670 member either impaired or insolvent.

671 27. Stock dividends.—A stock dividend may be paid by an
672 underwriting member out of any available surplus funds in excess
673 of the aggregate amount of surplus advanced to the underwriting
674 member under subparagraph 29.

675 28. Dividends from earned surplus.—A dividend otherwise



676 lawful may be payable out of an underwriting member's earned
677 surplus even though the total surplus of the underwriting member
678 is then less than the aggregate of its past contributed surplus
679 resulting from issuance of its capital stock at a price in
680 excess of the par value thereof.

681 29. Borrowing of money by underwriting members.—

682 a. An underwriting member may borrow money to defray the
683 expenses of its organization, provide it with surplus funds, or
684 for any purpose of its business, upon a written agreement that
685 such money is required to be repaid only out of the underwriting
686 member's surplus in excess of that stipulated in such agreement.
687 The agreement may provide for interest not exceeding 15 percent
688 simple interest per annum. The interest shall or shall not
689 constitute a liability of the underwriting member as to its
690 funds other than such excess of surplus, as stipulated in the
691 agreement. No commission or promotion expense shall be paid in
692 connection with any such loan. The use of any surplus note and
693 any repayments thereof shall be subject to the approval of the
694 office.

695 b. Money so borrowed, together with any interest thereon
696 if so stipulated in the agreement, shall not form a part of the
697 underwriting member's legal liabilities except as to its surplus
698 in excess of the amount thereof stipulated in the agreement, nor
699 be the basis of any setoff; but until repayment, financial
700 statements filed or published by an underwriting member shall



701 show as a footnote thereto the amount thereof then unpaid,
702 together with any interest thereon accrued but unpaid.

703 30. Liquidation, rehabilitation, and restrictions.—The
704 office, upon a showing that a member or associate broker of an
705 exchange has met one or more of the grounds contained in part I
706 of chapter 631, may restrict sales by type of risk, policy or
707 contract limits, premium levels, or policy or contract
708 provisions; increase surplus or capital requirements of
709 underwriting members; issue cease and desist orders; suspend or
710 restrict a member's or associate broker's right to transact
711 business; place an underwriting member under conservatorship or
712 rehabilitation; or seek an order of liquidation as authorized by
713 part I of chapter 631.

714 31. Prohibited conduct.—The following acts by a member,
715 associate broker, or affiliated person shall constitute
716 prohibited conduct:

717 a. Fraud.

718 b. Fraudulent or dishonest acts committed by a member or
719 associate broker prior to admission to an exchange, if the facts
720 and circumstances were not disclosed to the office upon
721 application to become a member or associate broker.

722 c. Conduct detrimental to the welfare of an exchange.

723 d. Unethical or improper practices or conduct,
724 inconsistent with just and equitable principles of trade as set
725 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.



726 e. Failure to use due diligence to ascertain the insurance
727 needs of a client or a principal.

728 f. Misstatements made under oath or upon an application
729 for membership on an exchange.

730 g. Failure to testify or produce documents when requested
731 by the office.

732 h. Willful violation of any law of this state.

733 i. Failure of an officer or principal to testify under
734 oath concerning a member, associate broker, or other person's
735 affairs as they relate to the operation of an exchange.

736 j. Violation of the constitution and bylaws of the
737 exchange.

738 32. Penalties for participating in prohibited conduct.—

739 a. The office may order the suspension of further
740 transaction of business on the exchange of any member or
741 associate broker found to have engaged in prohibited conduct. In
742 addition, any member or associate broker found to have engaged
743 in prohibited conduct may be subject to reprimand, censure,
744 and/or a fine not exceeding \$25,000 imposed by the office.

745 b. Any member which has an affiliated person who is found
746 to have engaged in prohibited conduct shall be subject to
747 involuntary withdrawal or in addition thereto may be subject to
748 suspension, reprimand, censure, and/or a fine not exceeding
749 \$25,000.

750 33. Reduction of penalties.—Any suspension, reprimand,



751 censure, or fine may be remitted or reduced by the office on
752 such terms and conditions as are deemed fair and equitable.

753 34. Other offenses.—Any member or associate broker that is
754 suspended shall be deprived, during the period of suspension, of
755 all rights and privileges of a member or of an associate broker
756 and may be proceeded against by the office for any offense
757 committed either before or after the date of suspension.

758 35. Reinstatement.—Any member or associate broker that is
759 suspended may be reinstated at any time on such terms and
760 conditions as the office may specify.

761 36. Remittance of fines.—Fines imposed under this section
762 shall be remitted to the office and shall be paid into the
763 Insurance Regulatory Trust Fund.

764 37. Failure to pay fines.—When a member or associate
765 broker has failed to pay a fine for 15 days after it becomes
766 payable, such member or associate broker shall be suspended,
767 unless the office has granted an extension of time to pay such
768 fine.

769 38. Changes in ownership or assets.—In the event of a
770 major change in the ownership or a major change in the assets of
771 an underwriting member, the underwriting member shall report
772 such change in writing to the office within 30 days of the
773 effective date thereof. The report shall set forth the details
774 of the change. Any change in ownership or assets of more than 5
775 percent shall be considered a major change.



776 39. Retaliation.—

777 a. When by or pursuant to the laws of any other state or
778 foreign country any taxes, licenses, or other fees, in the
779 aggregate, and any fines, penalties, deposit requirements, or
780 other material obligations, prohibitions, or restrictions are or
781 would be imposed upon an exchange or upon the agents or
782 representatives of such exchange which are in excess of such
783 taxes, licenses, and other fees, in the aggregate, or which are
784 in excess of such fines, penalties, deposit requirements, or
785 other obligations, prohibitions, or restrictions directly
786 imposed upon similar exchanges or upon the agents or
787 representatives of such exchanges of such other state or country
788 under the statutes of this state, so long as such laws of such
789 other state or country continue in force or are so applied, the
790 same taxes, licenses, and other fees, in the aggregate, or
791 fines, penalties, deposit requirements, or other material
792 obligations, prohibitions, or restrictions of whatever kind
793 shall be imposed by the office upon the exchanges, or upon the
794 agents or representatives of such exchanges, of such other state
795 or country doing business or seeking to do business in this
796 state.

797 b. Any tax, license, or other obligation imposed by any
798 city, county, or other political subdivision or agency of a
799 state, jurisdiction, or foreign country on an exchange, or on
800 the agents or representatives on an exchange, shall be deemed to



801 be imposed by such state, jurisdiction, or foreign country
802 within the meaning of sub-subparagraph a.

803 40. Agents.—

804 a. Agents as defined in ss. 626.015 and 626.914 who are
805 broker members or associate broker members of an exchange shall
806 be allowed only to place on an exchange the same kind or kinds
807 of business that the agent is licensed to place pursuant to
808 Florida law. Direct Florida business as defined in s. 626.916 or
809 s. 626.917 shall be written through a broker member who is a
810 surplus lines agent as defined in s. 626.914. The activities of
811 each broker member or associate broker with regard to an
812 exchange shall be subject to all applicable provisions of the
813 insurance laws of this state, and all such activities shall
814 constitute transactions under his or her license as an insurance
815 agent for purposes of the Florida insurance law.

816 b. Premium payments and other requirements.—If an
817 underwriting member has assumed the risk as to a surplus lines
818 coverage and if the premium therefor has been received by the
819 surplus lines agent who placed such insurance, then in all
820 questions thereafter arising under the coverage as between the
821 underwriting member and the insured, the underwriting member
822 shall be deemed to have received the premium due to it for such
823 coverage; and the underwriting member shall be liable to the
824 insured as to losses covered by such insurance, and for unearned
825 premiums which may become payable to the insured upon



826 | cancellation of such insurance, whether or not in fact the
827 | surplus lines agent is indebted to the underwriting member with
828 | respect to such insurance or for any other cause.

829 | 41. Improperly issued contracts, riders, and
830 | endorsements.—

831 | a. Any insurance policy, rider, or endorsement issued by
832 | an underwriting member and otherwise valid which contains any
833 | condition or provision not in compliance with the requirements
834 | of this section shall not be thereby rendered invalid, except as
835 | provided in s. 627.415, but shall be construed and applied in
836 | accordance with such conditions and provisions as would have
837 | applied had such policy, rider, or endorsement been in full
838 | compliance with this section. In the event an underwriting
839 | member issues or delivers any policy for an amount which exceeds
840 | any limitations otherwise provided in this section, the
841 | underwriting member shall be liable to the insured or his or her
842 | beneficiary for the full amount stated in the policy in addition
843 | to any other penalties that may be imposed.

844 | b. Any insurance contract delivered or issued for delivery
845 | in this state governing a subject or subjects of insurance
846 | resident, located, or to be performed in this state which,
847 | pursuant to the provisions of this section, the underwriting
848 | member may not lawfully insure under such a contract shall be
849 | cancelable at any time by the underwriting member, any provision
850 | of the contract to the contrary notwithstanding; and the



851 | underwriting member shall promptly cancel the contract in
852 | accordance with the request of the office therefor. No such
853 | illegality or cancellation shall be deemed to relieve the
854 | underwriting syndicate of any liability incurred by it under the
855 | contract while in force or to prohibit the underwriting
856 | syndicate from retaining the pro rata earned premium thereon.
857 | This provision does not relieve the underwriting syndicate from
858 | any penalty otherwise incurred by the underwriting syndicate.

859 | 42. Satisfaction of judgments.—

860 | a. Every judgment or decree for the recovery of money
861 | heretofore or hereafter entered in any court of competent
862 | jurisdiction against any underwriting member shall be fully
863 | satisfied within 60 days from and after the entry thereof or, in
864 | the case of an appeal from such judgment or decree, within 60
865 | days from and after the affirmance of the judgment or decree by
866 | the appellate court.

867 | b. If the judgment or decree is not satisfied as required
868 | under sub-subparagraph a., and proof of such failure to satisfy
869 | is made by filing with the office a certified transcript of the
870 | docket of the judgment or the decree together with a certificate
871 | by the clerk of the court wherein the judgment or decree remains
872 | unsatisfied, in whole or in part, after the time provided in
873 | sub-subparagraph a., the office shall forthwith prohibit the
874 | underwriting member from transacting business. The office shall
875 | not permit such underwriting member to write any new business



876 | until the judgment or decree is wholly paid and satisfied and
877 | proof thereof is filed with the office under the official
878 | certificate of the clerk of the court wherein the judgment was
879 | recovered, showing that the judgment or decree is satisfied of
880 | record, and until the expenses and fees incurred in the case are
881 | also paid by the underwriting syndicate.

882 | 43. Tender and exchange offers.—No person shall conclude a
883 | tender offer or an exchange offer or otherwise acquire 5 percent
884 | or more of the outstanding voting securities of an underwriting
885 | member or controlling company or purchase 5 percent or more of
886 | the ownership of an underwriting member or controlling company
887 | unless such person has filed with, and obtained the approval of,
888 | the office and sent to such underwriting member a statement
889 | setting forth:

890 | a. The identity of, and background information on, each
891 | person by whom, or on whose behalf, the acquisition is to be
892 | made; and, if the acquisition is to be made by or on behalf of a
893 | corporation, association, or trust, the identity of and
894 | background information on each director, officer, trustee, or
895 | other natural person performing duties similar to those of a
896 | director, officer, or trustee for the corporation, association,
897 | or trust.

898 | b. The source and amount of the funds or other
899 | consideration used, or to be used, in making the acquisition.

900 | c. Any plans or proposals which such person may have to



901 liquidate such member, to sell its assets, or to merge or
902 consolidate it.

903 d. The percentage of ownership which such person proposes
904 to acquire and the terms of the offer or exchange, as the case
905 may be.

906 e. Information as to any contracts, arrangements, or
907 understandings with any party with respect to any securities of
908 such member or controlling company, including, but not limited
909 to, information relating to the transfer of any securities,
910 option arrangements, or puts or calls or the giving or
911 withholding of proxies, naming the party with whom such
912 contract, arrangements, or understandings have been entered and
913 giving the details thereof.

914 f. The office may disapprove any acquisition subject to
915 the provisions of this subparagraph by any person or any
916 affiliated person of such person who:

917 (I) Willfully violates this subparagraph;

918 (II) In violation of an order of the office issued
919 pursuant to sub-subparagraph j., fails to divest himself or
920 herself of any stock obtained in violation of this subparagraph,
921 or fails to divest himself or herself of any direct or indirect
922 control of such stock, within 25 days after such order; or

923 (III) In violation of an order issued by the office
924 pursuant to sub-subparagraph j., acquires additional stock of
925 the underwriting member or controlling company, or direct or



926 indirect control of such stock, without complying with this
927 subparagraph.

928 g. The person or persons filing the statement required by
929 this subparagraph have the burden of proof. The office shall
930 approve any such acquisition if it finds, on the basis of the
931 record made during any proceeding or on the basis of the filed
932 statement if no proceeding is conducted, that:

933 (I) Upon completion of the acquisition, the underwriting
934 member will be able to satisfy the requirements for the approval
935 to write the line or lines of insurance for which it is
936 presently approved;

937 (II) The financial condition of the acquiring person or
938 persons will not jeopardize the financial stability of the
939 underwriting member or prejudice the interests of its
940 policyholders or the public;

941 (III) Any plan or proposal which the acquiring person has,
942 or acquiring persons have, made:

943 (A) To liquidate the insurer, sell its assets, or merge or
944 consolidate it with any person, or to make any other major
945 change in its business or corporate structure or management; or

946 (B) To liquidate any controlling company, sell its assets,
947 or merge or consolidate it with any person, or to make any major
948 change in its business or corporate structure or management
949 which would have an effect upon the underwriting member
950



951 is fair and free of prejudice to the policyholders of the
952 underwriting member or to the public;

953 (IV) The competence, experience, and integrity of those
954 persons who will control directly or indirectly the operation of
955 the underwriting member indicate that the acquisition is in the
956 best interest of the policyholders of the underwriting member
957 and in the public interest;

958 (V) The natural persons for whom background information is
959 required to be furnished pursuant to this subparagraph have such
960 backgrounds as to indicate that it is in the best interests of
961 the policyholders of the underwriting member, and in the public
962 interest, to permit such persons to exercise control over such
963 underwriting member;

964 (VI) The officers and directors to be employed after the
965 acquisition have sufficient insurance experience and ability to
966 assure reasonable promise of successful operation;

967 (VII) The management of the underwriting member after the
968 acquisition will be competent and trustworthy and will possess
969 sufficient managerial experience so as to make the proposed
970 operation of the underwriting member not hazardous to the
971 insurance-buying public;

972 (VIII) The management of the underwriting member after the
973 acquisition will not include any person who has directly or
974 indirectly through ownership, control, reinsurance transactions,
975 or other insurance or business relations unlawfully manipulated



976 | the assets, accounts, finances, or books of any insurer or
977 | underwriting member or otherwise acted in bad faith with respect
978 | thereto;

979 | (IX) The acquisition is not likely to be hazardous or
980 | prejudicial to the underwriting member's policyholders or the
981 | public; and

982 | (X) The effect of the acquisition of control would not
983 | substantially lessen competition in insurance in this state or
984 | would not tend to create a monopoly therein.

985 | h. No vote by the stockholder of record, or by any other
986 | person, of any security acquired in contravention of the
987 | provisions of this subparagraph is valid. Any acquisition of any
988 | security contrary to the provisions of this subparagraph is
989 | void. Upon the petition of the underwriting member or
990 | controlling company, the circuit court for the county in which
991 | the principal office of such underwriting member is located may,
992 | without limiting the generality of its authority, order the
993 | issuance or entry of an injunction or other order to enforce the
994 | provisions of this subparagraph. There shall be a private right
995 | of action in favor of the underwriting member or controlling
996 | company to enforce the provisions of this subparagraph. No
997 | demand upon the office that it perform its functions shall be
998 | required as a prerequisite to any suit by the underwriting
999 | member or controlling company against any other person, and in
1000 | no case shall the office be deemed a necessary party to any



1001 action by such underwriting member or controlling company to
1002 enforce the provisions of this subparagraph. Any person who
1003 makes or proposes an acquisition requiring the filing of a
1004 statement pursuant to this subparagraph, or who files such a
1005 statement, shall be deemed to have thereby designated the Chief
1006 Financial Officer as such person's agent for service of process
1007 under this subparagraph and shall thereby be deemed to have
1008 submitted himself or herself to the administrative jurisdiction
1009 of the office and to the jurisdiction of the circuit court.

1010 i. Any approval by the office under this subparagraph does
1011 not constitute a recommendation by the office for an
1012 acquisition, tender offer, or exchange offer. It is unlawful for
1013 a person to represent that the office's approval constitutes a
1014 recommendation. A person who violates the provisions of this
1015 sub-subparagraph is guilty of a felony of the third degree,
1016 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1017 The statute-of-limitations period for the prosecution of an
1018 offense committed under this sub-subparagraph is 5 years.

1019 j. Upon notification to the office by the underwriting
1020 member or a controlling company that any person or any
1021 affiliated person of such person has acquired 5 percent or more
1022 of the outstanding voting securities of the underwriting member
1023 or controlling company without complying with the provisions of
1024 this subparagraph, the office shall order that the person and
1025 any affiliated person of such person cease acquisition of any



1026 further securities of the underwriting member or controlling
1027 company; however, the person or any affiliated person of such
1028 person may request a proceeding, which proceeding shall be
1029 convened within 7 days after the rendering of the order for the
1030 sole purpose of determining whether the person, individually or
1031 in connection with any affiliated person of such person, has
1032 acquired 5 percent or more of the outstanding voting securities
1033 of an underwriting member or controlling company. Upon the
1034 failure of the person or affiliated person to request a hearing
1035 within 7 days, or upon a determination at a hearing convened
1036 pursuant to this sub-subparagraph that the person or affiliated
1037 person has acquired voting securities of an underwriting member
1038 or controlling company in violation of this subparagraph, the
1039 office may order the person and affiliated person to divest
1040 themselves of any voting securities so acquired.

1041 k.(I) The office shall, if necessary to protect the public
1042 interest, suspend or revoke the certificate of authority of any
1043 underwriting member or controlling company:

1044 (A) The control of which is acquired in violation of this
1045 subparagraph;

1046 (B) That is controlled, directly or indirectly, by any
1047 person or any affiliated person of such person who, in violation
1048 of this subparagraph, has obtained control of an underwriting
1049 member or controlling company; or

1050 (C) That is controlled, directly or indirectly, by any



1051 person who, directly or indirectly, controls any other person
1052 who, in violation of this subparagraph, acquires control of an
1053 underwriting member or controlling company.

1054 (II) If any underwriting member is subject to suspension
1055 or revocation pursuant to sub-sub-subparagraph (I), the
1056 underwriting member shall be deemed to be in such condition, or
1057 to be using or to have been subject to such methods or practices
1058 in the conduct of its business, as to render its further
1059 transaction of insurance presently or prospectively hazardous to
1060 its policyholders, creditors, or stockholders or to the public.

1061 1.(I) For the purpose of this sub-sub-subparagraph, the
1062 term "affiliated person" of another person means:

1063 (A) The spouse of such other person;

1064 (B) The parents of such other person and their lineal
1065 descendants and the parents of such other person's spouse and
1066 their lineal descendants;

1067 (C) Any person who directly or indirectly owns or
1068 controls, or holds with power to vote, 5 percent or more of the
1069 outstanding voting securities of such other person;

1070 (D) Any person 5 percent or more of the outstanding voting
1071 securities of which are directly or indirectly owned or
1072 controlled, or held with power to vote, by such other person;

1073 (E) Any person or group of persons who directly or
1074 indirectly control, are controlled by, or are under common
1075 control with such other person; or any officer, director,



1076 partner, copartner, or employee of such other person;

1077 (F) If such other person is an investment company, any
1078 investment adviser of such company or any member of an advisory
1079 board of such company;

1080 (G) If such other person is an unincorporated investment
1081 company not having a board of directors, the depositor of such
1082 company; or

1083 (H) Any person who has entered into an agreement, written
1084 or unwritten, to act in concert with such other person in
1085 acquiring or limiting the disposition of securities of an
1086 underwriting member or controlling company.

1087 (II) For the purposes of this section, the term
1088 "controlling company" means any corporation, trust, or
1089 association owning, directly or indirectly, 25 percent or more
1090 of the voting securities of one or more underwriting members.

1091 m. The commission may adopt, amend, or repeal rules that
1092 are necessary to implement the provisions of this subparagraph,
1093 pursuant to chapter 120.

1094 44. Background information.—The information as to the
1095 background and identity of each person about whom information is
1096 required to be furnished pursuant to sub-subparagraph 43.a.
1097 shall include, but shall not be limited to:

1098 a. Such person's occupations, positions of employment, and
1099 offices held during the past 10 years.

1100 b. The principal business and address of any business,



1101 corporation, or other organization in which each such office was
1102 held or in which such occupation or position of employment was
1103 carried on.

1104 c. Whether, at any time during such 10-year period, such
1105 person was convicted of any crime other than a traffic
1106 violation.

1107 d. Whether, during such 10-year period, such person has
1108 been the subject of any proceeding for the revocation of any
1109 license and, if so, the nature of such proceeding and the
1110 disposition thereof.

1111 e. Whether, during such 10-year period, such person has
1112 been the subject of any proceeding under the federal Bankruptcy
1113 Act or whether, during such 10-year period, any corporation,
1114 partnership, firm, trust, or association in which such person
1115 was a director, officer, trustee, partner, or other official has
1116 been subject to any such proceeding, either during the time in
1117 which such person was a director, officer, trustee, partner, or
1118 other official, or within 12 months thereafter.

1119 f. Whether, during such 10-year period, such person has
1120 been enjoined, either temporarily or permanently, by a court of
1121 competent jurisdiction from violating any federal or state law
1122 regulating the business of insurance, securities, or banking, or
1123 from carrying out any particular practice or practices in the
1124 course of the business of insurance, securities, or banking,
1125 together with details of any such event.



1126 45. Security fund.—All underwriting members shall be
1127 members of the security fund of any exchange.

1128 46. Underwriting member defined.—Whenever the term
1129 "underwriting member" is used in this subsection, it shall be
1130 construed to mean "underwriting syndicate."

1131 47. Offsets.—Any action, requirement, or constraint
1132 imposed by the office shall reduce or offset similar actions,
1133 requirements, or constraints of any exchange.

1134 48. Restriction on member ownership.—

1135 a. Investments existing prior to July 2, 1987.—The
1136 investment in any member by brokers, agents, and intermediaries
1137 transacting business on the exchange, and the investment in any
1138 such broker, agent, or intermediary by any member, directly or
1139 indirectly, shall in each case be limited in the aggregate to
1140 less than 20 percent of the total investment in such member,
1141 broker, agent, or intermediary, as the case may be. After
1142 December 31, 1987, the aggregate percent of the total investment
1143 in such member by any broker, agent, or intermediary and the
1144 aggregate percent of the total investment in any such broker,
1145 agent, or intermediary by any member, directly or indirectly,
1146 shall not exceed 15 percent. After June 30, 1988, such aggregate
1147 percent shall not exceed 10 percent and after December 31, 1988,
1148 such aggregate percent shall not exceed 5 percent.

1149 b. Investments arising on or after July 2, 1987.—The
1150 investment in any underwriting member by brokers, agents, or



1151 intermediaries transacting business on the exchange, and the
1152 investment in any such broker, agent, or intermediary by any
1153 underwriting member, directly or indirectly, shall in each case
1154 be limited in the aggregate to less than 5 percent of the total
1155 investment in such underwriting member, broker, agent, or
1156 intermediary.

1157 49. "Underwriting manager" defined.—"Underwriting manager"
1158 as used in this subparagraph includes any person, partnership,
1159 corporation, or organization providing any of the following
1160 services to underwriting members of the exchange:

1161 a. Office management and allied services, including
1162 correspondence and secretarial services.

1163 b. Accounting services, including bookkeeping and
1164 financial report preparation.

1165 c. Investment and banking consultations and services.

1166 d. Underwriting functions and services including the
1167 acceptance, rejection, placement, and marketing of risk.

1168 50. Prohibition of underwriting manager investment.—Any
1169 direct or indirect investment in any underwriting manager by a
1170 broker member or any affiliated person of a broker member or any
1171 direct or indirect investment in a broker member by an
1172 underwriting manager or any affiliated person of an underwriting
1173 manager is prohibited. "Affiliated person" for purposes of this
1174 subparagraph is defined in subparagraph 43.

1175 51. An underwriting member may not accept reinsurance on



1176 an assumed basis from an affiliate or a controlling company, nor
1177 may a broker member or management company place reinsurance from
1178 an affiliate or controlling company of theirs with an
1179 underwriting member. "Affiliate and controlling company" for
1180 purposes of this subparagraph is defined in subparagraph 43.

1181 52. Premium defined.—"Premium" is the consideration for
1182 insurance, by whatever name called. Any "assessment" or any
1183 "membership," "policy," "survey," "inspection," "service" fee or
1184 charge or similar fee or charge in consideration for an
1185 insurance contract is deemed part of the premium.

1186 53. Rules.—The commission shall adopt rules necessary for
1187 or as an aid to the effectuation of any provision of this
1188 section.

1189 Section 13. Subsection (6) of section 634.121, Florida
1190 Statutes, is amended to read:

1191 634.121 Forms, required procedures, provisions; delivery
1192 and definitions.—

1193 (6) (a) Each service agreement, which includes a copy of
1194 the application form, must be mailed, delivered, or otherwise
1195 provided electronically transmitted to the agreement holder as
1196 provided in s. 627.421. As used in s. 627.421, the term:

1197 1. "Insurance policies and endorsements," "policy and
1198 endorsements," "policy," and "policy form and endorsement form"
1199 include a motor vehicle service agreement and related
1200 endorsement forms.



1201 2. "Insured" includes a motor vehicle service agreement
 1202 holder.

1203 3. "Insurer" includes a motor vehicle service agreement
 1204 company.

1205 (b) If the motor vehicle service agreement company elects
 1206 to post motor vehicle service agreements on its Internet website
 1207 in lieu of mailing or delivery to agreement holders the motor
 1208 vehicle service agreement company must comply with the
 1209 requirements of s. 627.421(4) within 45 days after the date of
 1210 purchase. Electronic transmission of a service agreement
 1211 constitutes delivery to the agreement holder. The electronic
 1212 transmission must notify the agreement holder of his or her
 1213 right to receive the service agreement via United States mail
 1214 rather than electronic transmission. If the agreement holder
 1215 communicates to the service agreement company electronically or
 1216 in writing that he or she does not agree to receipt by
 1217 electronic transmission, a paper copy of the service agreement
 1218 shall be provided to the agreement holder.

1219 Section 14. Section 641.3107, Florida Statutes, is amended
 1220 to read:

1221 641.3107 Delivery of contract; definitions.—

1222 (1) Unless delivered upon execution or issuance, A health
 1223 maintenance contract, certificate of coverage, endorsements and
 1224 riders, or member handbook shall be mailed, or delivered, or
 1225 otherwise provided to the subscriber or, in the case of a group

CODING: Words **stricken** are deletions; words **underlined** are additions.



1226 health maintenance contract, to the employer or other person who
1227 will hold the contract on behalf of the subscriber group, as
1228 provided in s. 627.421.

1229 (2) As used in s. 627.421, the term:

1230 (a) "Insurance policies and endorsements," "policy and
1231 endorsements," "policy," and "policy form and endorsement form"
1232 include the health maintenance contract, endorsement and riders,
1233 certificate of coverage, or member handbook.

1234 (b) "Insured" includes a subscriber or, in the case of a
1235 group health maintenance contract, to the employer or other
1236 person who will hold the contract on behalf of the subscriber
1237 group.

1238 (c) "Insurer" includes a health maintenance organization.

1239 (3) If the health maintenance organization elects to post
1240 health maintenance contracts on its Internet website in lieu of
1241 mailing or delivery to subscribers or the person who will hold
1242 the contract on behalf of a subscriber group the health
1243 maintenance organization must comply with the requirements of s.
1244 627.421(4) ~~within 10 working days from approval of the~~
1245 ~~enrollment form by the health maintenance organization or by the~~
1246 ~~effective date of coverage, whichever occurs first. However, if~~
1247 ~~the employer or other person who will hold the contract on~~
1248 ~~behalf of the subscriber group requires retroactive enrollment~~
1249 ~~of a subscriber, the organization shall deliver the contract,~~
1250 ~~certificate, or member handbook to the subscriber within 10 days~~



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1251 ~~after receiving notice from the employer of the retroactive~~
1252 ~~enrollment.~~ This section does not apply to the delivery of those
1253 contracts specified in s. 641.31(13).

1254 Section 15. Except as otherwise expressly provided in this
1255 act, this act shall take effect upon becoming a law.