

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Insurance offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.--

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.--The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(a) Misrepresentations and false advertising of insurance policies.--Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

1. Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.
2. Misrepresents the dividends or share of the surplus

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1 to be received on any insurance policy.

2 3. Makes any false or misleading statements as to the
3 dividends or share of surplus previously paid on any insurance
4 policy.

5 4. Is misleading, or is a misrepresentation, as to the
6 financial condition of any person or as to the legal reserve
7 system upon which any life insurer operates.

8 5. Uses any name or title of any insurance policy or
9 class of insurance policies misrepresenting the true nature
10 thereof.

11 6. Is a misrepresentation for the purpose of inducing,
12 or tending to induce, the lapse, forfeiture, exchange,
13 conversion, or surrender of any insurance policy.

14 7. Is a misrepresentation for the purpose of effecting
15 a pledge or assignment of, or effecting a loan against, any
16 insurance policy.

17 8. Misrepresents any insurance policy as being shares
18 of stock or misrepresents ownership interest in the company.

19 9. Uses any advertisement that would mislead or
20 otherwise cause a reasonable person to believe mistakenly that
21 the state or the Federal Government is responsible for the
22 insurance sales activities of any person or stands behind any
23 person's credit or that any person, the state, or the Federal
24 Government guarantees any returns on insurance products or is
25 a source of payment of any insurance obligation of or sold by
26 any person.

27 Section 2. Section 626.9551, Florida Statutes, is
28 amended to read:

29 626.9551 Favored agent or insurer; coercion of
30 debtors.--

31 (1) No person may:

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1 (a) Require, as a condition precedent or condition
2 subsequent to the lending of money or extension of credit or
3 any renewal thereof, that the person to whom such money or
4 credit is extended, or whose obligation the creditor is to
5 acquire or finance, negotiate any policy or contract of
6 insurance through a particular insurer or group of insurers or
7 agent or broker or group of agents or brokers.

8 (b) Reject an insurance policy solely because the
9 policy has been issued or underwritten by any person who is
10 not associated with a financial institution, or with any
11 subsidiary or affiliate thereof, when such insurance is
12 required in connection with a loan or extension of credit; or
13 unreasonably disapprove the insurance policy provided by a
14 borrower for the protection of the property securing the
15 credit or lien. For purposes of this paragraph, such
16 disapproval shall be deemed unreasonable if it is not based
17 solely on reasonable standards, uniformly applied, relating to
18 the extent of coverage required by such lender or person
19 extending credit and the financial soundness and the services
20 of an insurer. Such standards shall not discriminate against
21 any particular type of insurer, nor shall such standards call
22 for the disapproval of an insurance policy because such policy
23 contains coverage in addition to that required.

24 (c) Require, directly or indirectly, that any
25 borrower, mortgagor, purchaser, insurer, broker, or agent pay
26 a separate charge in connection with the handling of any
27 insurance policy that is required in connection with a loan or
28 other extension of credit or the provision of another
29 traditional banking product, ~~required as security for a loan~~
30 on real estate or pay a separate charge to substitute the
31 insurance policy of one insurer for that of another, unless

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1 such charge would be required if the person were providing the
2 insurance. This paragraph does not include the interest which
3 may be charged on premium loans or premium advances in
4 accordance with the security instrument.

5 (d) Use or provide to others insurance information
6 required to be disclosed by a customer to a financial
7 institution, or a subsidiary or affiliate thereof, in
8 connection with the extension of credit for the purpose of
9 soliciting the sale of insurance, unless the customer has
10 given express written consent or has been given the
11 opportunity to object to such use of the information.

12 Insurance information means information concerning premiums,
13 terms, and conditions of insurance coverage, insurance claims,
14 and insurance history provided by the customer. The
15 opportunity to object to the use of insurance information must
16 be in writing and must be clearly and conspicuously made.~~Use~~
17 ~~or disclose information resulting from a requirement that a~~
18 ~~borrower, mortgagor, or purchaser furnish insurance of any~~
19 ~~kind on real property being conveyed or used as collateral~~
20 ~~security to a loan, when such information is to the advantage~~
21 ~~of the mortgagee, vendor, or lender, or is to the detriment of~~
22 ~~the borrower, mortgagor, purchaser, or insurer, or the agent~~
23 ~~or broker, complying with such a requirement.~~

24 (2)(a) Any person offering the sale of insurance at
25 the time of and in connection with an extension of credit or
26 the sale or lease of goods or services shall disclose in
27 writing that the choice of an insurance provider will not
28 affect the decision regarding the extension of credit or sale
29 or lease of goods or services, except that reasonable
30 requirements may be imposed pursuant to subsection (1).

31 (b) Federally insured or state-insured depository

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1 institutions and credit unions shall make clear and
2 conspicuous disclosure in writing prior to the sale of any
3 insurance policy that such policy is not a deposit, is not
4 insured by the Federal Deposit Insurance Corporation or any
5 other entity, is not guaranteed by the insured depository
6 institution or any person soliciting the purchase of or
7 selling the policy; that the financial institution is not
8 obligated to provide benefits under the insurance contract;
9 and, where appropriate, that the policy involves investment
10 risk, including potential loss of principal.

11 (c) All documents constituting policies of insurance
12 shall be separate and shall not be combined with or be a part
13 of other documents. A person may not include the expense of
14 insurance premiums in a primary credit transaction without the
15 express written consent of the customer.

16 (d) A loan officer of a financial institution who is
17 involved in the application, solicitation, or closing of a
18 loan transaction may not solicit or sell insurance in
19 connection with the same loan, but such loan officer may refer
20 the loan customer to another insurance agent who is not
21 involved in the application, solicitation, or closing of the
22 same loan transaction. This paragraph does not apply to an
23 agent located on premises having only a single person with
24 lending authority, or to a broker or dealer registered under
25 the Federal Securities Exchange Act of 1934 in connection with
26 a margin loan secured by securities.

27 (3) Paragraphs (2)(a), (b), (c), and (d) do not apply
28 to sales of insurance regulated under ss. 627.676-627.6845, s.
29 655.946, parts XV-XVI of chapter 627, or 12 U.S.C. ss.
30 4901-4910.

31 (4) No person may make an extension of credit or the

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1 sale of any product or service that is the equivalent to an
2 extension of credit or lease or sale of property of any kind,
3 or furnish any services or fix or vary the consideration for
4 any of the foregoing, on the condition or requirement that the
5 customer obtain insurance from that person, or a subsidiary or
6 affiliate of that person, or a particular insurer, agent, or
7 broker; however, this subsection does not prohibit any person
8 from engaging in any activity that if done by a financial
9 institution would not violate section 106 of the Bank Holding
10 Company Act Amendments of 1970, 12 U.S.C. 1972, as interpreted
11 by the Board of Governors of the Federal Reserve System.

12 (5)(2) The department may investigate the affairs of
13 any person to whom this section applies to determine whether
14 such person has violated this section. If a violation of this
15 section is found to have been committed knowingly, the person
16 in violation shall be subject to the same procedures and
17 penalties as provided in ss. 626.9571, 626.9581, 626.9591, and
18 626.9601.

19 Section 3. Subsection (9) is added to section 626.592,
20 Florida Statutes, 1998 Supplement, to read:

21 626.592 Primary agents.--

22 (9) When an agent conducts insurance transactions at
23 two or more locations, a separate primary agent need not be
24 designated at each location, provided that no insurance
25 transactions occur at any location when the agent is not
26 present and no unlicensed employee at the location has engaged
27 in insurance activities requiring licensure. In those
28 instances, the agent shall be responsible for insurance
29 transactions occurring at each location.

30 Section 4. Section 626.9885, Florida Statutes, is
31 created to read:

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1 626.9885 Financial institutions conducting insurance
2 transactions.--A financial institution, as defined in
3 paragraph (g), paragraph (h), or paragraph (p) of subsection
4 (1) of s. 655.005 may conduct insurance transactions only
5 through Florida-licensed insurance agents representing
6 Florida-authorized insurers or representing Florida-eligible
7 surplus lines insurers.

8 Section 5. Paragraphs (e) and (g) of subsection (1) of
9 section 626.321, Florida Statutes, 1998 Supplement, are
10 amended to read:

11 626.321 Limited licenses.--

12 (1) The department shall issue to a qualified
13 individual, or a qualified individual or entity under
14 paragraphs (c), (d), and (e), a license as agent authorized to
15 transact a limited class of business in any of the following
16 categories:

17 (e) Credit life or disability insurance.--License
18 covering only credit life or disability insurance. The
19 license may be issued only to an individual employed by a life
20 or health insurer as an officer or other salaried or
21 commissioned representative, or to an individual employed by
22 or associated with a lending or financing institution or
23 creditor, and may authorize the sale of such insurance only
24 with respect to borrowers or debtors of such lending or
25 financing institution or creditor. However, only the
26 individual or entity whose tax identification number is used
27 in receiving or is credited with receiving the commission from
28 the sale of such insurance shall be the licensed agent of the
29 insurer. No individual while so licensed shall hold a license
30 as an agent or solicitor as to any other or additional kind or
31 class of life or health insurance coverage. An entity other

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1 than a lending or financial institution defined in s.
2 655.005(1)(g), (h), or (p)~~626.988~~ holding a limited license
3 under this paragraph shall also be authorized to sell credit
4 property insurance.

5 (g) Credit property insurance.--A license covering
6 only credit property insurance may be issued to any individual
7 except an individual employed by or associated with a lending
8 or financial institution defined in s. 655.005(1)(g), (h), or
9 (p)~~626.988~~ and authorized to sell such insurance only with
10 respect to a borrower or debtor, not to exceed the amount of
11 the loan.

12 Section 6. Subsection (4) of section 626.730, Florida
13 Statutes, 1998 Supplement, is amended to read:

14 626.730 Purpose of license.--

15 (4) This section shall not be deemed to prohibit the
16 licensing under a limited license as to motor vehicle physical
17 damage and mechanical breakdown insurance or the licensing
18 under a limited license for credit property insurance of any
19 person employed by or associated with a motor vehicle sales or
20 financing agency, a retail sales establishment, or a consumer
21 loan office, other than a consumer loan office owned by or
22 affiliated with a financial institution as defined in s.
23 655.005(1)(g), (h), or (p)~~626.988~~, with respect to insurance
24 of the interest of such agency in a motor vehicle sold or
25 financed by it or in personal property when used as collateral
26 for a loan. This section does not apply with respect to the
27 interest of a real estate mortgagee in or as to insurance
28 covering such interest or in the real estate subject to such
29 mortgage.

30 Section 7. Paragraph (b) of subsection (6) of section
31 629.401, Florida Statutes, is amended to read:

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1 629.401 Insurance exchange.--

2 (6)

3 (b) In addition to the insurance laws specified in
4 paragraph (a), the department shall regulate the exchange
5 pursuant to the following powers, rights, and duties:

6 1. General examination powers.--The department shall
7 examine the affairs, transactions, accounts, records, and
8 assets of any security fund, exchange, members, and associate
9 brokers as often as it deems advisable. The examination may
10 be conducted by the accredited examiners of the department at
11 the offices of the entity or person being examined. The
12 department shall examine in like manner each prospective
13 member or associate broker applying for membership in an
14 exchange.

15 2. Departmental approval and applications of
16 underwriting members.--No underwriting member shall commence
17 operation without the approval of the department. Before
18 commencing operation, an underwriting member shall provide a
19 written application containing:

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

21 b. Name, residence address, business background, and
22 qualifications of each person associated or to be associated
23 in the formation or financing of the underwriting member.

24 c. Full disclosure of the terms of all understandings
25 and agreements existing or proposed among persons so
26 associated relative to the underwriting member, or the
27 formation or financing thereof, accompanied by a copy of each
28 such agreement or understanding.

29 d. Full disclosure of the terms of all understandings
30 and agreements existing or proposed for management or
31 exclusive agency contracts.

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1 3. Investigation of underwriting member
2 applications.--In connection with any proposal to establish an
3 underwriting member, the department shall make an
4 investigation of:
5 a. The character, reputation, financial standing, and
6 motives of the organizers, incorporators, or subscribers
7 organizing the proposed underwriting member.
8 b. The character, financial responsibility, insurance
9 experience, and business qualifications of its proposed
10 officers.
11 c. The character, financial responsibility, business
12 experience, and standing of the proposed stockholders and
13 directors, or owners.
14 4. Notice of management changes.--An underwriting
15 member shall promptly give the department written notice of
16 any change among the directors or principal officers of the
17 underwriting member within 30 days after such change. The
18 department shall investigate the new directors or principal
19 officers of the underwriting member. The department's
20 investigation shall include an investigation of the character,
21 financial responsibility, insurance experience, and business
22 qualifications of any new directors or principal officers. As
23 a result of the investigation, the department may require the
24 underwriting member to replace any new directors or principal
25 officers.
26 5. Alternate financial statement.--In lieu of any
27 financial examination, the department may accept an audited
28 financial statement.
29 6. Correction and reconstruction of records.--If the
30 department finds any accounts or records to be inadequate, or
31 inadequately kept or posted, it may employ experts to

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1 reconstruct, rewrite, post, or balance them at the expense of
2 the person or entity being examined if such person or entity
3 has failed to maintain, complete, or correct such records or
4 accounts after the department has given him or her or it
5 notice and reasonable opportunity to do so.

6 7. Obstruction of examinations.--Any person or entity
7 who or which willfully obstructs the department or its
8 examiner in an examination is guilty of a misdemeanor of the
9 second degree, punishable as provided in s. 775.082 or s.
10 775.083.

11 8. Filing of annual statement.--Each underwriting
12 member shall file with the department a full and true
13 statement of its financial condition, transactions, and
14 affairs. The statement shall be filed on or before March 1 of
15 each year, or within such extension of time as the department
16 for good cause grants, and shall be for the preceding calendar
17 year. The statement shall contain information generally
18 included in insurer financial statements prepared in
19 accordance with generally accepted insurance accounting
20 principles and practices and in a form generally utilized by
21 insurers for financial statements, sworn to by at least two
22 executive officers of the underwriting member. The form of the
23 financial statements shall be the approved form of the
24 National Association of Insurance Commissioners or its
25 successor organization. The department may by rule require
26 each insurer to submit any part of the information contained
27 in the financial statement in a computer-readable form
28 compatible with the department's electronic data processing
29 system. In addition to information furnished in connection
30 with its annual statement, an underwriting member must furnish
31 to the department as soon as reasonably possible such

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1 information about its transactions or affairs as the
2 department requests in writing. All information furnished
3 pursuant to the department's request must be verified by the
4 oath of two executive officers of the underwriting member.

5 9. Record maintenance.--Each underwriting member shall
6 have and maintain its principal place of business in this
7 state and shall keep therein complete records of its assets,
8 transactions, and affairs in accordance with such methods and
9 systems as are customary for or suitable to the kind or kinds
10 of insurance transacted.

11 10. Examination of agents.--If the department has
12 reason to believe that any agent, as defined in s. 626.041, s.
13 626.051, s. 626.062, or s. 626.914, has violated or is
14 violating any provision of the insurance law, or upon receipt
15 of a written complaint signed by any interested person
16 indicating that any such violation may exist, the department
17 shall conduct such examination as it deems necessary of the
18 accounts, records, documents, and transactions pertaining to
19 or affecting the insurance affairs of such agent.

20 11. Written reports of department.--The department or
21 its examiner shall make a full and true written report of any
22 examination. The report shall contain only information
23 obtained from examination of the records, accounts, files, and
24 documents of or relative to the person or entity examined or
25 from testimony of individuals under oath, together with
26 relevant conclusions and recommendations of the examiner based
27 thereon. The department shall furnish a copy of the report to
28 the person or entity examined not less than 30 days prior to
29 filing the report in its office. If such person or entity so
30 requests in writing within such 30-day period, the department
31 shall grant a hearing with respect to the report and shall not

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1 file the report until after the hearing and after such
2 modifications have been made therein as the department deems
3 proper.

4 12. Admissibility of reports.--The report of an
5 examination when filed shall be admissible in evidence in any
6 action or proceeding brought by the department against the
7 person or entity examined, or against his or her or its
8 officers, employees, or agents. The department or its
9 examiners may at any time testify and offer other proper
10 evidence as to information secured or matters discovered
11 during the course of an examination, whether or not a written
12 report of the examination has been either made, furnished, or
13 filed in the department.

14 13. Publication of reports.--After an examination
15 report has been filed, the department may publish the results
16 of any such examination in one or more newspapers published in
17 this state whenever it deems it to be in the public interest.

18 14. Consideration of examination reports by entity
19 examined.--After the examination report of an underwriting
20 member has been filed, an affidavit shall be filed with the
21 department, not more than 30 days after the report has been
22 filed, on a form furnished by the department and signed by the
23 person or a representative of any entity examined, stating
24 that the report has been read and that the recommendations
25 made in the report will be considered within a reasonable
26 time.

27 15. Examination costs.--Each person or entity examined
28 by the department shall pay to the department the expenses
29 incurred in such examination.

30 16. Exchange costs.--An exchange shall reimburse the
31 department for any expenses incurred by it relating to the

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1 regulation of the exchange and its members, except as
2 specified in subparagraph 15.

3 17. Powers of examiners.--Any examiner appointed by
4 the department, as to the subject of any examination,
5 investigation, or hearing being conducted by him or her, may
6 administer oaths, examine and cross-examine witnesses, and
7 receive oral and documentary evidence, and shall have the
8 power to subpoena witnesses, compel their attendance and
9 testimony, and require by subpoena the production of books,
10 papers, records, files, correspondence, documents, or other
11 evidence which the examiner deems relevant to the inquiry. If
12 any person refuses to comply with any such subpoena or to
13 testify as to any matter concerning which he or she may be
14 lawfully interrogated, the Circuit Court of Leon County or the
15 circuit court of the county wherein such examination,
16 investigation, or hearing is being conducted, or of the county
17 wherein such person resides, on the department's application
18 may issue an order requiring such person to comply with the
19 subpoena and to testify; and any failure to obey such an order
20 of the court may be punished by the court as a contempt
21 thereof. Subpoenas shall be served, and proof of such service
22 made, in the same manner as if issued by a circuit court.
23 Witness fees and mileage, if claimed, shall be allowed the
24 same as for testimony in a circuit court.

25 18. False testimony.--Any person willfully testifying
26 falsely under oath as to any matter material to any
27 examination, investigation, or hearing shall upon conviction
28 thereof be guilty of perjury and shall be punished
29 accordingly.

30 19. Self-incrimination.--

31 a. If any person asks to be excused from attending or

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1 | testifying or from producing any books, papers, records,
2 | contracts, documents, or other evidence in connection with any
3 | examination, hearing, or investigation being conducted by the
4 | department or its examiner, on the ground that the testimony
5 | or evidence required of the person may tend to incriminate him
6 | or her or subject him or her to a penalty or forfeiture, and
7 | the person notwithstanding is directed to give such testimony
8 | or produce such evidence, he or she shall, if so directed by
9 | the department and the Department of Legal Affairs,
10 | nonetheless comply with such direction; but the person shall
11 | not thereafter be prosecuted or subjected to any penalty or
12 | forfeiture for or on account of any transaction, matter, or
13 | thing concerning which he or she may have so testified or
14 | produced evidence, and no testimony so given or evidence so
15 | produced shall be received against him or her upon any
16 | criminal action, investigation, or proceeding; except that no
17 | such person so testifying shall be exempt from prosecution or
18 | punishment for any perjury committed by him or her in such
19 | testimony, and the testimony or evidence so given or produced
20 | shall be admissible against him or her upon any criminal
21 | action, investigation, or proceeding concerning such perjury,
22 | nor shall he or she be exempt from the refusal, suspension, or
23 | revocation of any license, permission, or authority conferred,
24 | or to be conferred, pursuant to the insurance law.

25 | b. Any such individual may execute, acknowledge, and
26 | file in the office of the department a statement expressly
27 | waiving such immunity or privilege in respect to any
28 | transaction, matter, or thing specified in such statement, and
29 | thereupon the testimony of such individual or such evidence in
30 | relation to such transaction, matter, or thing may be received
31 | or produced before any judge or justice, court, tribunal,

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1 grand jury, or otherwise; and if such testimony or evidence is
2 so received or produced, such individual shall not be entitled
3 to any immunity or privileges on account of any testimony so
4 given or evidence so produced.

5 20. Penalty for failure to testify.--Any person who
6 refuses or fails, without lawful cause, to testify relative to
7 the affairs of any member, associate broker, or other person
8 when subpoenaed and requested by the department to so testify,
9 as provided in subparagraph 17., shall, in addition to the
10 penalty provided in subparagraph 17., be guilty of a
11 misdemeanor of the second degree, punishable as provided in s.
12 775.082 or s. 775.083.

13 21. Name selection.--No underwriting member shall be
14 formed or authorized to transact insurance in this state under
15 a name which is the same as that of any authorized insurer or
16 is so nearly similar thereto as to cause or tend to cause
17 confusion or under a name which would tend to mislead as to
18 the type of organization of the insurer. Before incorporating
19 under or using any name, the underwriting syndicate or
20 proposed underwriting syndicate shall submit its name or
21 proposed name to the department for the approval of the
22 department.

23 22. Capitalization.--An underwriting member approved
24 on or after July 2, 1987, shall provide an initial paid-in
25 capital and surplus of \$3 million and thereafter shall
26 maintain a minimum policyholder surplus of \$2 million in order
27 to be permitted to write insurance. Underwriting members
28 approved prior to July 2, 1987, shall maintain a minimum
29 policyholder surplus of \$1 million. After June 29, 1988,
30 underwriting members approved prior to July 2, 1987, must
31 maintain a minimum policyholder surplus of \$1.5 million to

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1 write insurance. After June 29, 1989, underwriting members
2 approved prior to July 2, 1987, must maintain a minimum
3 policyholder surplus of \$1.75 million to write insurance.
4 After December 30, 1989, all underwriting members, regardless
5 of the date they were approved, must maintain a minimum
6 policyholder surplus of \$2 million to write insurance. Except
7 for that portion of the paid-in capital and surplus which
8 shall be maintained in a security fund of an exchange, the
9 paid-in capital and surplus shall be invested by an
10 underwriting member in a manner consistent with ss.
11 625.301-625.340. The portion of the paid-in capital and
12 surplus in any security fund of an exchange shall be invested
13 in a manner limited to investments for life insurance
14 companies under the Florida insurance laws.

15 23. Limitations on coverage written.--

16 a. Limit of risk.--No underwriting member shall expose
17 itself to any loss on any one risk in an amount exceeding 10
18 percent of its surplus to policyholders. Any risk or portion
19 of any risk which shall have been reinsured in an assuming
20 reinsurer authorized or approved to do such business in this
21 state shall be deducted in determining the limitation of risk
22 prescribed in this section.

23 b. Restrictions on premiums written.--If the
24 department has reason to believe that the underwriting
25 member's ratio of actual or projected annual gross written
26 premiums to policyholder surplus exceeds 8 to 1 or the
27 underwriting member's ratio of actual or projected annual net
28 premiums to policyholder surplus exceeds 4 to 1, the
29 department may establish maximum gross or net annual premiums
30 to be written by the underwriting member consistent with
31 maintaining the ratios specified in this sub-subparagraph.

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

6 (II) For purposes of this sub-subparagraph, the term
7 "gross written premiums" means direct premiums written and
8 reinsurance assumed.

9 c. Surplus as to policyholders.--For the purpose of
10 determining the limitation on coverage written, surplus as to
11 policyholders shall be deemed to include any voluntary
12 reserves, or any part thereof, which are not required by or
13 pursuant to law and shall be determined from the last sworn
14 statement of such underwriting member with the department, or
15 by the last report or examination filed by the department,
16 whichever is more recent at the time of assumption of such
17 risk.

18 24. Unearned premium reserves.--All unearned premium
19 reserves for business written on the exchange shall be
20 calculated on a monthly or more frequent basis or on such
21 other basis as determined by the department; except that all
22 premiums on any marine or transportation insurance trip risk
23 shall be deemed unearned until the trip is terminated.

24 25. Loss reserves.--All underwriting members of an
25 exchange shall maintain loss reserves, including a reserve for
26 incurred but not reported claims. The reserves shall be
27 subject to review by the department, and, if loss experience
28 shows that an underwriting member's loss reserves are
29 inadequate, the department shall require the underwriting
30 member to maintain loss reserves in such additional amount as
31 is needed to make them adequate.

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1 26. Distribution of profits.--An underwriting member
2 shall not distribute any profits in the form of cash or other
3 assets to owners except out of that part of its available and
4 accumulated surplus funds which is derived from realized net
5 operating profits on its business and realized capital gains.
6 In any one year such payments to owners shall not exceed 30
7 percent of such surplus as of December 31 of the immediately
8 preceding year, unless otherwise approved by the department.
9 No distribution of profits shall be made that would render an
10 underwriting member either impaired or insolvent.

11 27. Stock dividends.--A stock dividend may be paid by
12 an underwriting member out of any available surplus funds in
13 excess of the aggregate amount of surplus advanced to the
14 underwriting member under subparagraph 29.

15 28. Dividends from earned surplus.--A dividend
16 otherwise lawful may be payable out of an underwriting
17 member's earned surplus even though the total surplus of the
18 underwriting member is then less than the aggregate of its
19 past contributed surplus resulting from issuance of its
20 capital stock at a price in excess of the par value thereof.

21 29. Borrowing of money by underwriting members.--

22 a. An underwriting member may borrow money to defray
23 the expenses of its organization, provide it with surplus
24 funds, or for any purpose of its business, upon a written
25 agreement that such money is required to be repaid only out of
26 the underwriting member's surplus in excess of that stipulated
27 in such agreement. The agreement may provide for interest not
28 exceeding 15 percent simple interest per annum. The interest
29 shall or shall not constitute a liability of the underwriting
30 member as to its funds other than such excess of surplus, as
31 stipulated in the agreement. No commission or promotion

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1 expense shall be paid in connection with any such loan. The
2 use of any surplus note and any repayments thereof shall be
3 subject to the approval of the department.

4 b. Money so borrowed, together with any interest
5 thereon if so stipulated in the agreement, shall not form a
6 part of the underwriting member's legal liabilities except as
7 to its surplus in excess of the amount thereof stipulated in
8 the agreement, nor be the basis of any setoff; but until
9 repayment, financial statements filed or published by an
10 underwriting member shall show as a footnote thereto the
11 amount thereof then unpaid, together with any interest thereon
12 accrued but unpaid.

13 30. Liquidation, rehabilitation, and
14 restrictions.--The department, upon a showing that a member or
15 associate broker of an exchange has met one or more of the
16 grounds contained in part I of chapter 631, may restrict sales
17 by type of risk, policy or contract limits, premium levels, or
18 policy or contract provisions; increase surplus or capital
19 requirements of underwriting members; issue cease and desist
20 orders; suspend or restrict a member's or associate broker's
21 right to transact business; place an underwriting member under
22 conservatorship or rehabilitation; or seek an order of
23 liquidation as authorized by part I of chapter 631.

24 31. Prohibited conduct.--The following acts by a
25 member, associate broker, or affiliated person shall
26 constitute prohibited conduct:

27 a. Fraud.

28 b. Fraudulent or dishonest acts committed by a member
29 or associate broker prior to admission to an exchange, if the
30 facts and circumstances were not disclosed to the department
31 upon application to become a member or associate broker.

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

2 d. Unethical or improper practices or conduct,
3 inconsistent with just and equitable principles of trade as
4 set forth in, but not limited to, ss. 626.951-626.9641 and
5 ~~626.973, and 626.988.~~

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

8 f. Misstatements made under oath or upon an
9 application for membership on an exchange.

10 g. Failure to testify or produce documents when
11 requested by the department.

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

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

16 j. Violation of the constitution and bylaws of the
17 exchange.

18 32. Penalties for participating in prohibited
19 conduct.--

20 a. The department may order the suspension of further
21 transaction of business on the exchange of any member or
22 associate broker found to have engaged in prohibited conduct.
23 In addition, any member or associate broker found to have
24 engaged in prohibited conduct may be subject to reprimand,
25 censure, and/or a fine not exceeding \$25,000 imposed by the
26 department.

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

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1 33. Reduction of penalties.--Any suspension,
2 reprimand, censure, or fine may be remitted or reduced by the
3 department on such terms and conditions as are deemed fair and
4 equitable.

5 34. Other offenses.--Any member or associate broker
6 that is suspended shall be deprived, during the period of
7 suspension, of all rights and privileges of a member or of an
8 associate broker and may be proceeded against by the
9 department for any offense committed either before or after
10 the date of suspension.

11 35. Reinstatement.--Any member or associate broker
12 that is suspended may be reinstated at any time on such terms
13 and conditions as the department may specify.

14 36. Remittance of fines.--Fines imposed under this
15 section shall be remitted to the department and shall be paid
16 into the Insurance Commissioner's Regulatory Trust Fund.

17 37. Failure to pay fines.--When a member or associate
18 broker has failed to pay a fine for 15 days after it becomes
19 payable, such member or associate broker shall be suspended,
20 unless the department has granted an extension of time to pay
21 such fine.

22 38. Changes in ownership or assets.--In the event of a
23 major change in the ownership or a major change in the assets
24 of an underwriting member, the underwriting member shall
25 report such change in writing to the department within 30 days
26 of the effective date thereof. The report shall set forth the
27 details of the change. Any change in ownership or assets of
28 more than 5 percent shall be considered a major change.

29 39. Retaliation.--

30 a. When by or pursuant to the laws of any other state
31 or foreign country any taxes, licenses, or other fees, in the

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1 aggregate, and any fines, penalties, deposit requirements, or
2 other material obligations, prohibitions, or restrictions are
3 or would be imposed upon an exchange or upon the agents or
4 representatives of such exchange which are in excess of such
5 taxes, licenses, and other fees, in the aggregate, or which
6 are in excess of such fines, penalties, deposit requirements,
7 or other obligations, prohibitions, or restrictions directly
8 imposed upon similar exchanges or upon the agents or
9 representatives of such exchanges of such other state or
10 country under the statutes of this state, so long as such laws
11 of such other state or country continue in force or are so
12 applied, the same taxes, licenses, and other fees, in the
13 aggregate, or fines, penalties, deposit requirements, or other
14 material obligations, prohibitions, or restrictions of
15 whatever kind shall be imposed by the department upon the
16 exchanges, or upon the agents or representatives of such
17 exchanges, of such other state or country doing business or
18 seeking to do business in this state.

19 b. Any tax, license, or other obligation imposed by
20 any city, county, or other political subdivision or agency of
21 a state, jurisdiction, or foreign country on an exchange, or
22 on the agents or representatives on an exchange, shall be
23 deemed to be imposed by such state, jurisdiction, or foreign
24 country within the meaning of sub-subparagraph a.

25 40. Agents.--

26 a. Agents as defined in ss. 626.041, 626.051, 626.062,
27 and 626.914 who are broker members or associate broker members
28 of an exchange shall be allowed only to place on an exchange
29 the same kind or kinds of business that the agent is licensed
30 to place pursuant to Florida law. Direct Florida business as
31 defined in s. 626.916 or s. 626.917 shall be written through a

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1 broker member who is a surplus lines agent as defined in s.
2 626.914. The activities of each broker member or associate
3 broker with regard to an exchange shall be subject to all
4 applicable provisions of the insurance laws of this state, and
5 all such activities shall constitute transactions under his or
6 her license as an insurance agent for purposes of the Florida
7 insurance law.

8 b. Premium payments and other requirements.--If an
9 underwriting member has assumed the risk as to a surplus lines
10 coverage and if the premium therefor has been received by the
11 surplus lines agent who placed such insurance, then in all
12 questions thereafter arising under the coverage as between the
13 underwriting member and the insured, the underwriting member
14 shall be deemed to have received the premium due to it for
15 such coverage; and the underwriting member shall be liable to
16 the insured as to losses covered by such insurance, and for
17 unearned premiums which may become payable to the insured upon
18 cancellation of such insurance, whether or not in fact the
19 surplus lines agent is indebted to the underwriting member
20 with respect to such insurance or for any other cause.

21 41. Improperly issued contracts, riders, and
22 endorsements.--

23 a. Any insurance policy, rider, or endorsement issued
24 by an underwriting member and otherwise valid which contains
25 any condition or provision not in compliance with the
26 requirements of this section shall not be thereby rendered
27 invalid, except as provided in s. 627.415, but shall be
28 construed and applied in accordance with such conditions and
29 provisions as would have applied had such policy, rider, or
30 endorsement been in full compliance with this section. In the
31 event an underwriting member issues or delivers any policy for

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1 an amount which exceeds any limitations otherwise provided in
2 this section, the underwriting member shall be liable to the
3 insured or his or her beneficiary for the full amount stated
4 in the policy in addition to any other penalties that may be
5 imposed.

6 b. Any insurance contract delivered or issued for
7 delivery in this state governing a subject or subjects of
8 insurance resident, located, or to be performed in this state
9 which, pursuant to the provisions of this section, the
10 underwriting member may not lawfully insure under such a
11 contract shall be cancelable at any time by the underwriting
12 member, any provision of the contract to the contrary
13 notwithstanding; and the underwriting member shall promptly
14 cancel the contract in accordance with the request of the
15 department therefor. No such illegality or cancellation shall
16 be deemed to relieve the underwriting syndicate of any
17 liability incurred by it under the contract while in force or
18 to prohibit the underwriting syndicate from retaining the pro
19 rata earned premium thereon. This provision does not relieve
20 the underwriting syndicate from any penalty otherwise incurred
21 by the underwriting syndicate.

22 42. Satisfaction of judgments.--

23 a. Every judgment or decree for the recovery of money
24 heretofore or hereafter entered in any court of competent
25 jurisdiction against any underwriting member shall be fully
26 satisfied within 60 days from and after the entry thereof or,
27 in the case of an appeal from such judgment or decree, within
28 60 days from and after the affirmance of the judgment or
29 decree by the appellate court.

30 b. If the judgment or decree is not satisfied as
31 required under sub-subparagraph a., and proof of such failure

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1 to satisfy is made by filing with the department a certified
2 transcript of the docket of the judgment or the decree
3 together with a certificate by the clerk of the court wherein
4 the judgment or decree remains unsatisfied, in whole or in
5 part, after the time provided in sub-subparagraph a., the
6 department shall forthwith prohibit the underwriting member
7 from transacting business. The department shall not permit
8 such underwriting member to write any new business until the
9 judgment or decree is wholly paid and satisfied and proof
10 thereof is filed with the department under the official
11 certificate of the clerk of the court wherein the judgment was
12 recovered, showing that the judgment or decree is satisfied of
13 record, and until the expenses and fees incurred in the case
14 are also paid by the underwriting syndicate.

15 43. Tender and exchange offers.--No person shall
16 conclude a tender offer or an exchange offer or otherwise
17 acquire 5 percent or more of the outstanding voting securities
18 of an underwriting member or controlling company or purchase 5
19 percent or more of the ownership of an underwriting member or
20 controlling company unless such person has filed with, and
21 obtained the approval of, the department and sent to such
22 underwriting member a statement setting forth:

23 a. The identity of, and background information on,
24 each person by whom, or on whose behalf, the acquisition is to
25 be made; and, if the acquisition is to be made by or on behalf
26 of a corporation, association, or trust, the identity of and
27 background information on each director, officer, trustee, or
28 other natural person performing duties similar to those of a
29 director, officer, or trustee for the corporation,
30 association, or trust.

31 b. The source and amount of the funds or other

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1 consideration used, or to be used, in making the acquisition.

2 c. Any plans or proposals which such person may have
3 to liquidate such member, to sell its assets, or to merge or
4 consolidate it.

5 d. The percentage of ownership which such person
6 proposes to acquire and the terms of the offer or exchange, as
7 the case may be.

8 e. Information as to any contracts, arrangements, or
9 understandings with any party with respect to any securities
10 of such member or controlling company, including, but not
11 limited to, information relating to the transfer of any
12 securities, option arrangements, or puts or calls or the
13 giving or withholding of proxies, naming the party with whom
14 such contract, arrangements, or understandings have been
15 entered and giving the details thereof.

16 f. The department may disapprove any acquisition
17 subject to the provisions of this subparagraph by any person
18 or any affiliated person of such person who:

19 (I) Willfully violates this subparagraph;

20 (II) In violation of an order of the department issued
21 pursuant to sub-subparagraph j., fails to divest himself or
22 herself of any stock obtained in violation of this
23 subparagraph, or fails to divest himself or herself of any
24 direct or indirect control of such stock, within 25 days after
25 such order; or

26 (III) In violation of an order issued by the
27 department pursuant to sub-subparagraph j., acquires
28 additional stock of the underwriting member or controlling
29 company, or direct or indirect control of such stock, without
30 complying with this subparagraph.

31 g. The person or persons filing the statement required

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1 by this subparagraph have the burden of proof. The department
2 shall approve any such acquisition if it finds, on the basis
3 of the record made during any proceeding or on the basis of
4 the filed statement if no proceeding is conducted, that:

5 (I) Upon completion of the acquisition, the
6 underwriting member will be able to satisfy the requirements
7 for the approval to write the line or lines of insurance for
8 which it is presently approved;

9 (II) The financial condition of the acquiring person
10 or persons will not jeopardize the financial stability of the
11 underwriting member or prejudice the interests of its
12 policyholders or the public;

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

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

19 (B) To liquidate any controlling company, sell its
20 assets, or merge or consolidate it with any person, or to make
21 any major change in its business or corporate structure or
22 management which would have an effect upon the underwriting
23 member

24
25 is fair and free of prejudice to the policyholders of the
26 underwriting member or to the public;

27 (IV) The competence, experience, and integrity of
28 those persons who will control directly or indirectly the
29 operation of the underwriting member indicate that the
30 acquisition is in the best interest of the policyholders of
31 the underwriting member and in the public interest;

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1 (V) The natural persons for whom background
2 information is required to be furnished pursuant to this
3 subparagraph have such backgrounds as to indicate that it is
4 in the best interests of the policyholders of the underwriting
5 member, and in the public interest, to permit such persons to
6 exercise control over such underwriting member;

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

10 (VII) The management of the underwriting member after
11 the acquisition will be competent and trustworthy and will
12 possess sufficient managerial experience so as to make the
13 proposed operation of the underwriting member not hazardous to
14 the insurance-buying public;

15 (VIII) The management of the underwriting member after
16 the acquisition will not include any person who has directly
17 or indirectly through ownership, control, reinsurance
18 transactions, or other insurance or business relations
19 unlawfully manipulated the assets, accounts, finances, or
20 books of any insurer or underwriting member or otherwise acted
21 in bad faith with respect thereto;

22 (IX) The acquisition is not likely to be hazardous or
23 prejudicial to the underwriting member's policyholders or the
24 public; and

25 (X) The effect of the acquisition of control would not
26 substantially lessen competition in insurance in this state or
27 would not tend to create a monopoly therein.

28 h. No vote by the stockholder of record, or by any
29 other person, of any security acquired in contravention of the
30 provisions of this subparagraph is valid. Any acquisition of
31 any security contrary to the provisions of this subparagraph

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1 is void. Upon the petition of the underwriting member or
2 controlling company, the circuit court for the county in which
3 the principal office of such underwriting member is located
4 may, without limiting the generality of its authority, order
5 the issuance or entry of an injunction or other order to
6 enforce the provisions of this subparagraph. There shall be a
7 private right of action in favor of the underwriting member or
8 controlling company to enforce the provisions of this
9 subparagraph. No demand upon the department that it perform
10 its functions shall be required as a prerequisite to any suit
11 by the underwriting member or controlling company against any
12 other person, and in no case shall the department be deemed a
13 necessary party to any action by such underwriting member or
14 controlling company to enforce the provisions of this
15 subparagraph. Any person who makes or proposes an acquisition
16 requiring the filing of a statement pursuant to this
17 subparagraph, or who files such a statement, shall be deemed
18 to have thereby designated the Insurance Commissioner, or his
19 or her assistant or deputy or another person in charge of his
20 or her office, as such person's agent for service of process
21 under this subparagraph and shall thereby be deemed to have
22 submitted himself or herself to the administrative
23 jurisdiction of the department and to the jurisdiction of the
24 circuit court.

25 i. Any approval by the department under this
26 subparagraph does not constitute a recommendation by the
27 department for an acquisition, tender offer, or exchange
28 offer. It is unlawful for a person to represent that the
29 department's approval constitutes a recommendation. A person
30 who violates the provisions of this sub-subparagraph is guilty
31 of a felony of the third degree, punishable as provided in s.

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1 775.082, s. 775.083, or s. 775.084. The
2 statute-of-limitations period for the prosecution of an
3 offense committed under this sub-subparagraph is 5 years.
4 j. Upon notification to the department by the
5 underwriting member or a controlling company that any person
6 or any affiliated person of such person has acquired 5 percent
7 or more of the outstanding voting securities of the
8 underwriting member or controlling company without complying
9 with the provisions of this subparagraph, the department shall
10 order that the person and any affiliated person of such person
11 cease acquisition of any further securities of the
12 underwriting member or controlling company; however, the
13 person or any affiliated person of such person may request a
14 proceeding, which proceeding shall be convened within 7 days
15 after the rendering of the order for the sole purpose of
16 determining whether the person, individually or in connection
17 with any affiliated person of such person, has acquired 5
18 percent or more of the outstanding voting securities of an
19 underwriting member or controlling company. Upon the failure
20 of the person or affiliated person to request a hearing within
21 7 days, or upon a determination at a hearing convened pursuant
22 to this sub-subparagraph that the person or affiliated person
23 has acquired voting securities of an underwriting member or
24 controlling company in violation of this subparagraph, the
25 department may order the person and affiliated person to
26 divest themselves of any voting securities so acquired.
27 k.(I) The department shall, if necessary to protect
28 the public interest, suspend or revoke the certificate of
29 authority of any underwriting member or controlling company:
30 (A) The control of which is acquired in violation of
31 this subparagraph;

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1 (B) That is controlled, directly or indirectly, by any
2 person or any affiliated person of such person who, in
3 violation of this subparagraph, has obtained control of an
4 underwriting member or controlling company; or

5 (C) That is controlled, directly or indirectly, by any
6 person who, directly or indirectly, controls any other person
7 who, in violation of this subparagraph, acquires control of an
8 underwriting member or controlling company.

9 (II) If any underwriting member is subject to
10 suspension or revocation pursuant to sub-sub-subparagraph (I),
11 the underwriting member shall be deemed to be in such
12 condition, or to be using or to have been subject to such
13 methods or practices in the conduct of its business, as to
14 render its further transaction of insurance presently or
15 prospectively hazardous to its policyholders, creditors, or
16 stockholders or to the public.

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

19 (A) The spouse of such other person;

20 (B) The parents of such other person and their lineal
21 descendants and the parents of such other person's spouse and
22 their lineal descendants;

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

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

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

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

2 (F) If such other person is an investment company, any
3 investment adviser of such company or any member of an
4 advisory board of such company;

5 (G) If such other person is an unincorporated
6 investment company not having a board of directors, the
7 depositor of such company; or

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

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

16 m. The department is authorized to adopt, amend, or
17 repeal rules that are necessary to implement the provisions of
18 this subparagraph, pursuant to chapter 120.

19 44. Background information.--The information as to the
20 background and identity of each person about whom information
21 is required to be furnished pursuant to sub-subparagraph 43.a.
22 shall include, but shall not be limited to:

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

25 b. The principal business and address of any business,
26 corporation, or other organization in which each such office
27 was held or in which such occupation or position of employment
28 was carried on.

29 c. Whether, at any time during such 10-year period,
30 such person was convicted of any crime other than a traffic
31 violation.

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1 d. Whether, during such 10-year period, such person
2 has been the subject of any proceeding for the revocation of
3 any license and, if so, the nature of such proceeding and the
4 disposition thereof.

5 e. Whether, during such 10-year period, such person
6 has been the subject of any proceeding under the federal
7 Bankruptcy Act or whether, during such 10-year period, any
8 corporation, partnership, firm, trust, or association in which
9 such person was a director, officer, trustee, partner, or
10 other official has been subject to any such proceeding, either
11 during the time in which such person was a director, officer,
12 trustee, partner, or other official, or within 12 months
13 thereafter.

14 f. Whether, during such 10-year period, such person
15 has been enjoined, either temporarily or permanently, by a
16 court of competent jurisdiction from violating any federal or
17 state law regulating the business of insurance, securities, or
18 banking, or from carrying out any particular practice or
19 practices in the course of the business of insurance,
20 securities, or banking, together with details of any such
21 event.

22 45. Security fund.--All underwriting members shall be
23 members of the security fund of any exchange.

24 46. Underwriting member defined.--Whenever the term
25 "underwriting member" is used in this subsection, it shall be
26 construed to mean "underwriting syndicate."

27 47. Offsets.--Any action, requirement, or constraint
28 imposed by the department shall reduce or offset similar
29 actions, requirements, or constraints of any exchange.

30 48. Restriction on member ownership.--

31 a. Investments existing prior to July 2, 1987.--The

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1 investment in any member by brokers, agents, and
2 intermediaries transacting business on the exchange, and the
3 investment in any such broker, agent, or intermediary by any
4 member, directly or indirectly, shall in each case be limited
5 in the aggregate to less than 20 percent of the total
6 investment in such member, broker, agent, or intermediary, as
7 the case may be. After December 31, 1987, the aggregate
8 percent of the total investment in such member by any broker,
9 agent, or intermediary and the aggregate percent of the total
10 investment in any such broker, agent, or intermediary by any
11 member, directly or indirectly, shall not exceed 15 percent.
12 After June 30, 1988, such aggregate percent shall not exceed
13 10 percent and after December 31, 1988, such aggregate percent
14 shall not exceed 5 percent.

15 b. Investments arising on or after July 2, 1987.--The
16 investment in any underwriting member by brokers, agents, or
17 intermediaries transacting business on the exchange, and the
18 investment in any such broker, agent, or intermediary by any
19 underwriting member, directly or indirectly, shall in each
20 case be limited in the aggregate to less than 5 percent of the
21 total investment in such underwriting member, broker, agent,
22 or intermediary.

23 49. "Underwriting manager" defined.--"Underwriting
24 manager" as used in this subparagraph includes any person,
25 partnership, corporation, or organization providing any of the
26 following services to underwriting members of the exchange:

27 a. Office management and allied services, including
28 correspondence and secretarial services.

29 b. Accounting services, including bookkeeping and
30 financial report preparation.

31 c. Investment and banking consultations and services.

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1 d. Underwriting functions and services including the
2 acceptance, rejection, placement, and marketing of risk.

3 50. Prohibition of underwriting manager
4 investment.--Any direct or indirect investment in any
5 underwriting manager by a broker member or any affiliated
6 person of a broker member or any direct or indirect investment
7 in a broker member by an underwriting manager or any
8 affiliated person of an underwriting manager is prohibited.

9 "Affiliated person" for purposes of this subparagraph is
10 defined in subparagraph 43. Any direct or indirect investment
11 prohibited by this subparagraph which exists prior to July 2,
12 1987, shall be dissolved by June 30, 1988.

13 51. An underwriting member may not accept reinsurance
14 on an assumed basis from an affiliate or a controlling
15 company, nor may a broker member or management company place
16 reinsurance from an affiliate or controlling company of theirs
17 with an underwriting member. "Affiliate and controlling
18 company" for purposes of this subparagraph is defined in
19 subparagraph 43.

20 52. Premium defined.--"Premium" is the consideration
21 for insurance, by whatever name called. Any "assessment" or
22 any "membership," "policy," "survey," "inspection," "service"
23 fee or charge or similar fee or charge in consideration for an
24 insurance contract is deemed part of the premium.

25 53. Rules.--The department shall promulgate rules
26 necessary for or as an aid to the effectuation of any
27 provision of this section.

28 Section 8. Section 626.988, Florida Statutes, is
29 repealed.

30 Section 9. This act shall take effect July 1, 1999.

31

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, lines 2-7

4 remove from the title of the bill: all of said lines

5

6 and insert in lieu thereof:

7 An act relating to insurance; amending s.
8 626.9541, F.S.; prohibiting as an unfair
9 insurance practice use of certain misleading
10 advertisements; amending s. 626.9551, F.S.;
11 prohibiting any person from engaging in certain
12 acts related to insurance sold in connection
13 with a loan or extension of credit; requiring
14 disclosure of certain information for such
15 transactions; requiring separate documents for
16 policies of insurance for such transactions;
17 prohibiting loan officers who are involved in
18 the loan transaction from soliciting insurance
19 in connection with the same loan, subject to
20 certain exceptions; amending s. 626.592, F.S.;
21 providing that a primary agent need not be
22 designated at each location where an agent
23 conducts certain insurance transactions;
24 creating s. 626.9885, F.S.; requiring financial
25 institutions, as defined, to conduct insurance
26 transactions only through Florida-licensed
27 insurance agents representing certain types of
28 insurers; amending ss. 626.321, 626.730,
29 629.401, F.S., to conform cross-references;
30 repealing s. 626.988, F.S.; relating to
31 prohibition of insurance activities by persons

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1 employed or associated with financial
2 institutions; providing an effective date.
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