

By the Committee on Governmental Oversight and Productivity;
and Senator Geller

302-2179-00

1 A bill to be entitled
2 An act relating to rulemaking authority of
3 state agencies (RAB); amending s. 386.205,
4 F.S.; authorizing state agencies to adopt rules
5 to designate smoking areas; amending s.
6 554.115, F.S.; providing additional
7 circumstances under which the Department of
8 Insurance may suspend or revoke a certificate
9 of compliance to operate a boiler; requiring
10 that certain violations be reported to the
11 state attorney; providing for administrative
12 actions; creating s. 624.4135, F.S.; requiring
13 that the department adopt rules governing
14 applications by foreign insurers for a
15 certificate of authority as a domestic insurer;
16 amending s. 625.305, F.S.; establishing
17 limitations relating to certain investments by
18 domestic life insurers; creating s. 625.765,
19 F.S.; exempting specified transactions from
20 requirements that a domestic stock insurer file
21 statements and recover certain profits;
22 creating s. 626.2817, F.S.; providing for the
23 regulation of course providers, instructors,
24 and other groups involved in prelicensure
25 education for insurance agents and other
26 licensees; amending s. 626.7353, F.S.;
27 requiring that the Department of Insurance
28 adopt rules governing the appointment of
29 customer representatives; amending s. 627.062,
30 F.S.; providing for the availability of water
31 supplies to be considered by insurers or rating

1 organizations in establishing rates; amending
2 s. 627.429, F.S.; providing that certain
3 limitations on the use of medical tests for
4 human immunodeficiency virus infection and
5 acquired immune deficiency syndrome apply to
6 insurance provided by prepaid limited health
7 organizations; amending s. 627.481, F.S.;
8 requiring that the department adopt rules
9 governing certain annuity agreements; creating
10 s. 627.7276, F.S.; providing notice
11 requirements for motor vehicle policies that do
12 not provide coverage for bodily injury and
13 property damage liability; amending s.
14 627.7282, F.S.; authorizing the Department of
15 Insurance to adopt rules governing the format
16 of the notice of additional premiums; creating
17 s. 627.796, F.S.; requiring that a title
18 insurer obtain a minimum amount of errors and
19 omissions coverage for persons performing title
20 searches; creating s. 627.797, F.S.; requiring
21 that insurers file with the department a list
22 of agents who are exempt from licensure;
23 creating s. 627.798, F.S.; requiring that the
24 Department of Insurance adopt forms for
25 notifying the mortgagor of certain provisions
26 in a title policy; amending ss. 627.8405,
27 627.848, F.S.; requiring that the Department of
28 Insurance adopt forms for disclosing coverages
29 financed with personal injury protection and
30 for cancelling certain policies; creating s.
31 627.955, F.S.; prohibiting certain deductibles

1 that are applicable to the insured group as a
2 whole; amending s. 635.071, F.S.; prohibiting
3 insurance on mortgages that are offered for
4 sale based on certain advertisements; amending
5 s. 648.4425, F.S.; requiring the Department of
6 Insurance to prescribe forms for use by bail
7 bond agents in issuing bonds; amending s.
8 791.015, F.S.; authorizing the State Fire
9 Marshal to adopt by rule registration forms for
10 manufacturers, distributors, wholesalers, and
11 retailers of sparklers; providing an effective
12 date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Subsection (6) is added to section 386.205,
17 Florida Statutes, to read:

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386.205 Designation of smoking areas.--

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(6) Each state agency may adopt rules for

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administering this section which take into consideration the

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provisions of this part.

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23 Section 2. Section 554.115, Florida Statutes, is
24 amended to read:

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554.115 Disciplinary proceedings.--

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(1) The department may suspend or revoke a certificate
27 of compliance upon proof that:

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(a) The certificate has been obtained by fraud or
29 misrepresentation;

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(b) The boiler for which the certificate was issued
31 cannot be operated safely; or

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1 (c) The person who received the certificate willfully
2 or deliberately violated the State Boiler Code or ss.
3 554.1011-554.115 or any rule adopted pursuant to ss.
4 554.1011-554.115.

5 (2) The department may suspend or revoke a certificate
6 of competency upon proof that:

7 (a) The certificate was obtained by fraud or
8 misrepresentation; ~~or~~

9 (b) The inspector to whom the certificate was issued
10 is no longer qualified under ss. 554.1011-554.115 to inspect
11 boilers; ~~or-~~

12 (c) The inspector:

13 1. Operated a boiler at a public assembly location
14 without a valid certificate of compliance for that boiler;

15 2. Gave false or forged information to the department
16 or to another boiler inspector for the purpose of obtaining a
17 certificate of compliance;

18 3. Used a certificate of compliance for any boiler
19 other than the boiler for which it was issued;

20 4. Operated a boiler for which the certificate of
21 compliance has been suspended or revoked or has expired;

22 5. Inspected any boiler regulated under ss.
23 554.1011-554.115 without having obtained a valid certificate
24 of competency;

25 6. Operated a boiler that is in an unsafe condition;
26 or

27 7. Operated a boiler in a manner that is contrary to
28 the requirements of this chapter or any rule adopted under
29 this chapter.

30 (3) Each suspension of a certificate of compliance or
31 certificate of competency shall continue in effect until all

1 violations have been corrected and, for boiler safety
2 violations, until the boiler has been inspected and shown to
3 be in a safe condition.

4 (4) A person in violation of this section who does not
5 have a valid certificate of competency shall be reported by
6 the chief inspector to the appropriate state attorney.

7 (5) A person in violation of this section who has a
8 valid certificate of competency is subject to administrative
9 action by the chief inspector.

10 (6) A revocation of a certificate of competency is
11 permanent and a revoked certificate of competency may not be
12 reinstated or a new certificate of competency issued to the
13 same person. A suspension of a certificate of competency
14 continues in effect until all violations have been corrected.
15 A suspension of a certificate of compliance for any boiler
16 safety violation continues in effect until the boiler has been
17 inspected by an authorized inspector and shown to be in safe
18 working condition.

19 Section 3. Section 624.4135, Florida Statutes, is
20 created to read:

21 624.4135 Redomestication.--The department shall adopt
22 rules establishing procedures and forms for a foreign insurer
23 to apply for a certificate of authority as a domestic insurer.

24 Section 4. Subsection (11) is added to section
25 625.305, Florida Statutes, to read:

26 625.305 Diversification.--

27 (11) Every domestic life insurance company that issues
28 variable annuity contracts may invest and reinvest amounts
29 received in connection with such variable contracts in common
30 stocks, subject to the following limitations:

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1 (a) All common stock investments must be in stock that
2 is listed or admitted to trading on a securities exchange
3 located in the United States, or which is publicly held and
4 has been traded in the "over the counter market" for not less
5 than one year preceding the date of purchase and for which
6 stock market quotations have been readily available for that
7 one year period.

8 (b) A domestic life insurance company that issues
9 variable annuity contracts may not invest more than five
10 percent of all of the amounts received in connection with such
11 contracts in the securities of one corporation or insurer.

12 (c) A domestic life insurance company that issues
13 variable annuity contracts may not, as a result of investing
14 any funds received in connection with such contracts,
15 beneficially own or hold, together with the investments
16 permitted under s. 625.305(2)(a), more than fifteen percent of
17 the outstanding securities of any corporation or issuer. Any
18 foreign life insurance company that issues variable annuity
19 contracts in this state and which invests the funds received
20 in connection with such contracts in accordance with the laws
21 of its state of domicile, is in compliance with this section.

22 (d) A domestic life insurance company may not invest
23 in the common stock of any corporation if such investment
24 creates a conflict of interest between officers and directors
25 of the investing company and those of the corporation whose
26 stock is purchased.

27 Section 5. Section 625.765, Florida Statutes, is
28 created to read:

29 625.765 Exemptions from ss. 625.75 and 625.76.--The
30 department may adopt by rule exemptions from ss. 625.75 and
31 625.76 for transactions that are not subject to s. 628.461 and

1 that are the result of proceedings in probate, incompetency,
2 or bankruptcy; sales of securities by odd-lot securities
3 dealers; small transactions by gift which do not exceed \$3,000
4 over any 6-month period; transactions that are effected in
5 connection with the distribution of a substantial block of
6 securities; acquisitions of shares of stock and stock options
7 under a stock bonus plan, stock option plan, or similar plan;
8 securities acquired by redeeming other securities by an
9 insurer; consolidations or mergers of insurers that hold over
10 85 percent of the companies being merged or consolidated;
11 acquisitions or dispositions of an equity security involved in
12 the deposit of the security under, or the withdrawal of the
13 security from, a voting trust or deposit agreement; and
14 conversions of an insurer's equity securities into another
15 equity security of the same insurer. The department may limit
16 by rule the scope of exemptions and provide conditions for
17 exemptions as necessary to maintain the purpose and intent of
18 ss. 625.75 and 625.76 and prevent the circumvention of ss.
19 625.75 and 625.76.

20 Section 6. Section 626.2817, Florida Statutes, is
21 created to read:

22 626.2817 Regulation of course providers, instructors,
23 school officials, and monitor groups involved in prelicensure
24 education for insurance agents and other licensees.--

25 (1) Any course provider, instructor, school official,
26 or monitor group must be approved by and registered with the
27 department before offering prelicensure education courses for
28 insurance agents and other licensees.

29 (2) The department shall adopt rules establishing
30 standards for the approval, registration, discipline, or
31 removal from registration of course providers, instructors,

1 school officials, and monitor groups. The standards must be
2 designed to ensure that such persons have the knowledge,
3 competence, and integrity to fulfill the educational
4 objectives of the prelicensure requirements of this chapter
5 and chapter 648 and to assure that insurance agents and
6 licensees are competent to engage in the activities authorized
7 under the license.

8 (3) The department shall adopt rules to establish a
9 process for determining compliance with the prelicensure
10 requirements of this chapter and chapter 648 and shall
11 establish a prelicensure cycle for insurance agents and other
12 licensees. The department shall adopt rules prescribing the
13 forms necessary to administer the prelicensure requirements.

14 Section 7. Subsection (3) is added to section
15 626.7353, Florida Statutes, to read:

16 626.7353 Appointment of customer representatives.--

17 (3) The department shall prescribe by rule forms to
18 administer this section.

19 Section 8. Paragraph (c) of subsection (2) of section
20 627.062, Florida Statutes, is amended to read:

21 627.062 Rate standards.--

22 (2) As to all such classes of insurance:

23 (c) In the case of fire insurance rates, consideration
24 shall be given to the availability of water supplies and the
25 experience of the fire insurance business during a period of
26 not less than the most recent 5-year period for which such
27 experience is available.

28
29 The provisions of this subsection shall not apply to workers'
30 compensation and employer's liability insurance and to motor
31 vehicle insurance.

1 Section 9. Paragraph (a) of subsection (2) of section
2 627.429, Florida Statutes, is amended to read:

3 627.429 Medical tests for human immunodeficiency virus
4 infection and acquired immune deficiency syndrome for
5 insurance purposes.--

6 (2) SCOPE.--

7 (a) This section applies to all insurance policies,
8 and the underwriting thereof, which are issued in this state
9 or are issued outside this state pursuant to s. 627.5515 or s.
10 627.6515 covering residents of this state; to prepaid limited
11 health organizations; and to multiple-employer welfare
12 arrangements defined in s. 624.437. For the purposes of this
13 section, "insurer" includes authorized multiple-employer
14 welfare arrangements.

15 Section 10. Subsection (11) is added to section
16 627.481, Florida Statutes, to read:

17 627.481 Requirements for certain annuity agreements.--

18 (11) The department shall adopt rules and forms for
19 the filing of annual statements and agreements pertaining to
20 donor annuity organizations.

21 Section 11. Section 627.7276, Florida Statutes, is
22 created to read:

23 627.7276 Notice of limited coverage.--

24 (1) An automobile policy that does not contain
25 coverage for bodily injury and property damage must be clearly
26 stamped or printed to the effect that such coverage is not
27 included in the policy in the following manner:

28
29 "THIS POLICY DOES NOT PROVIDE BODILY INJURY AND
30 PROPERTY DAMAGE LIABILITY INSURANCE OR ANY
31 OTHER COVERAGE FOR WHICH A SPECIFIC PREMIUM

1 CHARGE IS NOT MADE, AND DOES NOT COMPLY WITH
2 ANY FINANCIAL RESPONSIBILITY LAW."

3
4 (2) This legend must appear on the policy declaration
5 page and on the filing back of the policy and be printed in a
6 contrasting color from that used on the policy and in type
7 larger than the largest type used in the text thereof, as an
8 overprint or by a rubber-stamp impression.

9 Section 12. Subsection (5) is added to section
10 627.7282, Florida Statutes, to read:

11 627.7282 Notice of additional premium; cancellation
12 upon nonpayment.--

13 (5) The department may adopt rules prescribing the
14 format of the notice.

15 Section 13. Section 627.796, Florida Statutes, is
16 created to read:

17 627.796 Errors and omissions policy requirements.--A
18 title insurance policy may not be issued from a search
19 performed by any person other than a title insurance agent, or
20 an employee of a title insurer or title insurance agency,
21 unless that person has in effect an errors and omissions
22 policy that has minimum coverage limits of \$250,000 and a
23 deductible that does not exceed \$10,000.

24 Section 14. Section 627.797, Florida Statutes, is
25 created to read:

26 627.797 Exempt agent list.--

27 (1) Every insurer shall file with the department a
28 list containing the name and address of each appointed agent
29 who is exempt from licensure under s. 626.8417(4) and who
30 issues or countersigns binders, commitments, title insurance
31 policies, or guarantees of title.

1 (2) Each month thereafter, the insurer shall report to
2 the department the name and address of any nonlicensed agent
3 whose appointment is granted or terminated.

4 Section 15. Section 627.798, Florida Statutes, is
5 created to read:

6 627.798 Rulemaking authority.--The department shall by
7 rule adopt a form to be used to provide notice to a
8 purchaser-mortgagor that the purchaser-mortgagor is not
9 protected by the title policy of the mortgagee.

10 Section 16. Section 627.8405, Florida Statutes, is
11 amended to read:

12 627.8405 Prohibited acts; financing companies.--No
13 premium finance company shall, in a premium finance agreement
14 or other agreement, finance the cost of or otherwise provide
15 for the collection or remittance of dues, assessments, fees,
16 or other periodic payments of money for the cost of:

17 (1) A membership in an automobile club. The term
18 "automobile club" means a legal entity which, in consideration
19 of dues, assessments, or periodic payments of money, promises
20 its members or subscribers to assist them in matters relating
21 to the ownership, operation, use, or maintenance of a motor
22 vehicle; however, this definition of "automobile club" does
23 not include persons, associations, or corporations which are
24 organized and operated solely for the purpose of conducting,
25 sponsoring, or sanctioning motor vehicle races, exhibitions,
26 or contests upon racetracks, or upon racecourses established
27 and marked as such for the duration of such particular events.
28 The words "motor vehicle" used herein have the same meaning as
29 defined in chapter 320.

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31

1 (2) An accidental death and dismemberment policy sold
2 in combination with a personal injury protection and property
3 damage only policy.

4 (3) Any product not regulated under the provisions of
5 this insurance code.

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7 This section also applies to premium financing by any
8 insurance agent or insurance company under part XVI. The
9 department shall adopt ~~promulgate~~ rules to assure disclosure,
10 at the time of sale, of coverages financed with personal
11 injury protection and shall prescribe the form of such
12 disclosure.

13 Section 17. Subsection (3) is added to section
14 627.848, Florida Statutes, to read:

15 627.848 Cancellation of insurance contract upon
16 default.--

17 (3) The department shall adopt a standard cancellation
18 notice for use by premium finance companies in canceling
19 insurance policies. The department shall specify the color of
20 the notice so as to promote usability and standardization.

21 Section 18. Section 627.955, Florida Statutes, is
22 created to read:

23 627.955 Limitation on deductibles.--A purchasing group
24 may not purchase insurance that provides for a deductible or
25 self-insured retention that is applicable to the group as a
26 whole. However, coverage may provide for a deductible or
27 self-insured retention that is applicable to individual
28 members.

29 Section 19. Subsection (3) is added to section
30 635.071, Florida Statutes, to read:

31 635.071 Filings, approval of forms; rate filings.--

1 (3) An insurer may not insure mortgages that are
2 offered for sale to the public by advertisement, whether in
3 newspapers, brochures, direct mailings, or similar media, if
4 the advertisement expressly or impliedly represents or
5 stresses that the worth, value, or safety of the mortgage
6 investment arises by virtue of the proposed mortgage guaranty
7 insurance rather than by virtue of the safety inherent in the
8 value of the underlying security as it relates to the face
9 value of the mortgage debt, or if the advertisement stresses
10 the fact that the mortgage guaranty insurance is regulated by
11 an agency of the state or Federal Government.

12 Section 20. Section 648.4425, Florida Statutes, is
13 amended to read:

14 648.4425 Notice.--

15 (1) Upon issuing a bond, the bail bond agent shall
16 provide to the principal and, if applicable, to the party
17 rendering collateral or indemnifying the principal an
18 informational notice which shall include:

19 (a)(1) A statement noting with particularity the
20 restrictions, if any, placed on the principal as a condition
21 of the bond;

22 (b)(2) A statement of the bail bond agent's powers
23 relating to the cancellation of the bond and recommitment of
24 the principal; and

25 (c)(3) The name, address, and telephone number of the
26 department for complaints or inquiries.

27 (2) The department shall prescribe forms to administer
28 this section.

29 Section 21. Subsection (4) is added to section
30 791.015, Florida Statutes, to read:

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1 791.015 Registration of manufacturers, distributors,
2 wholesalers, and retailers of sparklers.--

3 (4) RULES.--The State Fire Marshal may adopt rules
4 prescribing registration forms required by this section.

5 Section 22. This act shall take effect July 1, 2000.

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 SB 2478

10 Deletes sections 3, 5, 8, 11 through 14, 16 through 21, 23,
11 27, 33, 36, 37, and 39 of the bill.

12 Narrows the bill's grant of rulemaking authority regarding a
13 domestic life insurer's use of money received from variable
14 annuity contracts.

15 Deletes section 25. of the bill, except for the portion in s.
16 627.7276, F.S., that provides that an auto insurance policy
17 must have a disclaimer if it does not include bodily injury
18 and property damage coverage.