

143-251AX-00

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

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

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Representative(s) Bainter offered the following:

Amendment (with title amendment)

On page 2, line 18,
remove from the bill: everything after the enacting clause,
and insert in lieu thereof:

Section 1. Effective January 7, 2003, subsection (3)
of section 20.04, Florida Statutes, is amended to read:

20.04 Structure of executive branch.--The executive
branch of state government is structured as follows:

(3) For their internal structure, all departments,
except for the Department of Insurance and Financial Services
~~Banking and Finance~~, the Department of Children and Family
Services, the Department of Corrections, the Department of
Management Services, the Department of Revenue, and the
Department of Transportation, must adhere to the following
standard terms:

(a) The principal unit of the department is the
"division." Each division is headed by a "director."

(b) The principal unit of the division is the

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1 "bureau." Each bureau is headed by a "chief."

2 (c) The principal unit of the bureau is the "section."
3 Each section is headed by an "administrator."

4 (d) If further subdivision is necessary, sections may
5 be divided into "subsections," which are headed by
6 "supervisors."

7 Section 2. Effective January 7, 2003, sections 20.121
8 and 20.131, Florida Statutes, are created to read:

9 20.121 Office of Chief Financial Officer.--There is
10 created the Office of Chief Financial Officer. The head of the
11 office is the Chief Financial Officer. Pursuant to s. 4, Art.
12 IV of the State Constitution, the duties of the Chief
13 Financial Officer are to serve as the chief fiscal officer of
14 the state, to settle and approve accounts against the state,
15 and to keep all state funds and securities. The Chief
16 Financial Officer is also the administrator of the Government
17 Employees Deferred Compensation Plan.

18 20.131 Department of Insurance and Financial
19 Services.--There is created the Department of Insurance and
20 Financial Services. The head of the Department of Insurance
21 and Financial Services is the Governor and Cabinet.

22 (1) EXECUTIVE DIRECTOR.--The Executive Director of the
23 Department of Insurance and Financial Services is the chief
24 administrator of the department and shall be appointed by the
25 Governor and Cabinet, subject to confirmation by the Senate.
26 The executive director serves at the pleasure of the Governor
27 and Cabinet. The functions of the executive director are
28 limited to personnel, administrative, and budgetary matters,
29 including administrative coordination of issues that affect
30 areas under the offices of more than one commissioner and
31 coordination of legislative activities.

1 (2) DEPARTMENTAL STRUCTURE.--The Governor and Cabinet,
 2 as department head, shall adopt rules establishing the
 3 organizational structure of the department. It is the intent
 4 of the Legislature to provide the Governor and Cabinet with
 5 the flexibility to organize the department in any manner they
 6 determine appropriate to promote both efficiency and
 7 accountability, subject to the following requirements:

8 (a) The major structural unit of the department is the
 9 "office." Each office is headed by a "commissioner." The
 10 offices are established as follows:

11 1. Office of the Commissioner of Insurance.--The
 12 Office of the Commissioner of Insurance is responsible for all
 13 activities relating to the regulation of insurance and
 14 insurance fraud. The head of the office is the Commissioner
 15 of Insurance, who is also the State Fire Marshal.

16 2. Office of the Commissioner of Financial
 17 Services.--The Office of the Commissioner of Financial
 18 Services is responsible for all activities relating to the
 19 regulation of banks, credit unions, other financial
 20 institutions, securities, and finance companies. The head of
 21 the office is the Commissioner of Financial Services. The
 22 office includes a Division of Financial Investigations, which
 23 is headed by a director who is appointed by and serves at the
 24 pleasure of the commissioner.

25 (b)1. For purposes of chapter 120, each commissioner
 26 is the agency head for all units within that commissioner's
 27 jurisdiction, as provided in paragraph (a) and rules adopted
 28 pursuant to this subsection, except as provided in
 29 subparagraph 2. Each commissioner shall be responsible for,
 30 and take final agency action related to, the implementation
 31 and enforcement of all statutes and rules within the

1 regulatory authority delegated to that commissioner's office.

2 2. A commissioner, upon adopting a rule under chapter
3 120, shall provide a copy of the rule to the Governor and
4 Cabinet. The rule shall take effect 30 days after the rule is
5 received by the Governor and Cabinet unless the Governor and
6 Cabinet decides, by majority vote, to review the rule, in
7 which event operation of the rule is stayed until the Governor
8 and Cabinet decides, by majority vote, either to allow the
9 rule to take effect as adopted or to disapprove the rule. This
10 subparagraph does not apply to emergency rules.

11 (3) APPOINTMENT AND QUALIFICATIONS OF
12 COMMISSIONERS.--Each commissioner shall be appointed by, and
13 shall serve at the pleasure of, the executive director. The
14 minimum qualifications of the commissioners are as follows:

15 (a) Prior to appointment as commissioner, the
16 Commissioner of Insurance must have had, within the previous
17 10 years, at least 5 years of experience as a senior officer
18 of an insurer as defined in s. 624.03, as a senior officer of
19 an insurance agency as defined in s. 624.04, or as an examiner
20 or other senior employee of a state or federal agency having
21 regulatory responsibility over insurers or insurance agencies.

22 (b) Prior to appointment as commissioner, the
23 Commissioner of Financial Services must have had, within the
24 previous 10 years, at least 5 years of experience as a senior
25 officer of a financial institution as defined in s. 655.005(1)
26 or of a securities or finance company, or as an examiner or
27 other senior employee of a state or federal agency having
28 regulatory responsibility over financial institutions,
29 securities, or finance companies.

30 Section 3. Transfers.--

31 (1) TRANSFERS TO THE OFFICE OF CHIEF FINANCIAL

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1 OFFICER.--

2 (a) All powers, duties, functions, rules, records,
3 personnel, property, and unexpended balances of
4 appropriations, allocations, and other funds of the Office of
5 the Comptroller;

6 (b) All powers, duties, functions, rules, records,
7 personnel, property, and unexpended balances of
8 appropriations, allocations, and other funds of the Department
9 of Banking and Finance that relate to the constitutional
10 functions of the Comptroller;

11 (c) All powers, duties, functions, rules, records,
12 personnel, property, and unexpended balances of
13 appropriations, allocations, and other funds of the Office of
14 the Treasurer, including the Government Employees Deferred
15 Compensation Plan; and

16 (d) All powers, duties, functions, rules, records,
17 personnel, property, and unexpended balances of
18 appropriations, allocations, and other funds of the Department
19 of Insurance that relate to the constitutional functions of
20 the Treasurer

21
22 are transferred by a type two transfer, as defined in s.
23 20.06(2), Florida Statutes, to the Office of Chief Financial
24 Officer.

25 (2) TRANSFERS TO THE DEPARTMENT OF INSURANCE AND
26 FINANCIAL SERVICES.--

27 (a) All powers, duties, functions, rules, records,
28 personnel, property, and unexpended balances of
29 appropriations, allocations, and other funds of the Department
30 of Banking and Finance not otherwise transferred by this act;
31 and

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1 (b) All powers, duties, functions, rules, records,
2 personnel, property, and unexpended balances of
3 appropriations, allocations, and other funds of the Department
4 of Insurance not otherwise transferred by this act

5
6 are transferred by a type two transfer, as defined in s.
7 20.06(2), Florida Statutes, to the Department of Insurance and
8 Financial Services.

9 (3) This section shall take effect January 7, 2003.

10 Section 4. Effective January 7, 2003, the
11 administrative rules of the Department of Banking and Finance
12 and of the Department of Insurance that were in effect
13 immediately prior to January 7, 2003, shall become rules of
14 the Department of Insurance and Financial Services and shall
15 remain in effect until specifically changed in the manner
16 provided by law. However, any such rules that relate to the
17 constitutional functions of the Comptroller or the Treasurer
18 shall instead become rules of the Office of Chief Financial
19 Officer and shall remain in effect until specifically changed
20 in the manner provided by law.

21 Section 5. This act shall not affect the validity of
22 any judicial or administrative action involving the Department
23 of Banking and Finance or the Department of Insurance pending
24 on January 7, 2003, and the Department of Insurance and
25 Financial Services shall be substituted as a party in interest
26 in any such action. However, if the action involves the
27 constitutional functions of the Comptroller or Treasurer, the
28 Office of Chief Financial Officer shall instead be substituted
29 as a party in interest.

30 Section 6. No later than July 1, 2001, the Department
31 of Banking and Finance and the Department of Insurance shall

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1 each provide a report to the Governor, the President of the
2 Senate, the Speaker of the House of Representatives, and the
3 chairs of the fiscal committees of the Senate and the House of
4 Representatives and to the presiding officers and fiscal
5 chairs of the Senate and the House of Representatives
6 specifying, on a position-by-position basis, those positions
7 that are subject to transfer to the Office of Chief Financial
8 Officer under this act. Except as revised by the General
9 Appropriations Act or other legislation, the reports under
10 this section shall be used to determine which employees of the
11 Department of Banking and Finance or the Department of
12 Insurance will become employees of the Office of Chief
13 Financial Officer on January 7, 2003.

14 Section 7. No later than January 31, 2002, the
15 Division of Statutory Revision of the Office of Legislative
16 Services, in consultation with the appropriate substantive
17 committee staffs of the Senate and the House of
18 Representatives, shall submit to the President of the Senate
19 and the Speaker of the House of Representatives proposed
20 substantive legislation to conform the Florida Statutes to the
21 provisions of this act. The proposed legislation shall include
22 provisions:

23 (1) Changing the term "Comptroller" or "Treasurer" to
24 "Chief Financial Officer" with respect to functions of the
25 Chief Financial Officer.

26 (2) Changing references to the Department of Banking
27 and Finance or the Department of Insurance to the Department
28 of Insurance and Financial Services, except with respect to
29 functions of the Chief Financial Officer.

30 (3) Otherwise conforming the Florida Statutes to the
31 abolition of the offices of Comptroller and Treasurer, the

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1 creation of the Office of Chief Financial Officer, the
 2 abolition of the Department of Banking and Finance and the
 3 Department of Insurance, the creation of the Department of
 4 Insurance and Financial Services, and the creation of the
 5 offices of Commissioner of Insurance and Commissioner of
 6 Financial Services within the Department of Insurance and
 7 Financial Services.

8 Section 8. Effective January 7, 2003, sections 20.12
 9 and 20.13, Florida Statutes, are repealed.

10 Section 9. Except as otherwise provided herein, this
 11 act shall take effect upon becoming a law.

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

15 And the title is amended as follows:

16 On page 1, line 3, through page 2, line 15,
 17 remove from the title of the bill: all of said lines,

18

19 and insert in lieu thereof:

20 amending s. 20.04, F.S.; providing an exception
 21 to departmental structure requirements;
 22 creating s. 20.121, F.S.; creating the Office
 23 of Chief Financial Officer; creating s. 20.131,
 24 F.S.; creating the Department of Insurance and
 25 Financial Services; providing for an executive
 26 director; providing for departmental structure;
 27 creating the offices of Commissioner of
 28 Insurance and Commissioner of Financial
 29 Services; providing for appointment and
 30 specifying qualifications for each
 31 commissioner; providing jurisdiction of the

1 commissioners' offices; providing for exercise
2 of executive authority; transferring the
3 powers, duties, functions, rules, records,
4 personnel, property, and unexpended balances of
5 appropriations, allocations, and other funds of
6 the Comptroller to the Office of Chief
7 Financial Officer; transferring the powers,
8 duties, functions, rules, records, personnel,
9 property, and unexpended balances of
10 appropriations, allocations, and other funds of
11 the Department of Insurance and the Department
12 of Banking and Finance to the Department of
13 Insurance and Financial Services; specifying
14 that administrative rules of the Department of
15 Banking and Finance and the Department of
16 Insurance become administrative rules of the
17 Department of Insurance and Financial Services;
18 specifying that such rules become
19 administrative rules of the Office of Chief
20 Financial Officer under certain circumstances;
21 providing for preservation of validity of
22 judicial or administrative actions involving
23 such departments; providing for substitution of
24 certain parties in interest in such actions;
25 requiring the Department of Insurance and the
26 Department of Banking and Finance to provide
27 reports to the Governor and the Legislature;
28 directing the Division of Statutory Revision to
29 prepare proposed substantive legislation by a
30 certain time for certain purposes; repealing
31 ss. 20.12 and 20.13, F.S., relating to the

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Department of Banking and Finance and the
Department of Insurance, respectively;
providing effective dates.