

Bill No. SB 1220, 1st Eng.

Amendment No.      Barcode 363452

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senators Holzendorf, Geller, Klein, and Latvala moved the following amendment:

**Senate Amendment (with title amendment)**

On page 2, between lines 24 and 25,

insert:

Section 2. Paragraph (e) is added to subsection (1) of section 28.101, Florida Statutes; to read:

28.101 Petitions and records of dissolution of marriage; additional charges.--

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(e) A charge of \$50. Monthly, the clerk shall transfer the moneys collected under this paragraph to the authorized insurer or eligible surplus lines insurer, selected under chapter 287, for the issuance of a policy of insurance to provide child-support payments when the payor's employment has been involuntarily terminated. The \$50 charge may be reduced to the actual premium amount for such policy as determined

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1 through the competitive-bidding process in chapter 287.  
2 1. The policy required by this paragraph must provide  
3 for the payment of child-support amounts due to the child or  
4 to the child's parent or legal guardian. Payments must be  
5 made, after a reasonable waiting period of no longer than 7  
6 days, on behalf of the obligated person when the obligated  
7 person has become unemployed by reason of involuntary  
8 unemployment. As used in this paragraph, the term "involuntary  
9 unemployment" means unemployment due to a strike, lockout,  
10 individual or mass layoff, or loss of income due to business  
11 failure or bankruptcy. Payments must be equal to the monthly  
12 or weekly support payments and must be paid in accordance with  
13 the terms of the divorce decree or other order of the court  
14 for the term of involuntary unemployment, but payments may not  
15 be made for a period of more than 13 weeks. The 13 weeks need  
16 not be consecutive; however, this is the maximum number of  
17 weeks payable on behalf of the obligated person for the total  
18 of all periods of involuntary unemployment.  
19 2. In addition to the costs collected for the payment  
20 of the insurance premium, the clerk may collect an additional  
21 fee of \$4 to cover the administrative cost of collecting and  
22 transmitting the insurance premium.  
23 3. The Department of Management Services shall select  
24 an insurer or eligible surplus lines insurer to provide the  
25 insurance required under this paragraph, and such selection  
26 must comply with the provisions of chapter 287. The department  
27 shall notify each county clerk of the insurer or surplus lines  
28 insurer selected to provide the insurance and the necessary  
29 information for transmittal of the moneys collected to pay the  
30 premiums for such insurance.  
31 4. The clerk shall furnish to such insurer or surplus

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1 insurer the name and address of each person ordered to pay  
2 child support and each person entitled to receive such  
3 payments. The insurer or surplus lines insurer selected shall  
4 furnish a certificate of insurance, an explanation of the  
5 coverage, and claim-filing instructions to the person entitled  
6 to receive the child-support payments.

7 5. The insurer or surplus lines insurer providing the  
8 insurance required under this paragraph is responsible for  
9 notifying the obligor, the obligee, the Department of Revenue  
10 in the Title IV-D cases, and the local depository in the  
11 county that entered the order that child support payments are  
12 being made by an insurer.

13 Section 3. Subsection (6) is added to section  
14 624.3161, Florida Statutes, to read:

15 624.3161 Market conduct examinations.--

16 (6) The department shall adopt rules as necessary to  
17 effectuate the market conduct examination process, to assure  
18 compliance by the person examined with the applicable  
19 provisions of the Insurance Code. Such rules shall not exceed  
20 the authority of the statutes involved in the market conduct  
21 examination.

22 Section 4. Subsection (8) is added to section 626.171,  
23 Florida Statutes, to read:

24 626.171 Application for license.--

25 (8) The department shall adopt rules to effectuate the  
26 license application process, including photo identification,  
27 background checks and credit reports, prelicensing courses,  
28 the impact of criminal and law enforcement history, and other  
29 relevant information in an effort to determine an applicant's  
30 fitness and trustworthiness to engage in the business of  
31 insurance.

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1 Section 5. Paragraphs (o) and (w) of subsection (1) of  
2 section 626.9541, Florida Statutes, are amended to read:

3 626.9541 Unfair methods of competition and unfair or  
4 deceptive acts or practices defined.--

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

8 (o) Illegal dealings in premiums; excess or reduced  
9 charges for insurance.--

10 1. Knowingly collecting any sum as a premium or charge  
11 for insurance, which is not then provided, or is not in due  
12 course to be provided, subject to acceptance of the risk by  
13 the insurer, by an insurance policy issued by an insurer as  
14 permitted by this code.

15 2. Knowingly collecting as a premium or charge for  
16 insurance any sum in excess of or less than the premium or  
17 charge applicable to such insurance, in accordance with the  
18 applicable classifications and rates as filed with and  
19 approved by the department, and as specified in the policy;  
20 or, in cases when classifications, premiums, or rates are not  
21 required by this code to be so filed and approved, premiums  
22 and charges in excess of or less than those specified in the  
23 policy and as fixed by the insurer. This provision shall not  
24 be deemed to prohibit the charging and collection, by surplus  
25 lines agents licensed under part VIII of this chapter, of the  
26 amount of applicable state and federal taxes, or fees as  
27 authorized by s. 626.916(4), in addition to the premium  
28 required by the insurer or the charging and collection, by  
29 licensed agents, of the exact amount of any discount or other  
30 such fee charged by a credit card facility in connection with  
31 the use of a credit card, as authorized by subparagraph (q)3.,

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1 in addition to the premium required by the insurer. This  
2 subparagraph shall not be construed to prohibit collection of  
3 a premium for a universal life or a variable or indeterminate  
4 value insurance policy made in accordance with the terms of  
5 the contract.

6 3.a. Imposing or requesting an additional premium for  
7 a policy of motor vehicle liability, personal injury  
8 protection, medical payment, or collision insurance or any  
9 combination thereof or refusing to renew the policy solely  
10 because the insured was involved in a motor vehicle accident  
11 unless the insurer's file contains information from which the  
12 insurer in good faith determines that the insured was  
13 substantially at fault in the accident.

14 b. An insurer which imposes and collects such a  
15 surcharge or which refuses to renew such policy shall, in  
16 conjunction with the notice of premium due or notice of  
17 nonrenewal, notify the named insured that he or she is  
18 entitled to reimbursement of such amount or renewal of the  
19 policy under the conditions listed below and will subsequently  
20 reimburse him or her or renew the policy, if the named insured  
21 demonstrates that the operator involved in the accident was:

22 (I) Lawfully parked;

23 (II) Reimbursed by, or on behalf of, a person  
24 responsible for the accident or has a judgment against such  
25 person;

26 (III) Struck in the rear by another vehicle headed in  
27 the same direction and was not convicted of a moving traffic  
28 violation in connection with the accident;

29 (IV) Hit by a "hit-and-run" driver, if the accident  
30 was reported to the proper authorities within 24 hours after  
31 discovering the accident;

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1 (V) Not convicted of a moving traffic violation in  
2 connection with the accident, but the operator of the other  
3 automobile involved in such accident was convicted of a moving  
4 traffic violation;

5 (VI) Finally adjudicated not to be liable by a court  
6 of competent jurisdiction;

7 (VII) In receipt of a traffic citation which was  
8 dismissed or nolle prossed; or

9 (VIII) Not at fault as evidenced by a written  
10 statement from the insured establishing facts demonstrating  
11 lack of fault which are not rebutted by information in the  
12 insurer's file from which the insurer in good faith determines  
13 that the insured was substantially at fault.

14 c. In addition to the other provisions of this  
15 subparagraph, an insurer may not fail to renew a policy if the  
16 insured has had only one accident in which he or she was at  
17 fault within the current 3-year period. However, an insurer  
18 may nonrenew a policy for reasons other than accidents in  
19 accordance with s. 627.728. This subparagraph does not  
20 prohibit nonrenewal of a policy under which the insured has  
21 had three or more accidents, regardless of fault, during the  
22 most recent 3-year period.

23 4. Imposing or requesting an additional premium for,  
24 or refusing to renew, a policy for motor vehicle insurance  
25 solely because the insured committed a noncriminal traffic  
26 infraction as described in s. 318.14 unless the infraction is:

27 a. A second infraction committed within an 18-month  
28 period, or a third or subsequent infraction committed within a  
29 36-month period.

30 b. A violation of s. 316.183, when such violation is a  
31 result of exceeding the lawful speed limit by more than 15

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1 miles per hour.

2 5. Upon the request of the insured, the insurer and  
3 licensed agent shall supply to the insured the complete proof  
4 of fault or other criteria which justifies the additional  
5 charge or cancellation.

6 6. No insurer shall impose or request an additional  
7 premium for motor vehicle insurance, cancel or refuse to issue  
8 a policy, or refuse to renew a policy because the insured or  
9 the applicant is a handicapped or physically disabled person,  
10 so long as such handicap or physical disability does not  
11 substantially impair such person's mechanically assisted  
12 driving ability.

13 7. No insurer may cancel or otherwise terminate any  
14 insurance contract or coverage, or require execution of a  
15 consent to rate endorsement, during the stated policy term for  
16 the purpose of offering to issue, or issuing, a similar or  
17 identical contract or coverage to the same insured with the  
18 same exposure at a higher premium rate or continuing an  
19 existing contract or coverage with the same exposure at an  
20 increased premium.

21 8. No insurer may issue a nonrenewal notice on any  
22 insurance contract or coverage, or require execution of a  
23 consent to rate endorsement, for the purpose of offering to  
24 issue, or issuing, a similar or identical contract or coverage  
25 to the same insured at a higher premium rate or continuing an  
26 existing contract or coverage at an increased premium without  
27 meeting any applicable notice requirements.

28 9. No insurer shall, with respect to premiums charged  
29 for motor vehicle insurance, unfairly discriminate solely on  
30 the basis of age, sex, marital status, location of the risk,  
31 accidents more than 3 years old, or scholastic achievement.

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1           10. Imposing or requesting an additional premium for  
2 motor vehicle comprehensive or uninsured motorist coverage  
3 solely because the insured was involved in a motor vehicle  
4 accident or was convicted of a moving traffic violation.

5           11. No insurer shall cancel or issue a nonrenewal  
6 notice on any insurance policy or contract without complying  
7 with any applicable cancellation or nonrenewal provision  
8 required under the Florida Insurance Code.

9           12. No insurer shall impose or request an additional  
10 premium, cancel a policy, or issue a nonrenewal notice on any  
11 insurance policy or contract because of any traffic infraction  
12 when adjudication has been withheld and no points have been  
13 assessed pursuant to s. 318.14(9) and (10). However, this  
14 subparagraph does not apply to traffic infractions involving  
15 accidents in which the insurer has incurred a loss due to the  
16 fault of the insured.

17           (w) Soliciting or accepting new or renewal insurance  
18 risks by insolvent or impaired insurer prohibited; penalty.--

19           1. Whether or not delinquency proceedings as to the  
20 insurer have been or are to be initiated, but while such  
21 insolvency or impairment exists, no director or officer of an  
22 insurer, except with the written permission of the Department  
23 of Insurance, shall authorize or permit the insurer to solicit  
24 or accept new or renewal insurance risks in this state after  
25 such director or officer knew, or reasonably should have  
26 known, that the insurer was insolvent or impaired. "Impaired"  
27 includes impairment for capital or surplus, as defined in s.  
28 631.011(12)(9)and(13)(10).

29           2. Any such director or officer, upon conviction of a  
30 violation of this paragraph, is guilty of a felony of the  
31 third degree, punishable as provided in s. 775.082, s.



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1 775.083, or s. 775.084.

2 Section 6. Section 626.9552, Florida Statutes, is  
3 created to read:

4 626.9552 Single interest insurance.--

5 (1) When single interest insurance is written at the  
6 expense of the purchaser or borrower in connection with a  
7 finance or loan transaction, a clear and concise statement  
8 must be furnished the purchaser or borrower advising the  
9 purchaser or borrower that the insurance effected is solely  
10 for the interest of the financing entity, and that no  
11 protection thereunder exists for the benefit of the purchaser  
12 or borrower. When single interest insurance is written, no  
13 effort may be made by the insurer to recover the amount of any  
14 payment from the borrower. Single interest insurance policies  
15 must be clearly stamped or printed on the declarations page,  
16 "Single Interest Only---No Subrogation." Single interest  
17 insurance is to be placed only after it has been determined  
18 that no other kind of insurance can be placed on the risk,  
19 except with the consent of the purchaser or borrower. Single  
20 interest may be written in cases of inland marine installment  
21 sales floater policies. If insurance cannot be obtained for  
22 the dual protection of the purchaser or borrower, and the  
23 seller or lender or financing entity for all the coverages  
24 contemplated, or if obtained, is canceled by the insurer  
25 before expiration, the seller or lender or financing entity  
26 may obtain insurance to protect his or her interest in the  
27 motor vehicle or other personal property, and the purchaser or  
28 borrower may be required to pay the cost thereof. In such  
29 event the seller or lender or financing entity shall promptly  
30 notify the purchaser or borrower that such insurance cannot be  
31 obtained, or has been canceled, and credit to the purchaser or

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1 borrower the difference between the amount charged for dual  
2 protection insurance and the actual cost of such single  
3 interest insurance, less, in the event of cancellation, the  
4 earned premium on the dual interest insurance for the period  
5 it was in force. If the purchaser or borrower procures  
6 acceptable dual interest insurance within 30 days after the  
7 date of such notice and provides the seller or lender, or  
8 finance entity with evidence that the premium therefore has  
9 been paid, there is no charge to him or her for the single  
10 interest coverage. As used in this section, the term  
11 "financing entity" means a finance company, bank, or other  
12 lending institution. However, those lenders licensed under the  
13 Consumer Finance Act, chapter 516, must provide coverage  
14 issued in the name of the borrower containing the customary  
15 mortgagee or loss payee clause.

16 (2) If a certificate is issued under a master policy,  
17 the same coverage as provided in an individual policy will  
18 apply.

19 (3) The provisions of this section do not apply to  
20 title insurance as defined in s. 624.608.

21 Section 7. Paragraph (a) of subsection (2) of section  
22 627.062, Florida Statutes, is amended to read:

23 627.062 Rate standards.--

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

25 (a) Insurers or rating organizations shall establish  
26 and use rates, rating schedules, or rating manuals to allow  
27 the insurer a reasonable rate of return on such classes of  
28 insurance written in this state. Copies ~~A copy~~ of rates,  
29 rating schedules, rating manuals, premium credits or discount  
30 schedules, and surcharge schedules, and changes thereto, shall  
31 be filed with the department under one of the following

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1 procedures:

2 1. If the filing is made at least 90 days before the  
3 proposed effective date and the filing is not implemented  
4 during the department's review of the filing and any  
5 proceeding and judicial review, then such filing shall be  
6 considered a "file and use" filing. In such case, the  
7 department shall finalize its review by issuance of a notice  
8 of intent to approve or a notice of intent to disapprove  
9 within 90 days after receipt of the filing. The notice of  
10 intent to approve and the notice of intent to disapprove  
11 constitute agency action for purposes of the Administrative  
12 Procedure Act. Requests for supporting information, requests  
13 for mathematical or mechanical corrections, or notification to  
14 the insurer by the department of its preliminary findings  
15 shall not toll the 90-day period during any such proceedings  
16 and subsequent judicial review. The rate shall be deemed  
17 approved if the department does not issue a notice of intent  
18 to approve or a notice of intent to disapprove within 90 days  
19 after receipt of the filing.

20 2. If the filing is not made in accordance with the  
21 provisions of subparagraph 1., such filing shall be made as  
22 soon as practicable, but no later than 30 days after the  
23 effective date, and shall be considered a "use and file"  
24 filing. An insurer making a "use and file" filing is  
25 potentially subject to an order by the department to return to  
26 policyholders portions of rates found to be excessive, as  
27 provided in paragraph (h).

28 Section 8. Subsection (4) is added to section  
29 627.0625, Florida Statutes, to read:

30 627.0625 Commercial property and casualty risk  
31 management plans.--



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1 for the establishment of a board of governors or directors  
2 that operates subject to a plan of operation. The board, in  
3 carrying out its obligations, must engage in business  
4 transactions in order to provide and administer the required  
5 coverage and maintain adequate funds to support the plan. In  
6 order for the board to fully execute its responsibilities  
7 required by law, conflict of interest or inappropriate  
8 activity by board members, or the appearance thereof, with  
9 regard to member insurers or policyholders of the residual  
10 market mechanism must be avoided. The Legislature has  
11 determined that the provisions set forth in subsection (2) are  
12 necessary to protect the public interest by ensuring fair,  
13 reasonable, and beneficial board practice and activity.

14 (c) This section applies to the Florida Medical  
15 Malpractice Joint Underwriting Association, the Florida  
16 Automobile Joint Underwriting Association, the Florida  
17 Workers' Compensation Joint Underwriting Association, the  
18 Florida Comprehensive Health Association, the Florida  
19 Windstorm Underwriting Association, the Florida Property and  
20 Casualty Joint Underwriting Association, the Florida  
21 Residential Property and Casualty Joint Underwriting  
22 Association, and the board members thereof.

23 (2) To ensure that the board is free from potential  
24 conflict or inappropriate behavior the following are adopted  
25 in the plan of operation of the subject residual market in  
26 this state.

27 (a) A board member may not act as a servicing carrier  
28 or administering entity for the subject plan, other than a  
29 claim adjustment contract open to all members of the plan.

30 (b) A board member or board member representative may  
31 not use his or her position to foster or facilitate any

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1 special pecuniary gain for himself or herself, his or her  
2 member company, or any other entity in which the board member  
3 or board member representative or the member company has a  
4 substantial financial interest, except as otherwise provided  
5 in paragraph (a).

6 (c) A board member or board member representative may  
7 not use his or her position on the board to secure or promote  
8 any business relationship from which he or she may derive a  
9 financial gain.

10 (d) A board member or designee may not receive any  
11 gift or gratuity, except as provided in s. 112.3248, other  
12 than meals, while acting in his or her capacity as a board  
13 member.

14 (3) Board members and board member representatives  
15 shall maintain reasonable board expenses based on state travel  
16 policy as set forth in s. 112.061. The board shall develop a  
17 detailed policy regarding board member travel, which policy  
18 must be based on s. 112.061 and is subject to the approval of  
19 the department.

20 Section 11. Section 627.4065, Florida Statutes, is  
21 created to read:

22 627.4065 Insured's right to return policy; notice.--A  
23 health insurance policy issued or issued for delivery in this  
24 state must have printed or stamped thereon or attached thereto  
25 a notice in a prominent place stating in substance that the  
26 policyholder may return the policy to the insurer within 10  
27 days after its delivery and may have the premium paid refunded  
28 if, after examination of the policy or contract, the  
29 policyholder is not satisfied with it for any reason. The  
30 notice must provide that if the policyholder, pursuant to such  
31 notice, returns the policy or contract to the insurer at its

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1 home office or branch office or to the agent through whom it  
2 was purchased, it is considered void from the beginning and  
3 the parties are in the same position as if no policy or  
4 contract had been issued. This section does not apply to group  
5 policies, single premium nonrenewable policies or travel  
6 accident policies.

7 Section 12. Section 627.41345, Florida Statutes, is  
8 created to read:

9 627.41345 Certificate of insurance.--An insurer or  
10 agent may not issue or sign a certificate of insurance that  
11 contains terms or conditions that differ from those in the  
12 policy under which the certificate of insurance is issued. In  
13 the event of a conflict, the terms of the policy under which  
14 the certificate of insurance is issued shall control.

15 Section 13. Subsection (9) is added to section  
16 627.7015, Florida Statutes, to read:

17 627.7015 Alternative procedure for resolution of  
18 disputed property insurance claims.--

19 (9) For purposes of this section, the term "claim"  
20 refers to any dispute between an insurer and an insured  
21 relating to a material issue of fact other than a dispute:

22 (a) With respect to which the insurer has a reasonable  
23 basis to suspect fraud;

24 (b) Where, based on agreed-upon facts as to the cause  
25 of loss, there is no coverage under the policy;

26 (c) With respect to which the insurer has a reasonable  
27 basis to believe that the claimant has intentionally made a  
28 material misrepresentation of fact which is relevant to the  
29 claim, and the entire request for payment of a loss has been  
30 denied on the basis of the material misrepresentation; or

31 (d) Where the amount in controversy is less than \$500,

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1 unless the parties agree to mediate a dispute involving a  
2 lesser amount.

3 Section 14. Section 627.7276, Florida Statutes, is  
4 amended to read:

5 627.7276 Notice of limited coverage.--

6 (1) The following notice of limited coverage shall An  
7 ~~automobile policy that does not contain coverage for bodily~~  
8 ~~injury and property damage must be clearly stamped or printed~~  
9 on any automobile insurance policy that provides coverage only  
10 for first-party damage to the insured vehicle, but does not  
11 provide coverage for bodily injury liability, property damage  
12 liability, or personal injury protection to the effect that  
13 ~~such coverage is not included in the policy in the following~~  
14 ~~manner:~~

15  
16 "THIS POLICY DOES NOT PROVIDE BODILY INJURY  
17 LIABILITY, AND PROPERTY DAMAGE LIABILITY, OR  
18 PERSONAL INJURY PROTECTION INSURANCE OR ANY  
19 OTHER COVERAGE FOR WHICH A SPECIFIC PREMIUM  
20 CHARGE IS NOT MADE, AND DOES NOT COMPLY WITH  
21 ANY FINANCIAL RESPONSIBILITY LAW OR WITH THE  
22 FLORIDA MOTOR VEHICLE NO-FAULT LAW."

23  
24 (2) This legend must appear on the policy declaration  
25 ~~page and on the filing back of the policy~~ and be printed in a  
26 contrasting color from that used on the policy and in type  
27 larger than the largest type used in the text thereof, as an  
28 overprint or by a rubber stamp impression.

29 Section 15. Section 627.795, Florida Statutes, is  
30 created to read:

31 627.795 Policy exceptions.--



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1           (1) A title insurance commitment must be issued on all  
 2 real estate closing transactions when a title insurance policy  
 3 is to be issued, except for multiple conveyances on the same  
 4 property such as timesharing.

5           (2) A gap exception may not be deleted on a commitment  
 6 until the time of closing.

7           Section 16. Subsection (1) of section 627.918, Florida  
 8 Statutes, is amended to read:

9           627.918 Reporting formats.--

10           (1) The department shall require that the reporting  
 11 provided for in this part be made on forms adopted ~~established~~  
 12 by the department or in a format compatible with the  
 13 department's ~~its~~ electronic data processing equipment. The  
 14 department shall adopt by rule standards for such approval.

15           Section 17. Subsection (3) of section 641.3108,  
 16 Florida Statutes, is amended to read:

17           641.3108 Notice of cancellation of contract.--

18           (3) In the case of a health maintenance contract  
 19 issued to an employer or person holding the contract on behalf  
 20 of the subscriber group, the health maintenance organization  
 21 may make the notification through the employer or group  
 22 contract holder, and, if the health maintenance organization  
 23 elects to take this action through the employer or group  
 24 contract holder, the organization shall be deemed to have  
 25 complied with the provisions of this section upon notifying  
 26 the employer or group contract holder of the requirements of  
 27 this section and requesting the employer or group contract  
 28 holder to forward to all subscribers the notice required  
 29 herein. If a subscriber group contract is not renewed due to  
 30 claim experience, the subscriber group is entitled to receive  
 31 information concerning its loss ratio. If requested by a

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1 subscriber group, a detailed claim experience record may be  
2 provided at a reasonable expense. The record shall maintain  
3 subscriber confidentiality.

4 Section 18. Subsection (7) of section 627.7295,  
5 Florida Statutes, is amended to read:

6 627.7295 Motor vehicle insurance contracts.--

7 (7) A policy of private passenger motor vehicle  
8 insurance or a binder for such a policy may be initially  
9 issued in this state only if the insurer or agent has  
10 collected from the insured an amount equal to 2 months'  
11 premium. An insurer, agent, or premium finance company may  
12 not directly or indirectly take any action resulting in the  
13 insured having paid from the insured's own funds an amount  
14 less than the 2 months' premium required by this subsection.  
15 This subsection applies without regard to whether the premium  
16 is financed by a premium finance company or is paid pursuant  
17 to a periodic payment plan of an insurer or an insurance  
18 agent. This subsection does not apply if an insured or member  
19 of the insured's family is renewing or replacing a policy or a  
20 binder for such policy written by the same insurer or a member  
21 of the same insurer group. This subsection does not apply to  
22 an insurer that issues private passenger motor vehicle  
23 coverage primarily to active duty or former military personnel  
24 or their dependents. This subsection does not apply if all  
25 policy payments are paid pursuant to a payroll deduction plan  
26 or an automatic electronic funds transfer payment plan from  
27 the policyholder, provided that the first policy payment may  
28 be ~~is~~ made by cash, cashier's check, check, or a money order.  
29 This subsection and subsection (4) do not apply if all policy  
30 payments to an insurer are paid pursuant to an automatic  
31 electronic funds transfer payment plan from an agent or a

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1 managing general agent, or if the policy is issued pursuant to  
2 the transfer of a book of business by an agent from one  
3 insurer to another, provided that ~~and if~~ the policy includes,  
4 at a minimum, personal injury protection pursuant to ss.  
5 627.730-627.7405; motor vehicle property damage liability  
6 pursuant to s. 627.7275; and bodily injury liability in at  
7 least the amount of \$10,000 because of bodily injury to, or  
8 death of, one person in any one accident and in the amount of  
9 \$20,000 because of bodily injury to, or death of, two or more  
10 persons in any one accident. This subsection and subsection  
11 (4) do not apply if an insured has had a policy in effect for  
12 at least 6 months, the insured's agent is terminated by the  
13 insurer that issued the policy, and the insured obtains  
14 coverage on the policy's renewal date with a new company  
15 through the terminated agent.

16 Section 19. Subsection (1) of section 627.901, Florida  
17 Statutes, is amended to read:

18 627.901 Premium financing by an insurance agent or  
19 agency.--

20 (1) A general lines agent may make reasonable service  
21 charges for financing insurance premiums on policies issued or  
22 business produced by such an agent or agency, s. 626.9541  
23 notwithstanding. The service charge shall not exceed \$1 per  
24 installment, or a \$6 total service charge per year, for any  
25 premium balance of \$120 or less. For any premium balance  
26 greater than \$120 but not more than \$220, the service charge  
27 shall not exceed \$9 per year. The maximum service charge for  
28 any premium balance greater than \$220 shall not exceed \$12 per  
29 year. In lieu of such service charges, an insurance agent or  
30 agency may charge interest or service charges, which may be  
31 level amounts and subject to endorsement changes, that in the

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1 aggregate do not exceed a rate of interest not to exceed 18  
2 percent simple interest per year on the average unpaid balance  
3 as billed over the term of the policy.

4 Section 20. Section 626.9651, Florida Statutes, is  
5 created to read:

6 626.9651 Privacy.--The department shall adopt rules  
7 consistent with other provisions of the Insurance Code to  
8 govern the use of a consumer's nonpublic personal financial  
9 and health information. These rules shall be based on,  
10 consistent with, and not more restrictive than the National  
11 Association of Insurance Commissioners' Privacy of Consumer  
12 Financial and Health Information Regulation adopted September  
13 26, 2000, by the National Association of Insurance  
14 Commissioners, provided, however, the rules shall permit the  
15 use and disclosure of nonpublic personal health information  
16 for scientific, medical, or public policy research in  
17 accordance with federal law. In addition, these rules shall  
18 be consistent with, and not more restrictive than, the  
19 standards contained in Title V of the Gramm-Leach-Bliley Act  
20 of 1999 (Pub. L. No. 106-102). Any health insurer or health  
21 maintenance organization determined by the department to be in  
22 compliance with, or to be actively undertaking compliance  
23 with, the consumer privacy protection rules promulgated by the  
24 United States Department of Health and Human Services, in  
25 conformance with the Health Insurance Portability and  
26 Affordability Act, shall be deemed in compliance with this  
27 section. This section shall take effect July 1, 2001.

28 Section 21. Section 631.001, Florida Statutes, is  
29 amended to read:

30 (Substantial rewording of section.

31 See s. 631.001, F.S., for present text.)

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1           631.001 Construction; purposes.--  
2           (1) The underlying purposes and policies of the  
3 provisions of this part, which are integral elements of the  
4 regulation of the business of insurance and are of vital  
5 public interest and concern, are to:  
6           (a) Protect the interests of insureds, claimants,  
7 creditors, and the public.  
8           (b) Provide a comprehensive scheme for the  
9 receivership of insurers.  
10          (c) Establish this state as a reciprocal state in  
11 those states which, in substance and effect, enact the  
12 National Association of Insurance Commissioners Rehabilitation  
13 and Liquidation Model Act or the Uniform Insurers Liquidation  
14 Act.  
15          (d) Make more efficient the administration of insurer  
16 receiverships on an interstate and international basis.  
17          (e) Provide prompt corrective measures for any  
18 potentially dangerous condition in an insurer.  
19          (f) Implement improved methods for rehabilitating  
20 insurers, which methods involve the cooperation and management  
21 expertise of the insurance industry.  
22          (g) Enhance the efficiency and economy of liquidation  
23 through clarification and specification of the law to minimize  
24 legal uncertainty and litigation.  
25          (h) Lessen the problems of interstate rehabilitation  
26 and liquidation of an entity subject to the provisions of this  
27 part by facilitating cooperation between states in the  
28 liquidation process and by extension of the scope of personal  
29 jurisdiction over debtors of the insurer outside this state.  
30          (i) Establish a system which equitably apportions any  
31 unavoidable loss.

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1           (j) Maximize recovery of assets for the benefit of the  
2 insurer and its policyholders, creditors, and estate.

3           (2) This part shall be liberally construed to effect  
4 the purposes stated in subsection (1) and shall specifically  
5 authorize the department in its capacity as administrator,  
6 conservator, rehabilitator, receiver, liquidator, or similar  
7 capacity to pursue any actions for damages or other recoveries  
8 on behalf of the insurer and its policyholders, creditors, and  
9 estate.

10           (3) This part may be cited as the "Insurers  
11 Rehabilitation and Liquidation Act."

12           Section 22. Section 631.011, Florida Statutes, is  
13 amended to read:

14           631.011 Definitions.--For the purpose of this part,  
15 the term:

16           (1) "Affiliate" means any entity which exercises  
17 control over or is controlled by the insurer, directly or  
18 indirectly through:

19           (a) Equity ownership of voting securities;

20           (b) Common managerial control; or

21           (c) Collusive participation by the management of the  
22 insurer and affiliate in the management of the insurer or the  
23 affiliate.

24           (2) "Ancillary state" means, any state other than a  
25 domiciliary state.

26           (3) "Assets," as used in this section ~~subsections~~  
27 ~~(8)-(10)~~, means only allowed assets as defined in chapter 625.

28           (4) "Bona fide holder for value" means a holder who,  
29 while not possessing information that would lead a reasonable  
30 person in the holder's position to believe that the insurer is  
31 financially impaired, and while unaware of the imminence or

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1 pendency of any receivership proceeding against the insurer,  
2 has, in the exercise of reasonable business judgment,  
3 exchanged his or her own funds, assets, or property for funds,  
4 assets, or property of the insurer having an equivalent market  
5 value.

6 (5)(4) "Court" refers to the circuit court in which  
7 the receivership proceeding is pending.

8 (6)(5) "Delinquency proceeding" means any proceeding  
9 commenced against an insurer pursuant to this chapter for the  
10 purpose of liquidating, rehabilitating, reorganizing, or  
11 conserving such insurer.

12 (7)(6) "Domiciliary state" means the state in which an  
13 insurer is incorporated or organized or, in the case of an  
14 insurer incorporated or organized in a foreign country, the  
15 state in which such insurer, having become authorized to do  
16 business in such state, has, at the commencement of a  
17 delinquency proceeding, the largest amount of its assets held  
18 in trust and assets held on deposit for the benefit of its  
19 policyholders or policyholders and creditors in the United  
20 States; and any such insurer is deemed to be domiciled in such  
21 state.

22 (8) "Fair consideration" means that consideration  
23 which is given for property or assets of an insurer when, in  
24 exchange for the property or assets and in good faith,  
25 property is conveyed, services are rendered, or an enforceable  
26 obligation not invalidated by the receivership proceedings is  
27 created, having a value to the insurer of not less than the  
28 value of the property or assets given in exchange.

29 (9)(7) "Foreign country" means territory not in any  
30 state.

31 (10)(8) "General assets" means all property, real,

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1 personal, or otherwise, not specifically mortgaged, pledged,  
2 deposited, or otherwise encumbered for the security or benefit  
3 of specified persons or a limited class or classes of persons,  
4 and as to such specifically encumbered property the term  
5 includes all such property or its proceeds in excess of the  
6 amount necessary to discharge the sum or sums secured thereby.  
7 Assets held in trust and assets held on deposit for the  
8 security or benefit of all policyholders or all policyholders  
9 and creditors in the United States shall be deemed general  
10 assets.

11 (11) "Good faith," as applied to a transferee or  
12 transferor under this part, means honesty in fact and  
13 intention and includes the exercise of reasonable business  
14 judgment, together with the absence of information that would  
15 lead a reasonable person in the same position to know that the  
16 insurer is financially impaired or insolvent and together with  
17 the absence of knowledge regarding the imminence or pendency  
18 of any receivership proceeding against the insurer.

19 (12)(9) "Impairment of capital" means that the minimum  
20 surplus required to be maintained in s. 624.408 has been  
21 dissipated and the insurer is not possessed of assets at least  
22 equal to all its liabilities together with its total issued  
23 and outstanding capital stock, if a stock insurer, or the  
24 minimum surplus or net trust fund required by s. 624.407, if a  
25 mutual, reciprocal, or business trust insurer.

26 (13)(10) "Impairment of surplus" means that the  
27 surplus of a stock insurer, the additional surplus of a mutual  
28 or reciprocal insurer, or the additional net trust fund of a  
29 business trust insurer does not comply with the requirements  
30 of s. 624.408.

31 (14)(11) "Insolvency" means that all the assets of the



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1 insurer, if made immediately available, would not be  
2 sufficient to discharge all its liabilities or that the  
3 insurer is unable to pay its debts as they become due in the  
4 usual course of business. When the context of any provision of  
5 this code so indicates, insolvency also includes and is  
6 defined as "impairment of surplus," as defined in subsection  
7 ~~(13)(9)~~, and "impairment of capital," as defined in subsection  
8 ~~(12)(8)~~.

9 ~~(15)(12)~~ "Insurer," in addition to persons so defined  
10 under s. 624.03, also includes persons purporting to be  
11 insurers or organizing, or holding themselves out as  
12 organizing, in this state for the purpose of becoming insurers  
13 and all insurers who have insureds resident in this state.

14 ~~(16)(13)~~ "Liabilities," as used in subsections ~~(12)~~  
15 and ~~(14)(8)-(10)~~, means all liabilities, including those  
16 specifically required in s. 625.041.

17 ~~(17)(14)~~ "Person" includes natural persons,  
18 corporations, partnerships, trusts, estates, and sole  
19 proprietorships.

20 (18) "Property," with respect to an insolvent entity,  
21 includes all right, title, and interest of the insolvent  
22 entity whether legal or equitable, tangible or intangible, or  
23 choate or inchoate and includes choses in action, contract  
24 rights, and any other interest recognized under the laws of  
25 this state. When an order of conservation, rehabilitation, or  
26 liquidation is entered, the term also includes entitlements  
27 that existed prior to the entry of the order and those that  
28 may arise by operation of the provisions of this chapter or  
29 other provisions of law allowing the department to avoid prior  
30 transfers or assert other rights in its capacity as receiver.  
31 The term also includes all records and data that are otherwise

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1 the property of the insolvent insurer, however stored,  
2 including, but not limited to, claims and claim files,  
3 application files, litigation files, premium records, rate  
4 books, underwriting manuals, personnel records, or financial  
5 records, or similar records within the possession, custody, or  
6 control of a managing general agent, third-party  
7 administrator, management company, accountant, attorney,  
8 affiliate, or other person. The term does not include  
9 privileged or confidential documents of an insolvent insurer  
10 generated by a third party.

11 (19)(15) "Receiver" means a receiver, liquidator,  
12 rehabilitator, or conservator, as the context may require.

13 (20)(16) "Reciprocal state" means any state other than  
14 this state in which in substance and effect the provisions of  
15 the Insurers Rehabilitation and Liquidation Act are in force,  
16 including the provisions requiring that the commissioner of  
17 insurance or equivalent insurance supervisory official be the  
18 receiver of a delinquent insurer.

19 (21)(17) "Secured claim" means any claim secured by  
20 mortgage, trust deed, pledge, deposit as security, escrow, or  
21 otherwise but does not include a special deposit claim, a  
22 claim against general assets, or a claim based on mere  
23 possession. The term also includes a claim which more than 4  
24 months before the commencement of a delinquency proceeding in  
25 the state of the insurer's domicile has become a lien upon  
26 specific assets by reason of judicial process.

27 (22)(18) "Special deposit claim" means any claim  
28 secured by a deposit made pursuant to statute for the security  
29 or benefit of a limited class or classes of persons, but not  
30 including any general assets.

31 (23)(19) "State" is as defined in s. 624.08.

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1           Section 23. Section 631.025, Florida Statutes, is  
2 created to read:

3           631.025 Persons and entities subject to this  
4 part.--Delinquency proceedings authorized by this part may be  
5 initiated against any insurer as defined in s. 631.011(15) if  
6 the statutory grounds are present as to that insurer, and the  
7 receivership court may exercise jurisdiction over any person  
8 required to cooperate with the department pursuant to s.  
9 631.391 and over all persons made subject to the court's  
10 jurisdiction by other provisions of law. Such persons include,  
11 but are not limited to:

12           (1) A person who is transacting or has transacted  
13 insurance business in or from this state and against whom  
14 claims arising from that business exist or may exist in the  
15 future.

16           (2) A person who purports to transact an insurance  
17 business in this state, and any person or entity who acts as  
18 an insurer, transacts insurance, or otherwise engages in  
19 insurance activities in or from this state, with or without a  
20 certificate of authority or proper authority from the  
21 department.

22           (3) An insurer who has insureds residing in this  
23 state.

24           (4) All other persons organized or in the process of  
25 organizing with the intent to transact an insurance business  
26 in this state.

27           Section 24. Paragraph (d) of subsection (1) of section  
28 631.041, Florida Statutes, is amended, and subsection (6) is  
29 added to that section, to read:

30           631.041 Automatic stay; relief from stay;  
31 injunctions.--

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1           (1) An application or petition under s. 631.031  
2 operates as a matter of law as an automatic stay applicable to  
3 all persons and entities, other than the receiver, which shall  
4 be permanent and survive the entry of an order of  
5 conservation, rehabilitation, or liquidation, and which shall  
6 prohibit:

7           (d) Any act to create, perfect, or enforce a lien  
8 against property of the insurer, except that a secured claim  
9 as defined in s. 631.011(21)(17) may proceed under s. 631.191  
10 after the order of liquidation is entered;

11           (6) No statute of limitations or defense of laches  
12 shall run with respect to any action by or against an insurer  
13 between the filing of a petition for conservation,  
14 rehabilitation, or liquidation against an insurer and the  
15 order granting or denying that petition. If the petition is  
16 denied, any action against the insurer that might have been  
17 commenced when the petition was filed may be commenced for at  
18 least 60 days after the order denying such relief.

19           Section 25. Section 631.113, Florida Statutes, is  
20 created to read:

21           631.113 Extension of time.--

22           (1) The running of any unexpired statute of  
23 limitations as to any claims brought by the administrator,  
24 conservator, rehabilitator, receiver, or liquidator, or an  
25 official or agency exercising powers pursuant to this chapter  
26 seeking damages or other recoveries on behalf of an insurer,  
27 its policyholders, its creditors, or its estate, shall be  
28 tolled for a period of 4 years from the entry of an order  
29 placing the administrator, conservator, rehabilitator,  
30 receiver, liquidator, or similar official or agency over the  
31 insurer, provided, if the delinquency proceedings brought

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1 pursuant to this chapter against the insurer terminate in less  
2 than 4 years, such tolling shall cease at the time when the  
3 proceedings are finally concluded, including all appeals  
4 therefrom. Further, the right of action does not accrue and  
5 the limitations period for any such action does not run during  
6 the time when the insurer is controlled by parties acting  
7 contrary to the company's interests or when the facts giving  
8 rise to such claim are fraudulently concealed from regulatory  
9 authorities or from any members of company management. The  
10 provisions of chapter 95 shall be construed so as to be  
11 consistent with the provisions of this section. The receiver  
12 may institute any action or proceeding on behalf of the estate  
13 of the insurer while any statute of limitation is tolled  
14 pursuant to this section. The tolling shall be in addition to  
15 any other applicable tolling provision.

16 (2) For actions not covered by subsection (1), if any  
17 unexpired time period is fixed, by any agreement or in any  
18 proceeding, for doing any act for the benefit of the estate,  
19 the receiver shall have 180 days, or such longer period as the  
20 receivership court may allow for good cause shown, from the  
21 entry of the order of rehabilitation or liquidation to perform  
22 the act.

23 Section 26. Present subsections (6) through (9) of  
24 section 631.141, Florida Statutes, are renumbered as  
25 subsections (7) through (10), respectively, and a new  
26 subsection (6) is added to that section to read:

27 631.141 Conduct of delinquency proceeding; domestic  
28 and alien insurers.--

29 (6) The department as receiver is vested with and may  
30 assert all rights belonging to policyholders, creditors, and  
31 the estate as well as all rights of the entity or entities in

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1 receivership, except to the extent that an individual claim is  
2 personal and unique to that claimant and recovery thereon  
3 could not inure to the benefit of the estate or to other  
4 claimants.

5 Section 27. Paragraph (d) of subsection (6) of section  
6 631.154, Florida Statutes, is amended to read:

7 631.154 Funds or other property in the possession of  
8 third person.--

9 (6) Should the receiver be successful in establishing  
10 its claim or any part thereof, the receiver shall be entitled  
11 to recover judgment for the following:

12 (d) All costs, investigative and other expenses, which  
13 include the department's in-house staff and staff attorney's  
14 expenses, costs, and salaries, expended in necessary to the  
15 recovery of the property or funds, and reasonable attorney's  
16 fees.

17 Section 28. Section 631.156, Florida Statutes, is  
18 created to read:

19 631.156 Investigation by the department.--

20 (1) Preliminary or incidental to a petition for  
21 receivership proceedings, the department may, and if appointed  
22 receiver shall, undertake a full investigation to determine  
23 the causes and reasons for the insolvency, the discovery and  
24 location of assets to be recovered, the recovery of such  
25 assets, whether the filing of false statements with the  
26 department contributed to the insolvency, and, in conjunction  
27 with the department's Division of Insurance Fraud or any other  
28 appropriate agency of state or federal government, whether any  
29 law of this state, any other state, or the Federal Government  
30 relating to the solvency of the insurer has been violated. In  
31 the furtherance of such investigation, the department may:

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1           (a) Examine and review any and all documents that are  
2 reasonably calculated to disclose or lead to the disclosure of  
3 the causes and reasons for the insolvency, the discovery and  
4 location of assets to be recovered, the recovery of such  
5 assets, the truth or falsity of statements filed with the  
6 department, and whether any law of this state, any other  
7 state, or the Federal Government has been violated.

8           (b) Take statements or depositions under oath of any  
9 person whose testimony is reasonably calculated to disclose or  
10 lead to the disclosure of the causes and reasons for the  
11 insolvency, the discovery of and location of assets to be  
12 recovered, the recovery of such assets, the truth or falsity  
13 of statements filed with the department, and whether any law  
14 of this state, any other state, or the Federal Government has  
15 been violated.

16           (c) Request the court having jurisdiction over the  
17 receivership proceedings to issue any necessary subpoenas.

18           (d) Examine and review the books, records, and  
19 documents of any affiliate, controlling person, officer,  
20 director, manager, trustee, agent, adjuster, employee, or  
21 independent contractor of any insurer or affiliate and any  
22 other person who possesses any executive authority over, or  
23 who exercises or has exercised any control over, any segment  
24 of the affairs of the insurer or affiliate, to the extent such  
25 examination is reasonably calculated to disclose or lead to  
26 the disclosure of the causes and reasons for the insolvency,  
27 the discovery and location of assets to be recovered, the  
28 recovery of such assets, the truth or falsity of statements  
29 filed with the department, and whether any law of this state,  
30 any other state, or the Federal Government has been violated.

31           (2) In its capacity as receiver, the department may

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1 provide documents, books and records, other investigative  
2 products, work product, and analysis, including copies of any  
3 or all of the foregoing items, to the Division of Insurance  
4 Fraud or any other appropriate agency of state or federal  
5 government. The sharing of information, investigative  
6 products, or analysis shall not waive any work product or  
7 other privilege that would otherwise apply under common law,  
8 chapter 119, or any other law.

9       (3) The department, as the court's receiver, is  
10 granted the discretion to determine what books, records,  
11 documents, or testimony would be reasonably calculated to  
12 disclose or lead to the disclosure of the causes and reasons  
13 for the insolvency, the discovery and location of assets to be  
14 recovered, the recovery of the assets, the truth or falsity of  
15 statements filed with the department, and whether any law of  
16 this state or of the United States has been violated, subject  
17 to the court's power to review such determination or appoint a  
18 general master to review such determination. A party  
19 asserting that any documents requested by the department under  
20 this section are not subject to review, or that any particular  
21 testimony may not be obtained, shall present such contention  
22 by written motion to the receivership court within 20 days  
23 after receipt of the request and shall be fully responsible  
24 for the loss of any evidence which occurs after the department  
25 first informs said party of its request therefor. The court  
26 shall, as expeditiously as possible, determine whether the  
27 department has abused its discretion in seeking such evidence  
28 or testimony, with the objecting party having the burden of  
29 proof. A party who fails to produce the requested evidence or  
30 testimony without filing a proper timely objection, or who  
31 having unsuccessfully asserted such objection fails thereafter



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1 to furnish the evidence or testimony, within the time provided  
2 by the court or the department, shall be subject to the  
3 contempt powers of the court, in addition to any other  
4 applicable penalties which may be provided in the Florida  
5 Insurance Code or other law.

6 Section 29. Section 631.157, Florida Statutes, is  
7 created to read:

8 631.157 Civil action by the receiver.--

9 (1) Any person who is engaged in the business of  
10 insurance or who acts as or is an officer, director, agent, or  
11 employee of any person engaged in the business of insurance,  
12 or is involved, other than as an insured or beneficiary under  
13 a policy of insurance, in a transaction relating to the  
14 conduct of affairs of such a business, and who willfully  
15 obtains or uses, as defined in s. 812.012(2), any asset or  
16 property, including, but not limited to, moneys, funds,  
17 premiums, credits, or other property of an insurer, shall be  
18 liable to the department as receiver for the use and benefit  
19 of an insolvent insurer's estate, creditors, and  
20 policyholders, as follows:

21 (a) If such obtaining or using did not jeopardize the  
22 safety and soundness of an insurer and was not a significant  
23 cause of such insurer's being placed in conservation,  
24 rehabilitation, or liquidation, such person shall be liable  
25 only for the full amount of any asset obtained or used, plus  
26 prejudgment interest provided by law.

27 (b) If such obtaining or using jeopardized the safety  
28 and soundness of an insurer or was a significant cause of such  
29 insurer's being placed in conservation, rehabilitation, or  
30 liquidation, such person shall be liable for triple the full  
31 amount of any asset obtained or used, plus prejudgment

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1 interest provided by law on the original amount.

2 (2) Any person who is engaged in the business of  
3 insurance or who acts as or is an officer, director, agent, or  
4 employee of any person engaged in the business of insurance,  
5 or is involved, other than as an insured or beneficiary under  
6 a policy of insurance, in a transaction relating to the  
7 conduct of affairs of such a business, and who, while having  
8 actual knowledge or such constructive knowledge as should have  
9 been obtained through reasonable inquiry by a person in such  
10 position, if such person knowingly misreports, or knowingly  
11 makes any false entry of, a material fact in any book, report,  
12 or statement of an insurer with the intent to deceive such  
13 insurer, including any officer, employee, or agent of such  
14 insurer, the department, or any agent or examiner appointed by  
15 the department to examine the affairs of such person or of the  
16 insurer, concerning the financial condition or solvency of  
17 such business, shall be liable to the department as receiver  
18 for the use and benefit of an insolvent insurer's estate,  
19 creditors, and policyholders, as follows:

20 (a) If such misreporting did not jeopardize the safety  
21 and soundness of an insurer and was not a significant cause of  
22 such insurer's being placed in conservation, rehabilitation,  
23 or liquidation, such person shall be liable only for the full  
24 amount of any asset misreported.

25 (b) If such misreporting jeopardized the safety and  
26 soundness of an insurer or was a significant cause of such  
27 insurer's being placed in conservation, rehabilitation, or  
28 liquidation, such person shall be liable for triple the full  
29 amount of any asset misreported.

30 (3) If the asset or property that has been obtained or  
31 used was reported to the department as being available to the

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1 insurer as an admitted asset and such asset is unavailable to  
2 the receiver for payment of the obligations of the insurer at  
3 the time when a receivership proceeding is instituted, the  
4 obtaining or using shall be presumed to have jeopardized the  
5 safety and soundness of the insurer and to have been a  
6 significant cause of such insurer's being placed in  
7 conservation, rehabilitation, or liquidation, with the burden  
8 of proof on the defendants to show otherwise.

9 (4) If the receiver is successful in establishing a  
10 claim under this section, the receiver shall be entitled to  
11 recover all of its costs, investigative and other expenses,  
12 which shall include the department's in-house staff and staff  
13 attorney's expenses, costs, and salaries, expended in the  
14 prosecution of the action, and reasonable attorney's fees.  
15 The receiver shall be exempt from the provisions of s. 57.111.

16 (5) An action under this section may be brought at any  
17 time before the expiration of 4 years after the entry of the  
18 initial order of rehabilitation or liquidation under this part  
19 but shall be filed before the time the receivership proceeding  
20 is closed or dismissed.

21 Section 30. Paragraph (b) of subsection (1) of section  
22 631.57, Florida Statutes, is amended to read:

23 631.57 Powers and duties of the association.--

24 (1) The association shall:

25 (b) Be deemed the insurer to the extent of its  
26 obligation on the covered claims, and, to such extent, shall  
27 have all rights, duties, defenses, and obligations of the  
28 insolvent insurer as if the insurer had not become insolvent.  
29 In no event shall the association be liable for any penalties  
30 or interest.

31 Section 31. Section 631.3995, Florida Statutes, is

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1 created to read:

2 631.3995 Closing of estate; Closed Estate Fund Trust  
3 Account.--

4 (1) When all assets justifying the expense of  
5 collection and distribution have been marshaled and  
6 distributed under this part, the department shall petition the  
7 court to terminate the liquidation proceedings and to close  
8 the estate. The court may grant such other relief as may be  
9 appropriate, including, but not limited to, a full discharge  
10 of all liability and responsibility of the liquidator, the  
11 reservation of assets for administrative expenses incurred in  
12 the closing of the estate, and any other actions the  
13 department feels necessary or appropriate for closing the  
14 estate.

15 (2) Any remaining reserved assets that are provided  
16 for in subsection (1) and that may not be practicably or  
17 economically distributed to claimants shall be deposited into  
18 a segregated account to be known as the Closed Estate Fund  
19 Trust Account, if created by law. The department may use  
20 moneys held in the account for paying the administrative  
21 expenses of companies subject to this part that lack  
22 sufficient assets to allow the department to perform its  
23 duties and obligations under this part. An annual audit of the  
24 Closed Estate Fund Trust Account shall be performed regardless  
25 of its balance.

26 (3) The department may petition the court to reopen  
27 the proceedings for good cause shown, including the marshaling  
28 of additional assets, and the court may enter such other  
29 orders as may be deemed appropriate.

30 Section 32. Subsection (3) of section 631.54, Florida  
31 Statutes, is amended to read:

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1           631.54 Definitions.--As used in this part:

2           (3) "Covered claim" means an unpaid claim, including  
3 one of unearned premiums, which arises out of, and is within  
4 the coverage, and not in excess of, the applicable limits of  
5 an insurance policy to which this part applies, issued by an  
6 insurer, if such insurer becomes an insolvent insurer after  
7 October 1, 1970, and the claimant or insured is a resident of  
8 this state at the time of the insured event or the property  
9 from which the claim arises is permanently located in this  
10 state. "Covered claim" shall not include any amount due any  
11 reinsurer, insurer, insurance pool, or underwriting  
12 association, as subrogation, contribution, indemnification,  
13 ~~recoveries~~ or otherwise. Member insurers shall have no right  
14 of subrogation against the insured of any insolvent member.

15           Section 33. Section 817.2341, Florida Statutes, is  
16 created to read:

17           817.2341 Crimes by or affecting persons engaged in the  
18 administration of any insurer or entity organized pursuant to  
19 chapter 624 or chapter 641.--

20           (1)(a) Any person who makes a false entry of a  
21 material fact in any book, report, or statement relating to a  
22 transaction of an insurer or entity organized pursuant to  
23 chapter 624 or chapter 641, intending thereby to deceive any  
24 person about the financial condition or solvency of such  
25 insurer or entity, commits a felony of the third degree,  
26 punishable as provided in s. 775.082, s. 775.083, or s.  
27 775.084.

28           (b) If such false entry of a material fact is made  
29 with the intent to deceive any person as to the impairment of  
30 capital, as defined in s. 631.011(12), of such insurer or  
31 entity or is the significant cause of such insurer or entity

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1 being placed in conservation, rehabilitation, or liquidation  
2 by a court, the offense is a felony of the first degree,  
3 punishable as provided in s. 775.082, s. 775.083, or s.  
4 775.084.

5 (2)(a) Any person who knowingly makes a material false  
6 statement or report to the department or any agent of the  
7 department, or who knowingly and materially overvalues any  
8 property in any document or report prepared to be presented to  
9 the department or any agent of the department, commits a  
10 felony of the third degree, punishable as provided in s.  
11 775.082, s. 775.083, or s. 775.084.

12 (b) If such material false statement or report or such  
13 material overvaluation is made with the intent to deceive any  
14 person as to the impairment of capital, as defined in s.  
15 631.011(12), of an insurer or entity organized pursuant to  
16 chapter 624 or chapter 641, or is the significant cause of  
17 such insurer or entity being placed in conservation,  
18 rehabilitation, or liquidation by a court, the offense is a  
19 felony of the first degree, punishable as provided in s.  
20 775.082, s. 775.083, or s. 775.084.

21  
22 (Redesignate subsequent sections.)

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

26 And the title is amended as follows:

27 On page 1, line 6, after the semicolon,

28  
29 insert:

30 amending s. 28.101, F.S.; providing an  
31 additional charge when a party petitions for a

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1 dissolution of marriage; providing for the  
2 disposition of the charge for the payment of a  
3 policy of insurance to provide child-support  
4 payments when the payor's employment has been  
5 involuntarily terminated; providing for  
6 selection of insurer by competitive bidding;  
7 amending ss. 624.3161, 626.171, F.S.; directing  
8 the department to adopt rules relating to  
9 market conduct examinations and license  
10 applications; amending s. 626.9541, F.S.;  
11 revising provisions relating to unfair  
12 competition and deceptive practices; creating  
13 626.9552, F.S.; providing standards for single  
14 interest insurance; amending s. 627.062, F.S.;  
15 providing for filing forms for rate standards;  
16 amending s. 627.0625, F.S.; authorizing the  
17 department to adopt rules relating to  
18 third-party claimants; amending s. 627.0651,  
19 F.S.; prohibiting motor vehicle insurers from  
20 imposing a surcharge or a discount due to  
21 certain factors; creating s. 627.385, F.S.;  
22 providing rules of conduct for residual market  
23 board members; creating s. 627.4065, F.S.;  
24 providing for notice of right to return health  
25 insurance policies; creating s. 627.41345,  
26 F.S.; prohibiting an insurer or agent from  
27 issuing or signing certain certificates of  
28 insurance; providing that the terms of the  
29 policy control in case of conflict; amending s.  
30 627.7015, F.S.; defining the term "claim" for  
31 purposes of alternative procedures for

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1 resolving disputed property insurance claims;  
2 amending s. 627.7276, F.S.; providing for  
3 notice of coverage of automobile policies;  
4 creating s. 627.795, F.S.; providing guidelines  
5 for title insurance policies; amending s.  
6 627.918, F.S.; directing the department to  
7 adopt rules relating to reporting formats;  
8 amending s. 641.3108, F.S.; requiring health  
9 maintenance organizations to provide certain  
10 information to subscriber groups whose contract  
11 is not renewed for certain reasons; amending s.  
12 627.7295, F.S.; providing an additional  
13 exception to a requirement that a minimum of 2  
14 months' premium be collected to issue a policy  
15 or binder for motor vehicle insurance; amending  
16 s. 627.901, F.S.; authorizing insurance agents  
17 and insurers that finance premiums for certain  
18 policies to charge interest or a service charge  
19 at a specified rate on unpaid premiums on those  
20 policies; creating s. 626.9651, F.S.; directing  
21 the department to adopt rules to govern the use  
22 of a consumer's nonpublic personal financial  
23 and health information by health insurers and  
24 health maintenance organizations; providing  
25 standards governing the rules; amending s.  
26 631.001, F.S.; providing construction and  
27 purposes; providing a short title; amending s.  
28 631.011, F.S.; providing additional  
29 definitions; creating s. 631.025, F.S.;  
30 specifying application to certain persons and  
31 entities; amending s. 631.041, F.S.; limiting



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1 application of certain time restrictions;  
2 correcting a cross-reference; creating s.  
3 631.113, F.S.; providing for tolling certain  
4 time limitations in certain actions; amending  
5 s. 631.141, F.S.; vesting the Department of  
6 Insurance with certain rights as receiver;  
7 amending s. 631.154, F.S.; including certain  
8 costs and expenses of the department in costs  
9 and expenses entitled to be recovered by the  
10 receiver under certain circumstances; creating  
11 s. 631.156, F.S.; providing for investigations  
12 by the department preliminary or incidental to  
13 receivership proceedings; providing department  
14 powers; authorizing the department to provide  
15 certain information in such investigations;  
16 granting the department certain discretionary  
17 powers; creating s. 631.157, F.S.; imposing  
18 liability on certain persons or entities for  
19 certain actions; specifying amounts of damages;  
20 providing construction; providing costs and  
21 expenses entitled to be recovered by the  
22 receiver under certain circumstances; providing  
23 a time certain for bringing certain actions;  
24 amending s. 631.57, F.S.; clarifying that the  
25 association has the same legal defenses  
26 available to the insolvent insurer; creating s.  
27 631.3995, F.S.; providing procedures and  
28 requirements for closing an estate; providing  
29 for deposit of certain assets into the Closed  
30 Estate Fund Trust Account; providing for uses  
31 of such account; providing for reopening

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1           certain proceedings; amending s. 631.54, F.S.;

2           revising a definition; creating s. 817.2341,

3           F.S.; providing criminal penalties for certain

4           activities;

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