

By Representative Flanagan

1                                   A bill to be entitled  
2           An act relating to governmental reorganization;  
3           amending s. 20.04, F.S.; providing an exception  
4           to departmental structure requirements;  
5           creating s. 20.121, F.S.; creating the Office  
6           of Chief Financial Officer; creating s. 20.131,  
7           F.S.; creating the Department of Insurance and  
8           Financial Services; providing for an executive  
9           director; providing for departmental structure;  
10          creating the offices of Commissioner of  
11          Insurance and Commissioner of Financial  
12          Services; providing for appointment and  
13          specifying qualifications for each  
14          commissioner; providing jurisdiction of the  
15          commissioners' offices; providing for exercise  
16          of executive authority; transferring the  
17          powers, duties, functions, rules, records,  
18          personnel, property, and unexpended balances of  
19          appropriations, allocations, and other funds of  
20          the Comptroller to the Office of Chief  
21          Financial Officer; transferring the powers,  
22          duties, functions, rules, records, personnel,  
23          property, and unexpended balances of  
24          appropriations, allocations, and other funds of  
25          the Department of Insurance and the Department  
26          of Banking and Finance to the Department of  
27          Insurance and Financial Services; specifying  
28          that administrative rules of the Department of  
29          Banking and Finance and the Department of  
30          Insurance become administrative rules of the  
31          Department of Insurance and Financial Services;

1 specifying that such rules become  
2 administrative rules of the Office of Chief  
3 Financial Officer under certain circumstances;  
4 providing for preservation of validity of  
5 judicial or administrative actions involving  
6 such departments; providing for substitution of  
7 certain parties in interest in such actions;  
8 requiring the Department of Insurance and the  
9 Department of Banking and Finance to provide  
10 reports to the Governor and the Legislature;  
11 directing the Division of Statutory Revision to  
12 prepare proposed substantive legislation by a  
13 certain time for certain purposes; repealing  
14 ss. 20.12 and 20.13, F.S., relating to the  
15 Department of Banking and Finance and the  
16 Department of Insurance, respectively;  
17 providing effective dates.

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

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

23 20.04 Structure of executive branch.--The executive  
24 branch of state government is structured as follows:

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

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

3 (b) The principal unit of the division is the  
4 "bureau." Each bureau is headed by a "chief."

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

7 (d) If further subdivision is necessary, sections may  
8 be divided into "subsections," which are headed by  
9 "supervisors."

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

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

21 20.131 Department of Insurance and Financial  
22 Services.--There is created the Department of Insurance and  
23 Financial Services. The head of the Department of Insurance  
24 and Financial Services is the Governor and Cabinet.

25 (1) EXECUTIVE DIRECTOR.--The Executive Director of the  
26 Department of Insurance and Financial Services is the chief  
27 administrator of the department and shall be appointed by the  
28 Governor and Cabinet, subject to confirmation by the Senate.  
29 The executive director serves at the pleasure of the Governor  
30 and Cabinet. The functions of the executive director are  
31 limited to personnel, administrative, and budgetary matters,

1 including administrative coordination of issues that affect  
2 areas under the offices of more than one commissioner and  
3 coordination of legislative activities.

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

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

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

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

28 (b)1. For purposes of chapter 120, each commissioner  
29 is the agency head for all units within that commissioner's  
30 jurisdiction, as provided in paragraph (a) and rules adopted  
31 pursuant to this subsection, except as provided in

1 subparagraph 2. Each commissioner shall be responsible for,  
2 and take final agency action related to, the implementation  
3 and enforcement of all statutes and rules within the  
4 regulatory authority delegated to that commissioner's office.

5 2. A commissioner, upon adopting a rule under chapter  
6 120, shall provide a copy of the rule to the Governor and  
7 Cabinet. The rule shall take effect 60 days after the rule is  
8 received by the Governor and Cabinet unless the Governor and  
9 Cabinet decides, by majority vote, to review the rule, in  
10 which event operation of the rule is stayed until the Governor  
11 and Cabinet decides, by majority vote, either to allow the  
12 rule to take effect as adopted or to disapprove the rule. This  
13 subparagraph does not apply to emergency rules.

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

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

25 (b) Prior to appointment as commissioner, the  
26 Commissioner of Financial Services must have had, within the  
27 previous 10 years, at least 5 years of experience as a senior  
28 officer of a financial institution as defined in s. 655.005(1)  
29 or of a securities or finance company, or as an examiner or  
30 other senior employee of a state or federal agency having  
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1 regulatory responsibility over financial institutions,  
2 securities, or finance companies.  
3       Section 3. Transfers.--  
4       (1) TRANSFERS TO THE OFFICE OF CHIEF FINANCIAL  
5 OFFICER.--  
6       (a) All powers, duties, functions, rules, records,  
7 personnel, property, and unexpended balances of  
8 appropriations, allocations, and other funds of the Office of  
9 the Comptroller;  
10       (b) All powers, duties, functions, rules, records,  
11 personnel, property, and unexpended balances of  
12 appropriations, allocations, and other funds of the Department  
13 of Banking and Finance that relate to the constitutional  
14 functions of the Comptroller;  
15       (c) All powers, duties, functions, rules, records,  
16 personnel, property, and unexpended balances of  
17 appropriations, allocations, and other funds of the Office of  
18 the Treasurer, including the Government Employees Deferred  
19 Compensation Plan; and  
20       (d) All powers, duties, functions, rules, records,  
21 personnel, property, and unexpended balances of  
22 appropriations, allocations, and other funds of the Department  
23 of Insurance that relate to the constitutional functions of  
24 the Treasurer  
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26 are transferred by a type two transfer, as defined in s.  
27 20.06(2), Florida Statutes, to the Office of Chief Financial  
28 Officer.  
29       (2) TRANSFERS TO THE DEPARTMENT OF INSURANCE AND  
30 FINANCIAL SERVICES.--  
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1       (a) All powers, duties, functions, rules, records,  
2 personnel, property, and unexpended balances of  
3 appropriations, allocations, and other funds of the Department  
4 of Banking and Finance not otherwise transferred by this act;

5 and

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 Insurance not otherwise transferred by this act

10  
11 are transferred by a type two transfer, as defined in s.  
12 20.06(2), Florida Statutes, to the Department of Insurance and  
13 Financial Services.

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

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

26       Section 5. This act shall not affect the validity of  
27 any judicial or administrative action involving the Department  
28 of Banking and Finance or the Department of Insurance pending  
29 on January 7, 2003, and the Department of Insurance and  
30 Financial Services shall be substituted as a party in interest  
31 in any such action. However, if the action involves the

1 constitutional functions of the Comptroller or Treasurer, the  
2 Office of Chief Financial Officer shall instead be substituted  
3 as a party in interest.

4           Section 6. No later than July 1, 2001, the Department  
5 of Banking and Finance and the Department of Insurance shall  
6 each provide a report to the Governor, the President of the  
7 Senate, the Speaker of the House of Representatives, and the  
8 chairs of the fiscal committees of the Senate and the House of  
9 Representatives and to the presiding officers and fiscal  
10 chairs of the Senate and the House of Representatives  
11 specifying, on a position-by-position basis, those positions  
12 that are subject to transfer to the Office of Chief Financial  
13 Officer under this act. Except as revised by the General  
14 Appropriations Act or other legislation, the reports under  
15 this section shall be used to determine which employees of the  
16 Department of Banking and Finance or the Department of  
17 Insurance will become employees of the Office of Chief  
18 Financial Officer on January 7, 2003.

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

28           (1) Changing the term "Comptroller" or "Treasurer" to  
29 "Chief Financial Officer" with respect to functions of the  
30 Chief Financial Officer.

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1           (2) Changing references to the Department of Banking  
2 and Finance or the Department of Insurance to the Department  
3 of Insurance and Financial Services, except with respect to  
4 functions of the Chief Financial Officer.

5           (3) Otherwise conforming the Florida Statutes to the  
6 abolition of the offices of Comptroller and Treasurer, the  
7 creation of the Office of Chief Financial Officer, the  
8 abolition of the Department of Banking and Finance and the  
9 Department of Insurance, the creation of the Department of  
10 Insurance and Financial Services, and the creation of the  
11 offices of Commissioner of Insurance and Commissioner of  
12 Financial Services within the Department of Insurance and  
13 Financial Services.

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

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

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20           HOUSE SUMMARY

21           Abolishes the Department of Insurance and the Department  
22 of Banking and Finance, creates the Office of Chief  
23 Financial Officer and the Department of Insurance and  
24 Financial Services, and transfers the powers, duties,  
25 functions, rules, records, personnel, property, and  
26 unexpended balances of appropriations, allocations, and  
other funds of the Department of Insurance, the  
Department of Banking and Finance, and the Comptroller to  
the Department of Insurance and Financial Services and  
the Office of Chief Financial Officer.

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