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Bill No. _____

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

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Amendment (with title amendment)

Section 1. Paragraph (w) of subsection (1) of section
626.9541 Unfair methods of competition and unfair or
(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
of competition and unfair or deceptive acts or practices:
risks by insolvent or impaired insurer prohibited; penalty.--
insurer have been or are to be initiated, but while such
insurer, except with the written permission of the Department
or accept new or renewal insurance risks in this state after

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1 such director or officer knew, or reasonably should have
2 known, that the insurer was insolvent or impaired. "Impaired"
3 includes impairment for capital or surplus, as defined in s.
4 631.011(12)~~(9)~~and(13)~~(10)~~.

5 2. Any such director or officer, upon conviction of a
6 violation of this paragraph, is guilty of a felony of the
7 third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084.

9 Section 2. Section 631.001, Florida Statutes, is
10 amended to read:

11 (Substantial rewording of section.

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

13 631.001 Construction; purposes.--

14 (1) The underlying purposes and policies of the
15 provisions of this part, which are integral elements of the
16 regulation of the business of insurance and are of vital
17 public interest and concern, are to:

18 (a) Protect the interests of insureds, claimants,
19 creditors, and the public.

20 (b) Provide a comprehensive scheme for the
21 receivership of insurers.

22 (c) Establish this state as a reciprocal state in
23 those states which, in substance and effect, enact the
24 National Association of Insurance Commissioners Rehabilitation
25 and Liquidation Model Act or the Uniform Insurers Liquidation
26 Act.

27 (d) Make more efficient the administration of insurer
28 receiverships on an interstate and international basis.

29 (e) Provide prompt corrective measures for any
30 potentially dangerous condition in an insurer.

31 (f) Implement improved methods for rehabilitating

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expertise of the insurance industry.

(g) Enhance the efficiency and economy of liquidation

legal uncertainty and litigation.

(h) Lessen the problems of interstate rehabilitation

part by facilitating cooperation between states in the liquidation process and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state.

(i) Establish a system which equitably apportions any unavoidable loss.

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

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

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

Section 3. Section 631.011, Florida Statutes, is amended to read:

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

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

(a) Equity ownership of voting securities;

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1 (b) Common managerial control; or
 2 (c) Collusive participation by the management of the
 3 insurer and affiliate in the management of the insurer or the
 4 affiliate.

5 (2) "Ancillary state" means, any state other than a
 6 domiciliary state.

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

9 (4) "Bona fide holder for value" means a holder who,
 10 while not possessing information that would lead a reasonable
 11 person in the holder's position to believe that the insurer is
 12 financially impaired, and while unaware of the imminence or
 13 pendency of any receivership proceeding against the insurer,
 14 has, in the exercise of reasonable business judgment,
 15 exchanged his or her own funds, assets, or property for funds,
 16 assets, or property of the insurer having an equivalent market
 17 value.

18 ~~(5)(4)~~ "Court" refers to the circuit court in which
 19 the receivership proceeding is pending.

20 ~~(6)(5)~~ "Delinquency proceeding" means any proceeding
 21 commenced against an insurer pursuant to this chapter for the
 22 purpose of liquidating, rehabilitating, reorganizing, or
 23 conserving such insurer.

24 ~~(7)(6)~~ "Domiciliary state" means the state in which an
 25 insurer is incorporated or organized or, in the case of an
 26 insurer incorporated or organized in a foreign country, the
 27 state in which such insurer, having become authorized to do
 28 business in such state, has, at the commencement of a
 29 delinquency proceeding, the largest amount of its assets held
 30 in trust and assets held on deposit for the benefit of its
 31 policyholders or policyholders and creditors in the United

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1 States; and any such insurer is deemed to be domiciled in such
2 state.

3 (8) "Fair consideration" means that consideration
4 which is given for property or assets of an insurer when, in
5 exchange for the property or assets and in good faith,
6 property is conveyed, services are rendered, or an enforceable
7 obligation not invalidated by the receivership proceedings is
8 created, having a value to the insurer of not less than the
9 value of the property or assets given in exchange.

10 (9)(7) "Foreign country" means territory not in any
11 state.

12 (10)(8) "General assets" means all property, real,
13 personal, or otherwise, not specifically mortgaged, pledged,
14 deposited, or otherwise encumbered for the security or benefit
15 of specified persons or a limited class or classes of persons,
16 and as to such specifically encumbered property the term
17 includes all such property or its proceeds in excess of the
18 amount necessary to discharge the sum or sums secured thereby.
19 Assets held in trust and assets held on deposit for the
20 security or benefit of all policyholders or all policyholders
21 and creditors in the United States shall be deemed general
22 assets.

23 (11) "Good faith," as applied to a transferee or
24 transferor under this part, means honesty in fact and
25 intention and includes the exercise of reasonable business
26 judgment, together with the absence of information that would
27 lead a reasonable person in the same position to know that the
28 insurer is financially impaired or insolvent and together with
29 the absence of knowledge regarding the imminence or pendency
30 of any receivership proceeding against the insurer.

31 (12)(9) "Impairment of capital" means that the minimum

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2 dissipated and the insurer is not possessed of assets at least
3 equal to all its liabilities together with its total issued

5 minimum surplus or net trust fund required by s. 624.407, if a
6 mutual, reciprocal, or business trust insurer.

(13)~~(10)~~
8 surplus of a stock insurer, the additional surplus of a mutual
9 or reciprocal insurer, or the additional net trust fund of a

11 of s. 624.408.

12 ~~(11)~~ "Insolvency" means that all the assets of the

14 sufficient to discharge all its liabilities or that the
15 insurer is unable to pay its debts as they become due in the

17 this code so indicates, insolvency also includes and is
18 defined as "impairment of surplus," as defined in subsection

(13)~~(9)~~

20 (12)—.

21 ~~(12)~~ "Insurer," in addition to persons so defined

23 insurers or organizing, or holding themselves out as
24 organizing, in this state for the purpose of becoming insurers

26 (16)— "Liabilities," as used in subsections(12)

and (14)~~(8)~~~~(10)~~

28 specifically required in s. 625.041.

29 ~~(14)~~ "Person" includes natural persons,

31 proprietorships.

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1 (18) "Property," with respect to an insolvent entity,
 2 includes all right, title, and interest of the insolvent
 3 entity whether legal or equitable, tangible or intangible, or
 4 choate or inchoate and includes choses in action, contract
 5 rights, and any other interest recognized under the laws of
 6 this state. When an order of conservation, rehabilitation, or
 7 liquidation is entered, the term also includes entitlements
 8 that existed prior to the entry of the order and those that
 9 may arise by operation of the provisions of this chapter or
 10 other provisions of law allowing the department to avoid prior
 11 transfers or assert other rights in its capacity as receiver.
 12 The term also includes all records and data, however stored,
 13 including, but not limited to, claims and claim files,
 14 application files, litigation files, premium records, rate
 15 books, underwriting manuals, personnel records, or financial
 16 records, or similar records within the possession, custody, or
 17 control of a managing general agent, third-party
 18 administrator, management company, accountant, attorney,
 19 affiliate, or other person. The term does not include
 20 privileged or confidential documents of an insolvent insurer
 21 generated by a third party.

22 ~~(19)~~~~(15)~~ "Receiver" means a receiver, liquidator,
 23 rehabilitator, or conservator, as the context may require.

24 ~~(20)~~~~(16)~~ "Reciprocal state" means any state other than
 25 this state in which in substance and effect the provisions of
 26 the Insurers Rehabilitation and Liquidation Act are in force,
 27 including the provisions requiring that the commissioner of
 28 insurance or equivalent insurance supervisory official be the
 29 receiver of a delinquent insurer.

30 ~~(21)~~~~(17)~~ "Secured claim" means any claim secured by
 31 mortgage, trust deed, pledge, deposit as security, escrow, or

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1 otherwise but does not include a special deposit claim, a
2 claim against general assets, or a claim based on mere
3 possession. The term also includes a claim which more than 4
4 months before the commencement of a delinquency proceeding in
5 the state of the insurer's domicile has become a lien upon
6 specific assets by reason of judicial process.

7 (22)~~(18)~~ "Special deposit claim" means any claim
8 secured by a deposit made pursuant to statute for the security
9 or benefit of a limited class or classes of persons, but not
10 including any general assets.

11 (23)~~(19)~~ "State" is as defined in s. 624.08.

12 Section 4. Section 631.025, Florida Statutes, is
13 created to read:

14 631.025 Persons and entities subject to this
15 part.--The receivership proceedings authorized by this part
16 may be initiated against, and the receivership court may
17 exercise jurisdiction over, any person who is an insurer and
18 against any person whose inclusion is necessary for the
19 purposes of this part whether or not said person would
20 otherwise be an insurer, including, but not limited to, the
21 following:

22 (1) A person who is transacting, or has transacted,
23 insurance business in or from this state, and against whom
24 claims arising from that business may exist now or in the
25 future.

26 (2) A person who purports to transact an insurance
27 business in this state, and any person or entity who acts as
28 an insurer, transacts insurance, or otherwise engages in
29 insurance activities in or from this state, with or without a
30 certificate of authority or proper authority from the
31 department.

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1 (3) An insurer who has insureds resident in this
2 state.

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

6 (5) Current and former agents and brokers of the
7 insurer; policyholders, excess insurers, and reinsurers of the
8 insurer; current and former officers, directors, managers,
9 trustees, organizers, promoters, and persons in control of the
10 insurer; any third-party administrator; and any person who
11 maintains information for an insurer.

12 (6) Any corporation that directly or indirectly owns
13 10 percent or more of the stock of a Florida domestic insurer.

14 (7) Any other person or entity that is made subject to
15 the provisions of this part.

16 Section 5. Paragraph (d) of subsection (1) of section
17 631.041, Florida Statutes, is amended, and subsection (6) is
18 added to said section, to read:

19 631.041 Automatic stay; relief from stay;
20 injunctions.--

21 (1) An application or petition under s. 631.031
22 operates as a matter of law as an automatic stay applicable to
23 all persons and entities, other than the receiver, which shall
24 be permanent and survive the entry of an order of
25 conservation, rehabilitation, or liquidation, and which shall
26 prohibit:

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

31 (6) No statute of limitations or defense of laches

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1 shall run with respect to any action by or against an insurer
2 between the filing of a petition for conservation,
3 rehabilitation, or liquidation against an insurer and the
4 order granting or denying that petition. If the petition is
5 denied, any action against the insurer that might have been
6 commenced when the petition was filed may be commenced for at
7 least 60 days after the order denying such relief.

8 Section 6. Section 631.113, Florida Statutes, is
9 created to read:

10 631.113 Extension of time.--

11 (1) The running of any unexpired statute of
12 limitations as to any claims brought by the administrator,
13 conservator, rehabilitator, receiver, or liquidator, or an
14 official or agency exercising powers pursuant to this chapter
15 seeking damages or other recoveries on behalf of an insurer,
16 its policyholders, its creditors, or its estate, shall be
17 tolled for a period of 4 years from the entry of an order
18 placing the administrator, conservator, rehabilitator,
19 receiver, liquidator, or similar official or agency over the
20 insurer, provided, if the delinquency proceedings brought
21 pursuant to this chapter against the insurer terminate in less
22 than 4 years, such tolling shall cease at the time when the
23 proceedings are finally concluded, including all appeals
24 therefrom. Further, the right of action does not accrue and
25 the limitations period for any such action does not run during
26 the time when the insurer is controlled by parties acting
27 contrary to the company's interests or when the facts giving
28 rise to such claim are fraudulently concealed from regulatory
29 authorities or from any members of company management. The
30 provisions of chapter 95 shall be construed so as to be
31 consistent with the provisions of this section. The receiver

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1 may institute any action or proceeding on behalf of the estate
2 of the insurer while any statute of limitation is tolled
3 pursuant to this section. The tolling shall be in addition to
4 any other applicable tolling provision.

5 (2) For actions not covered by subsection (1), if any
6 unexpired time period is fixed, by any agreement or in any
7 proceeding, for doing any act for the benefit of the estate,
8 the receiver shall have 180 days, or such longer period as the
9 receivership court may allow for good cause shown, from the
10 entry of the order of rehabilitation or liquidation to perform
11 the act.

12 Section 7. Subsections (6) through (9) of section
13 631.141, Florida Statutes, are renumbered as subsections (7)
14 through (10), respectively, and a new subsection (6) is added
15 to said section to read:

16 631.141 Conduct of delinquency proceeding; domestic
17 and alien insurers.--

18 (6) The department as receiver is vested with and may
19 assert all rights belonging to policyholders, creditors, and
20 the estate as well as all rights of the entity or entities in
21 receivership, except to the extent that an individual claim is
22 personal and unique to that claimant and recovery thereon
23 could not inure to the benefit of the estate or to other
24 claimants.

25 Section 8. Paragraph (d) of subsection (6) of section
26 631.154, Florida Statutes, is amended to read:

27 631.154 Funds or other property in the possession of
28 third person.--

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

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1 (d) All costs, investigative and other expenses, which
2 include the department's in-house staff and staff attorney's
3 expenses, costs, and salaries, expended in necessary to the
4 recovery of the property or funds, and reasonable attorney's
5 fees.

6 Section 9. Section 631.156, Florida Statutes, is
7 created to read:

8 631.156 Investigation by the department.--

9 (1) Preliminary or incidental to a petition for
10 receivership proceedings, the department may, and if appointed
11 receiver shall, undertake a full investigation to determine
12 the causes and reasons for the insolvency, the discovery and
13 location of assets to be recovered, the recovery of such
14 assets, whether the filing of false statements with the
15 department contributed to the insolvency, and, in conjunction
16 with the department's Division of Insurance Fraud or any other
17 appropriate agency of state or federal government, whether any
18 law of this state, any other state, or the Federal Government
19 relating to the solvency of the insurer has been violated. In
20 the furtherance of such investigation, the department may:

21 (a) Examine and review any and all documents that are
22 reasonably calculated to disclose or lead to the disclosure of
23 the causes and reasons for the insolvency, the discovery and
24 location of assets to be recovered, the recovery of such
25 assets, the truth or falsity of statements filed with the
26 department, and whether any law of this state, any other
27 state, or the Federal Government has been violated.

28 (b) Take statements or depositions under oath of any
29 person whose testimony is reasonably calculated to disclose or
30 lead to the disclosure of the causes and reasons for the
31 insolvency, the discovery of and location of assets to be

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1 recovered, the recovery of such assets, the truth or falsity
2 of statements filed with the department, and whether any law
3 of this state, any other state, or the Federal Government has
4 been violated.

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

7 (d) Examine and review the books, records, and
8 documents of any affiliate, controlling person, officer,
9 director, manager, trustee, agent, adjuster, employee, or
10 independent contractor of any insurer or affiliate and any
11 other person who possesses any executive authority over, or
12 who exercises or has exercised any control over, any segment
13 of the affairs of the insurer or affiliate, to the extent such
14 examination is reasonably calculated to disclose or lead to
15 the disclosure of the causes and reasons for the insolvency,
16 the discovery and location of assets to be recovered, the
17 recovery of such assets, the truth or falsity of statements
18 filed with the department, and whether any law of this state,
19 any other state, or the Federal Government has been violated.

20 (2) In its capacity as receiver, the department may
21 provide documents, books and records, other investigative
22 products, work product, and analysis, including copies of any
23 or all of the foregoing items, to the Division of Insurance
24 Fraud or any other appropriate agency of state or federal
25 government. The sharing of information, investigative
26 products, or analysis shall not waive any work product or
27 other privilege that would otherwise apply under common law,
28 chapter 119, or any other law.

29 (3) The department, as the court's receiver, is
30 granted the discretion to determine what books, records,
31 documents, or testimony would be reasonably calculated to

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1 disclose or lead to the disclosure of the causes and reasons
2 for the insolvency, the discovery and location of assets to be
3 recovered, the recovery of the assets, the truth or falsity of
4 statements filed with the department, and whether any law of
5 this state or of the United States has been violated, subject
6 to the court's power to review such determination or appoint a
7 general master to review such determination. A party
8 asserting that any documents requested by the department under
9 this section are not subject to review, or that any particular
10 testimony may not be obtained, shall present such contention
11 by written motion to the receivership court within 10 days
12 after receipt of the request and shall be fully responsible
13 for the loss of any evidence which occurs after the department
14 first informs said party of its request therefor. The court
15 shall, as expeditiously as possible, determine whether the
16 department has abused its discretion in seeking such evidence
17 or testimony, with the objecting party having the burden of
18 proof. A party who fails to produce the requested evidence or
19 testimony without filing a proper timely objection, or who
20 having unsuccessfully asserted such objection fails thereafter
21 to furnish the evidence or testimony, within the time provided
22 by the court or the department, shall be subject to the
23 contempt powers of the court, in addition to any other
24 applicable penalties which may be provided in the Florida
25 Insurance Code or other law.

26 Section 10. Section 631.157, Florida Statutes, is
27 created to read:

28 631.157 Civil action by the receiver.--

29 (1) Any person who is engaged in the business of
30 insurance or who acts as or is an officer, director, agent, or
31 employee of any person engaged in the business of insurance,

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1 or is involved, other than as an insured or beneficiary under
2 a policy of insurance, in a transaction relating to the
3 conduct of affairs of such a business, and who willfully
4 embezzles, abstracts, purloins, converts, or misappropriates
5 any asset or property, including, but not limited to, moneys,
6 funds, premiums, credits, or other property of an insurer,
7 shall be liable to the department as receiver for the use and
8 benefit of an insolvent insurer's estate, creditors, and
9 policyholders, as follows:

10 (a) If such embezzlement, abstraction, purloining,
11 conversion, or misappropriation did not jeopardize the safety
12 and soundness of an insurer and was not a significant cause of
13 such insurer's being placed in conservation, rehabilitation,
14 or liquidation, such person shall be liable only for the full
15 amount of any asset embezzled, abstracted, purloined, or
16 misappropriated, plus prejudgment interest provided by law.

17 (b) If such embezzlement, abstraction, purloining,
18 conversion, or misappropriation jeopardized the safety and
19 soundness of an insurer or was a significant cause of such
20 insurer's being placed in conservation, rehabilitation, or
21 liquidation, such person shall be liable for triple the full
22 amount of any asset embezzled, abstracted, purloined,
23 converted, or misappropriated, plus prejudgment interest
24 provided by law on the original amount.

25 (2) Any person who is engaged in the business of
26 insurance or who acts as or is an officer, director, agent, or
27 employee of any person engaged in the business of insurance,
28 or is involved, other than as an insured or beneficiary under
29 a policy of insurance, in a transaction relating to the
30 conduct of affairs of such a business, and who, while having
31 actual knowledge or such constructive knowledge as should have

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1 been obtained through reasonable inquiry by a person in such
2 position, knew of the falsity thereof, misreports, or makes
3 any false entry of material fact in any book, report, or
4 statement of an insurer with intent to deceive such insurer,
5 including any officer, employee, or agent of such insurer, the
6 department, or any agent or examiner appointed by the
7 department to examine the affairs of such person or of the
8 insurer, concerning the financial condition or solvency of
9 such business, shall be liable to the department as receiver
10 for the use and benefit of an insolvent insurer's estate,
11 creditors, and policyholders, as follows:

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

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

22 (3) If the asset or property which has been
23 misreported, embezzled, abstracted, purloined, converted, or
24 misappropriated was reported to the department as being
25 available to the insurer as an admitted asset and such asset
26 is unavailable to the receiver for payment of the obligations
27 of the insurer at the time when a receivership proceeding is
28 instituted, the misreporting, embezzlement, abstraction,
29 purloining, conversion, or misappropriation shall be presumed
30 to have jeopardized the safety and soundness of the insurer
31 and to have been a significant cause of such insurer's being

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1 placed in conservation, rehabilitation, or liquidation, with
2 the burden of proof on the defendants to show otherwise.

3 (4) If the receiver is successful in establishing a
4 claim under this section, the receiver shall be entitled to
5 recover all of its costs, investigative and other expenses,
6 which shall include the department's in-house staff and staff
7 attorney's expenses, costs, and salaries, expended in the
8 prosecution of the action, and reasonable attorney's fees.

9 The receiver shall be exempt from the provisions of s. 57.111.

10 (5) An action under this section may be brought at any
11 time before the expiration of 4 years after the entry of the
12 initial order of rehabilitation or liquidation under this part
13 but shall be filed before the time the receivership proceeding
14 is closed or dismissed.

15 Section 11. Section 631.193, Florida Statutes, is
16 amended to read:

17 631.193 Releases.--The filing of a claim constitutes a
18 release of the insured from liability to the claimant to the
19 extent of the coverage or policy limits provided by the
20 insolvent insurer. The release is conditioned upon the
21 cooperation of the insured with the receiver and the Florida
22 Insurance Guaranty Association and any other guaranty
23 association in defense of the claim. This release does not
24 operate to discharge the Florida Insurance Guaranty
25 Association or any other guaranty association from any of its
26 responsibilities and duties set out in this chapter, nor does
27 it operate to impose any liability on any such guaranty
28 association which would not have existed absent the filing of
29 a claim in the receivership.

30 Section 12. Section 631.3995, Florida Statutes, is
31 created to read:

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1 631.3995 Closing of estate; Closed Estate Fund Trust
2 Account.--

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

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

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

29 Section 13. Subsection (3) of section 631.54, Florida
30 Statutes, is amended to read:

31 631.54 Definitions.--As used in this part:

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

14 Section 14. Subsection (1) of section 631.57, Florida
15 Statutes, is amended to read:

16 631.57 Powers and duties of the association.--

17 (1) The association shall:

18 (a)1. Be obligated to the extent of the covered claims
19 existing:

20 a. Prior to adjudication of insolvency and arising
21 within 30 days after the determination of insolvency;

22 b. Before the policy expiration date if less than 30
23 days after the determination; or

24 c. Before the insured replaces the policy or causes
25 its cancellation, if she or he does so within 30 days of the
26 determination.

27 2. The obligation under subparagraph 1. shall include
28 only that amount of each covered claim which is in excess of
29 \$100 and is less than \$300,000, except with respect to
30 policies covering condominium associations or homeowners'
31 associations, which associations have a responsibility to

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2 association, the obligation shall include that amount of each
3 covered property insurance claim which is less than \$100,000

5 residential units; however, as to homeowners' associations,
6 this subparagraph applies only to claims for damage or loss to

8 units.

9 3. In no event shall the association be obligated to a

11 obligation of the insolvent insurer under the policy from
12 which the claim arises _____
13 insolvent insurer could not have been compelled to pay the
claim.

16 The foregoing notwithstanding, the association shall have no
17 obligation to pay covered claims to be paid from the proceeds

19 shall cause assessments to be made under paragraph (3)(e) for
20 such covered claims, and such assessments shall be assigned

22 issuer of such bonds for the benefit of the holders of such
23 bonds. The association shall administer any such covered

25 accordance with the provisions of the assistance program in
26 connection with which such bonds have been issued.

28 obligation on the covered claims, and, to such extent, shall
29 have all rights, duties, _____ and obligations of the
30 insolvent insurer as if the insurer had not become insolvent.

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1 or interest or any amount in excess of the limits set forth in
2 paragraph (a) and the other limitations on liability also set
3 forth in this chapter.

4 Section 15. Subsection (1) of section 631.60, Florida
5 Statutes, is amended to read:

6 631.60 Effect of paid claims.--

7 (1) Any person recovering under this part shall be
8 deemed to have assigned her or his rights under the policy to
9 the association to the extent of the person's recovery from
10 the association, regardless of whether such recovery is
11 received directly from the association or through payments
12 made from the proceeds of bonds issued under s. 166.111(2).
13 Every insured or claimant seeking the protection of this part
14 shall cooperate with the association to the same extent as
15 such person would have been required to cooperate with the
16 insolvent insurer. The association shall have no cause of
17 action against the insured of the insolvent insurer for any
18 sums it has paid out except such causes of action as the
19 insolvent insurer would have had if such sums had been paid by
20 the insolvent insurer. In the case of an insolvent insurer
21 operating on a plan with assessment liability, payments of
22 claims of the association shall not operate to reduce the
23 liability of insureds to the receiver, liquidator, or
24 statutory successor for unpaid assessments. Under no
25 circumstances shall any person have any cause of action
26 against the association which that person would not have had
27 against the insolvent insurer, nor shall this chapter be
28 construed as creating any additional rights against the
29 association which would not have existed against the insolvent
30 insurer.

31 Section 16. Section 817.2341, Florida Statutes, is

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1 created to read:

2 817.2341 Crimes by or affecting persons engaged in the
3 administration of any insurer or entity organized pursuant to
4 chapter 624 or chapter 641.--

5 (1)(a) Any person who makes a false entry of a
6 material fact in any book, report, or statement relating to a
7 transaction of an insurer or entity organized pursuant to
8 chapter 624 or chapter 641, intending thereby to deceive any
9 person about the financial condition or solvency of such
10 insurer or entity, commits a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084.

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

21 (2)(a) Any person who knowingly makes a material false
22 statement or report to the department or any agent of the
23 department, or who knowingly and materially overvalues any
24 property in any document or report prepared to be presented to
25 the department or any agent of the department, commits a
26 felony of the third degree, punishable as provided in s.
27 775.082, s. 775.083, or s. 775.084.

28 (b) If such material false statement or report or such
29 material overvaluation is made with the intent to deceive any
30 person as to the impairment of capital, as defined in s.
31 631.011(12), of an insurer or entity organized pursuant to

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1 chapter 624 or chapter 641, or is the significant cause of
 2 such insurer or entity being placed in conservation,
 3 rehabilitation, or liquidation by a court, the offense is a
 4 felony of the first degree, punishable as provided in s.
 5 775.082, s. 775.083, or s. 775.084.

6
7

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

9 And the title is amended as follows:

10 On page 1, line 2,

11

12 after the semicolon insert:

13 amending s. 626.9541, F.S.; correcting a cross
 14 reference; amending s. 631.001, F.S.; providing
 15 construction and purposes; providing a short
 16 title; amending s. 631.011, F.S.; providing
 17 additional definitions; creating s. 631.025,
 18 F.S.; specifying application to certain persons
 19 and entities; amending s. 631.041, F.S.;
 20 limiting application of certain time
 21 restrictions; correcting a cross reference;
 22 creating s. 631.113, F.S.; providing for
 23 tolling certain time limitations in certain
 24 actions; amending s. 631.141, F.S.; vesting the
 25 Department of Insurance with certain rights as
 26 receiver; amending s. 631.154, F.S.; including
 27 certain costs and expenses of the department in
 28 costs and expenses entitled to be recovered by
 29 the receiver under certain circumstances;
 30 creating s. 631.156, F.S.; providing for
 31 investigations by the department preliminary or

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1 incidental to receivership proceedings;
2 providing department powers; authorizing the
3 department to provide certain information in
4 such investigations; granting the department
5 certain discretionary powers; creating s.
6 631.157, F.S.; imposing liability on certain
7 persons or entities for certain actions;
8 specifying amounts of damages; providing
9 construction; providing costs and expenses
10 entitled to be recovered by the receiver under
11 certain circumstances; providing a time certain
12 for bringing certain actions; amending s.
13 631.193, F.S.; providing an additional
14 limitation upon the operation of a release;
15 creating s. 631.3995, F.S.; providing
16 procedures and requirements for closing an
17 estate; providing for deposit of certain assets
18 into the Closed Estate Fund Trust Account;
19 providing for uses of such account; providing
20 for reopening certain proceedings; amending s.
21 631.54, F.S.; revising a definition; amending
22 s. 631.57, F.S.; specifying additional criteria
23 for absence of certain obligations or
24 liabilities of an association; amending s.
25 631.60, F.S.; limiting certain causes of action
26 against an association; specifying absence of
27 creation of additional rights against the
28 association; creating s. 817.2341, F.S.;
29 providing criminal penalties for certain
30 activities;
31