

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

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

Representative(s) Kallinger and Gannon offered the following:

Amendment (with title amendment)

On page 3, line 31, of the bill

insert:

Section 1. Paragraph (w) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

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

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

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

1. Whether or not delinquency proceedings as to the insurer have been or are to be initiated, but while such insolvency or impairment exists, no director or officer of an insurer, except with the written permission of the Department of Insurance, shall authorize or permit the insurer to solicit or accept new or renewal insurance risks in this state after

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

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

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

1 insurers, which methods involve the cooperation and management
2 expertise of the insurance industry.

3 (g) Enhance the efficiency and economy of liquidation
4 through clarification and specification of the law to minimize
5 legal uncertainty and litigation.

6 (h) Lessen the problems of interstate rehabilitation
7 and liquidation of an entity subject to the provisions of this
8 part by facilitating cooperation between states in the
9 liquidation process and by extension of the scope of personal
10 jurisdiction over debtors of the insurer outside this state.

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

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

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

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

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

26 631.011 Definitions.--For the purpose of this part,
27 the term:

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

31 (a) Equity ownership of voting securities;

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

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

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

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

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

1 surplus required to be maintained in s. 624.408 has been
2 dissipated and the insurer is not possessed of assets at least
3 equal to all its liabilities together with its total issued
4 and outstanding capital stock, if a stock insurer, or the
5 minimum surplus or net trust fund required by s. 624.407, if a
6 mutual, reciprocal, or business trust insurer.

7 (13)~~(10)~~ "Impairment of surplus" means that the
8 surplus of a stock insurer, the additional surplus of a mutual
9 or reciprocal insurer, or the additional net trust fund of a
10 business trust insurer does not comply with the requirements
11 of s. 624.408.

12 (14)~~(11)~~ "Insolvency" means that all the assets of the
13 insurer, if made immediately available, would not be
14 sufficient to discharge all its liabilities or that the
15 insurer is unable to pay its debts as they become due in the
16 usual course of business. When the context of any provision of
17 this code so indicates, insolvency also includes and is
18 defined as "impairment of surplus," as defined in subsection
19 (13)~~(9)~~, and "impairment of capital," as defined in subsection
20 (12)~~(8)~~.

21 (15)~~(12)~~ "Insurer," in addition to persons so defined
22 under s. 624.03, also includes persons purporting to be
23 insurers or organizing, or holding themselves out as
24 organizing, in this state for the purpose of becoming insurers
25 and all insurers who have insureds resident in this state.

26 (16)~~(13)~~ "Liabilities," as used in subsections (12)
27 and (14)~~(8)-(10)~~, means all liabilities, including those
28 specifically required in s. 625.041.

29 (17)~~(14)~~ "Person" includes natural persons,
30 corporations, partnerships, trusts, estates, and sole
31 proprietorships.

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

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 that are otherwise
13 the property of the insolvent insurer, however stored,
14 including, but not limited to, claims and claim files,
15 application files, litigation files, premium records, rate
16 books, underwriting manuals, personnel records, or financial
17 records, or similar records within the possession, custody, or
18 control of a managing general agent, third-party
19 administrator, management company, accountant, attorney,
20 affiliate, or other person. The term does not include
21 privileged or confidential documents of an insolvent insurer
22 generated by a third party.

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

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

31 ~~(21)~~~~(17)~~ "Secured claim" means any claim secured by

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

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

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

12 (23)~~(19)~~ "State" is as defined in s. 624.08.

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

15 631.025 Persons and entities subject to this
16 part.--Delinquency proceedings authorized by this part may be
17 initiated against any insurer as defined in s. 631.011(15) if
18 the statutory grounds are present as to that insurer, and the
19 receivership court may exercise jurisdiction over any person
20 required to cooperate with the department pursuant to s.
21 631.391 and over all persons made subject to the court's
22 jurisdiction by other provisions of law. Such persons include,
23 but are not limited to:

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

28 (2) A person who purports to transact an insurance
29 business in this state, and any person or entity who acts as
30 an insurer, transacts insurance, or otherwise engages in
31 insurance activities in or from this state, with or without a

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

1 certificate of authority or proper authority from the
2 department.

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

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

8 Section 5. Paragraph (d) of subsection (1) of section
9 631.041, Florida Statutes, is amended, and subsection (6) is
10 added to that section, to read:

11 631.041 Automatic stay; relief from stay;
12 injunctions.--

13 (1) An application or petition under s. 631.031
14 operates as a matter of law as an automatic stay applicable to
15 all persons and entities, other than the receiver, which shall
16 be permanent and survive the entry of an order of
17 conservation, rehabilitation, or liquidation, and which shall
18 prohibit:

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

23 (6) No statute of limitations or defense of laches
24 shall run with respect to any action by or against an insurer
25 between the filing of a petition for conservation,
26 rehabilitation, or liquidation against an insurer and the
27 order granting or denying that petition. If the petition is
28 denied, any action against the insurer that might have been
29 commenced when the petition was filed may be commenced for at
30 least 60 days after the order denying such relief.

31 Section 6. Section 631.113, Florida Statutes, is

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

1 created to read:

2 631.113 Extension of time.--

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

28 (2) For actions not covered by subsection (1), if any
29 unexpired time period is fixed, by any agreement or in any
30 proceeding, for doing any act for the benefit of the estate,
31 the receiver shall have 180 days, or such longer period as the

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

1 receivership court may allow for good cause shown, from the
2 entry of the order of rehabilitation or liquidation to perform
3 the act.

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

8 631.141 Conduct of delinquency proceeding; domestic
9 and alien insurers.--

10 (6) The department as receiver is vested with and may
11 assert all rights belonging to policyholders, creditors, and
12 the estate as well as all rights of the entity or entities in
13 receivership, except to the extent that an individual claim is
14 personal and unique to that claimant and recovery thereon
15 could not inure to the benefit of the estate or to other
16 claimants.

17 Section 8. Paragraph (d) of subsection (6) of section
18 631.154, Florida Statutes, is amended to read:

19 631.154 Funds or other property in the possession of
20 third person.--

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

24 (d) All costs, investigative and other expenses, which
25 include the department's in-house staff and staff attorney's
26 expenses, costs, and salaries, expended in necessary to the
27 recovery of the property or funds, and reasonable attorney's
28 fees.

29 Section 9. Section 631.156, Florida Statutes, is
30 created to read:

31 631.156 Investigation by the department.--

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

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

13 (a) Examine and review any and all documents that are
14 reasonably calculated to disclose or lead to the disclosure of
15 the causes and reasons for the insolvency, the discovery and
16 location of assets to be recovered, the recovery of such
17 assets, the truth or falsity of statements filed with the
18 department, and whether any law of this state, any other
19 state, or the Federal Government has been violated.

20 (b) Take statements or depositions under oath of any
21 person whose testimony is reasonably calculated to disclose or
22 lead to the disclosure of the causes and reasons for the
23 insolvency, the discovery of and location of assets to be
24 recovered, the recovery of such assets, the truth or falsity
25 of statements filed with the department, and whether any law
26 of this state, any other state, or the Federal Government has
27 been violated.

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

30 (d) Examine and review the books, records, and
31 documents of any affiliate, controlling person, officer,

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

1 director, manager, trustee, agent, adjuster, employee, or
2 independent contractor of any insurer or affiliate and any
3 other person who possesses any executive authority over, or
4 who exercises or has exercised any control over, any segment
5 of the affairs of the insurer or affiliate, to the extent such
6 examination is reasonably calculated to disclose or lead to
7 the disclosure of the causes and reasons for the insolvency,
8 the discovery and location of assets to be recovered, the
9 recovery of such assets, the truth or falsity of statements
10 filed with the department, and whether any law of this state,
11 any other state, or the Federal Government has been violated.

12 (2) In its capacity as receiver, the department may
13 provide documents, books and records, other investigative
14 products, work product, and analysis, including copies of any
15 or all of the foregoing items, to the Division of Insurance
16 Fraud or any other appropriate agency of state or federal
17 government. The sharing of information, investigative
18 products, or analysis shall not waive any work product or
19 other privilege that would otherwise apply under common law,
20 chapter 119, or any other law.

21 (3) The department, as the court's receiver, is
22 granted the discretion to determine what books, records,
23 documents, or testimony would be reasonably calculated to
24 disclose or lead to the disclosure of the causes and reasons
25 for the insolvency, the discovery and location of assets to be
26 recovered, the recovery of the assets, the truth or falsity of
27 statements filed with the department, and whether any law of
28 this state or of the United States has been violated, subject
29 to the court's power to review such determination or appoint a
30 general master to review such determination. A party
31 asserting that any documents requested by the department under

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

1 this section are not subject to review, or that any particular
2 testimony may not be obtained, shall present such contention
3 by written motion to the receivership court within 20 days
4 after receipt of the request and shall be fully responsible
5 for the loss of any evidence which occurs after the department
6 first informs said party of its request therefor. The court
7 shall, as expeditiously as possible, determine whether the
8 department has abused its discretion in seeking such evidence
9 or testimony, with the objecting party having the burden of
10 proof. A party who fails to produce the requested evidence or
11 testimony without filing a proper timely objection, or who
12 having unsuccessfully asserted such objection fails thereafter
13 to furnish the evidence or testimony, within the time provided
14 by the court or the department, shall be subject to the
15 contempt powers of the court, in addition to any other
16 applicable penalties which may be provided in the Florida
17 Insurance Code or other law.

18 Section 10. Section 631.157, Florida Statutes, is
19 created to read:

20 631.157 Civil action by the receiver.--

21 (1) Any person who is engaged in the business of
22 insurance or who acts as or is an officer, director, agent, or
23 employee of any person engaged in the business of insurance,
24 or is involved, other than as an insured or beneficiary under
25 a policy of insurance, in a transaction relating to the
26 conduct of affairs of such a business, and who willfully
27 obtains or uses, as defined in s. 812.012(2), any asset or
28 property, including, but not limited to, moneys, funds,
29 premiums, credits, or other property of an insurer, shall be
30 liable to the department as receiver for the use and benefit
31 of an insolvent insurer's estate, creditors, and

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

1 policyholders, as follows:

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

8 (b) If such obtaining or using jeopardized the safety
9 and soundness of an insurer or was a significant cause of such
10 insurer's being placed in conservation, rehabilitation, or
11 liquidation, such person shall be liable for triple the full
12 amount of any asset obtained or used, plus prejudgment
13 interest provided by law on the original amount.

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

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

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

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

11 (3) If the asset or property that has been obtained or
12 used was reported to the department as being available to the
13 insurer as an admitted asset and such asset is unavailable to
14 the receiver for payment of the obligations of the insurer at
15 the time when a receivership proceeding is instituted, the
16 obtaining or using shall be presumed to have jeopardized the
17 safety and soundness of the insurer and to have been a
18 significant cause of such insurer's being placed in
19 conservation, rehabilitation, or liquidation, with the burden
20 of proof on the defendants to show otherwise.

21 (4) If the receiver is successful in establishing a
22 claim under this section, the receiver shall be entitled to
23 recover all of its costs, investigative and other expenses,
24 which shall include the department's in-house staff and staff
25 attorney's expenses, costs, and salaries, expended in the
26 prosecution of the action, and reasonable attorney's fees.
27 The receiver shall be exempt from the provisions of s. 57.111.

28 (5) An action under this section may be brought at any
29 time before the expiration of 4 years after the entry of the
30 initial order of rehabilitation or liquidation under this part
31 but shall be filed before the time the receivership proceeding

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

1 is closed or dismissed.

2 Section 11. Paragraph (b) of subsection (1) of section
3 631.57, Florida Statutes, is amended to read:

4 631.57 Powers and duties of the association.--

5 (1) The association shall:

6 (b) Be deemed the insurer to the extent of its
7 obligation on the covered claims, and, to such extent, shall
8 have all rights, duties, defenses, and obligations of the
9 insolvent insurer as if the insurer had not become insolvent.
10 In no event shall the association be liable for any penalties
11 or interest.

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

14 631.3995 Closing of estate; Closed Estate Fund Trust
15 Account.--

16 (1) When all assets justifying the expense of
17 collection and distribution have been marshaled and
18 distributed under this part, the department shall petition the
19 court to terminate the liquidation proceedings and to close
20 the estate. The court may grant such other relief as may be
21 appropriate, including, but not limited to, a full discharge
22 of all liability and responsibility of the liquidator, the
23 reservation of assets for administrative expenses incurred in
24 the closing of the estate, and any other actions the
25 department feels necessary or appropriate for closing the
26 estate.

27 (2) Any remaining reserved assets that are provided
28 for in subsection (1) and that may not be practicably or
29 economically distributed to claimants shall be deposited into
30 a segregated account to be known as the Closed Estate Fund
31 Trust Account, if created by law. The department may use

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

1 moneys held in the account for paying the administrative
2 expenses of companies subject to this part that lack
3 sufficient assets to allow the department to perform its
4 duties and obligations under this part. An annual audit of the
5 Closed Estate Fund Trust Account shall be performed regardless
6 of its balance.

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

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

13 631.54 Definitions.--As used in this part:

14 (3) "Covered claim" means an unpaid claim, including
15 one of unearned premiums, which arises out of, and is within
16 the coverage, and not in excess of, the applicable limits of
17 an insurance policy to which this part applies, issued by an
18 insurer, if such insurer becomes an insolvent insurer after
19 October 1, 1970, and the claimant or insured is a resident of
20 this state at the time of the insured event or the property
21 from which the claim arises is permanently located in this
22 state. "Covered claim" shall not include any amount due any
23 reinsurer, insurer, insurance pool, or underwriting
24 association, as subrogation, contribution, indemnification,
25 ~~recoveries~~ or otherwise. Member insurers shall have no right
26 of subrogation against the insured of any insolvent member.

27 Section 14. Section 817.2341, Florida Statutes, is
28 created to read:

29 817.2341 Crimes by or affecting persons engaged in the
30 administration of any insurer or entity organized pursuant to
31 chapter 624 or chapter 641.--

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

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

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

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

24 (b) If such material false statement or report or such
25 material overvaluation is made with the intent to deceive any
26 person as to the impairment of capital, as defined in s.
27 631.011(12), of an insurer or entity organized pursuant to
28 chapter 624 or chapter 641, or is the significant cause of
29 such insurer or entity being placed in conservation,
30 rehabilitation, or liquidation by a court, the offense is a
31 felony of the first degree, punishable as provided in s.

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

1 775.082, s. 775.083, or s. 775.084.

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

5 And the title is amended as follows:

6 On page 1, line 2,

7

8 after the semicolon insert:

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

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

1 granting the department certain discretionary
2 powers; creating s. 631.157, F.S.; imposing
3 liability on certain persons or entities for
4 certain actions; specifying amounts of damages;
5 providing construction; providing costs and
6 expenses entitled to be recovered by the
7 receiver under certain circumstances; providing
8 a time certain for bringing certain actions;
9 amending s. 631.57, F.S.; clarifying that the
10 association has the same legal defenses
11 available to the insolvent insurer; creating s.
12 631.3995, F.S.; providing procedures and
13 requirements for closing an estate; providing
14 for deposit of certain assets into the Closed
15 Estate Fund Trust Account; providing for uses
16 of such account; providing for reopening
17 certain proceedings; amending s. 631.54, F.S.;
18 revising a definition; creating s. 817.2341,
19 F.S.; providing criminal penalties for certain
20 activities;

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