

By the Committee on Banking and Representatives Flanagan,  
Waters, Brummer and Alexander

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           deleting reference to the Department of Banking  
6           and Finance and substituting the Department of  
7           Insurance and Financial Services; creating s.  
8           20.121, F.S.; creating the Office of Chief  
9           Financial Officer; providing duties; providing  
10          for a Division of Financial Investigations;  
11          creating s. 20.131, F.S.; creating the  
12          Department of Insurance and Financial Services;  
13          providing for an executive director; providing  
14          for departmental structure; creating the  
15          Offices of Commissioner of Insurance and  
16          Commissioner of Financial Services; providing  
17          for subpoenas, sworn statements, and  
18          enforcement proceedings; providing for  
19          appointment and specifying qualifications for  
20          each commissioner; providing jurisdiction for  
21          each commissioner's office; transferring  
22          certain powers, duties, functions, rules,  
23          records, personnel, property, and unexpended  
24          balances of appropriations, allocations, and  
25          other funds to the Office of Chief Financial  
26          Officer, the Department of Insurance and  
27          Financial Services, and the Department of Law  
28          Enforcement; specifying that rules of the  
29          Department of Banking and Finance and the  
30          Department of Insurance become rules of the  
31          Department of Insurance and Financial Services;

1 specifying that such rules become rules of the  
2 Office of Chief Financial Officer under certain  
3 circumstances; specifying that certain rules of  
4 the Department of Insurance become rules of the  
5 Department of Law Enforcement; providing for  
6 preservation of validity of judicial or  
7 administrative actions involving such  
8 departments; providing for substitution of  
9 certain parties in interest in such actions;  
10 creating the Office of Transition Management;  
11 specifying powers and duties thereof; requiring  
12 reports to the Governor and the Legislature;  
13 providing duties of the Division of Statutory  
14 Revision; repealing ss. 20.12 and 20.13, F.S.,  
15 relating to the Department of Banking and  
16 Finance and the Department of Insurance,  
17 respectively; providing an appropriation;  
18 providing effective dates.

19

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

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

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25 20.04 Structure of executive branch.--The executive  
26 branch of state government is structured as follows:

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28 (3) For their internal structure, all departments,  
29 except for the Department of Insurance and Financial Services  
30 ~~Banking and Finance~~, the Department of Children and Family  
31 Services, the Department of Corrections, the Department of  
Management Services, the Department of Revenue, and the

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1 Department of Transportation, must adhere to the following  
2 standard terms:

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

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

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

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

12 Section 2. Section 20.121, Florida Statutes, is  
13 created to read:

14 20.121 Office of Chief Financial Officer.--Effective  
15 January 7, 2003, there is created the Office of Chief  
16 Financial Officer. The head of the office is the Chief  
17 Financial Officer. Pursuant to s. 4, Art. IV of the State  
18 Constitution, the duties of the Chief Financial Officer are to  
19 serve as the chief fiscal officer of the state, to settle and  
20 approve accounts against the state, and to keep all state  
21 funds and securities. The Chief Financial Officer is also the  
22 administrator of the Government Employees Deferred  
23 Compensation Plan and is responsible for carrying out laws  
24 relating to unclaimed property and security for public  
25 deposits. There is created as a subunit within the Office of  
26 Chief Financial Officer the Division of Financial  
27 Investigations. The Division of Financial Investigations shall  
28 function as a criminal justice agency within the meaning of s.  
29 943.045(10)(e) and shall have a separate budget.

30 Section 3. Section 20.131, Florida Statutes, is  
31 created to read:

1           20.131 Department of Insurance and Financial  
2 Services.--Effective January 7, 2003, there is created the  
3 Department of Insurance and Financial Services. The Governor  
4 and Cabinet shall serve as head of the department.  
5           (1) EXECUTIVE DIRECTOR.--The executive director of the  
6 Department of Insurance and Financial Services is the chief  
7 administrator of the department and shall be appointed by the  
8 Governor and Cabinet, subject to confirmation by the Senate.  
9 The executive director serves at the pleasure of the Governor  
10 and Cabinet. The functions of the executive director are  
11 limited to personnel, administrative, and budgetary matters,  
12 including administrative coordination of issues that affect  
13 areas under the Offices of the Commissioner of Insurance and  
14 the Commissioner of Financial Services, and coordination of  
15 legislative activities.  
16           (2) DEPARTMENTAL STRUCTURE.--The Governor and Cabinet,  
17 as head of the Department of Insurance and Financial Services,  
18 shall adopt rules establishing the organizational structure of  
19 the department. It is the intent of the Legislature to provide  
20 the Governor and Cabinet with the flexibility to organize the  
21 department in any manner they determine appropriate to promote  
22 both efficiency and accountability, subject to the following  
23 requirements:  
24           (a) The major structural unit of the department is the  
25 "office." Each office is headed by a "commissioner." The  
26 offices are established as follows:  
27           1. Office of the Commissioner of Insurance.--The  
28 Office of the Commissioner of Insurance is responsible for all  
29 activities of the department relating to the regulation of  
30 insurance and state government risk management. The head of  
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1 the office is the Commissioner of Insurance, who is also the  
2 State Fire Marshal.

3 2. Office of the Commissioner of Financial  
4 Services.--The Office of the Commissioner of Financial  
5 Services is responsible for all activities of the department  
6 relating to the regulation of banks, credit unions, other  
7 financial institutions, finance companies, funeral and  
8 cemetery services, and securities. The head of the office is  
9 the Commissioner of Financial Services.

10 a. The office shall include a Division of  
11 Investigations and Enforcement, which is headed by a director  
12 who is appointed by and serves at the pleasure of the  
13 commissioner. The division shall function as a criminal  
14 justice agency for purposes of ss. 943.045-943.08 and shall  
15 have a separate budget. The Division of Investigations and  
16 Enforcement may conduct investigations within or outside this  
17 state as the division deems necessary to aid in the  
18 enforcement of this section. If during an investigation the  
19 division has reason to believe that any criminal law of this  
20 state has or may have been violated, the division shall refer  
21 any records tending to show such violation to state or federal  
22 law enforcement or prosecutorial agencies and shall provide  
23 investigative assistance to those agencies as required.

24 b.(I) The Commissioner of Financial Services may  
25 demand and require full answers on oath from any person or  
26 party privy to any account, claim, or demand against or by the  
27 state, such as it may be the commissioner's official duty to  
28 examine, which answers the commissioner may require to be in  
29 writing and to be sworn to before the commissioner or the  
30 office or before any judicial officer or clerk of any court of  
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1 the state so as to enable the commissioner to determine the  
2 justice or legality of such account, claim, or demand.  
3 (II) In exercising authority under this section, the  
4 commissioner or his or her designee may:  
5 i. Issue subpoenas, administer oaths, and examine  
6 witnesses.  
7 ii. Require or permit a person to file a statement in  
8 writing, under oath or otherwise as the commissioner or his or  
9 her designee requires, as to all the facts and circumstances  
10 concerning the matter to be audited, examined, or  
11 investigated.  
12 (III) Subpoenas shall be issued by the commissioner or  
13 his or her designee under seal commanding such witnesses to  
14 appear before the commissioner, the commissioner's  
15 representative, or the office at a specified time and place  
16 and to bring books, records, and documents as specified or to  
17 submit books, records, and documents for inspection. Such  
18 subpoenas may be served by an authorized representative of the  
19 commissioner or the office.  
20 (IV) In the event of noncompliance with a subpoena  
21 issued pursuant to this section, the commissioner or the  
22 office may petition the circuit court of the county in which  
23 the person subpoenaed resides or has his or her principal  
24 place of business for an order requiring the subpoenaed person  
25 to appear and testify and to produce books, records, and  
26 documents as specified in the subpoena. The court may grant  
27 legal, equitable, or injunctive relief, including, but not  
28 limited to, issuance of a writ of ne exeat or the restraint by  
29 injunction or appointment of a receiver of any transfer,  
30 pledge, assignment, or other disposition of such person's  
31 assets or any concealment, alteration, destruction, or other

1 disposition of subpoenaed books, records, or documents, as the  
2 court deems appropriate, until such person has fully complied  
3 with such subpoena and the commissioner or the office has  
4 completed the audit, examination, or investigation. The  
5 commissioner or the office is entitled to the summary  
6 procedure provided in s. 51.011, and the court shall advance  
7 the cause on its calendar. Costs incurred by the commissioner  
8 or the office to obtain an order granting, in whole or in  
9 part, such petition for enforcement of a subpoena shall be  
10 charged against the subpoenaed person, and failure to comply  
11 with such order shall be a contempt of court.

12 (b) For purposes of final orders under chapter 120,  
13 each commissioner is the agency head for all areas within that  
14 commissioner's jurisdiction and shall be responsible for, and  
15 take final agency action related to, orders within the  
16 regulatory authority delegated to that commissioner's office.

17 (3) APPOINTMENT AND QUALIFICATIONS OF  
18 COMMISSIONERS.--Each commissioner shall be appointed by, and  
19 shall serve at the pleasure of, the executive director.  
20 Appointment of a commissioner is subject to the approval of  
21 the Governor and Cabinet. The minimum qualifications of the  
22 commissioners are as follows:

23 (a) Prior to appointment as commissioner, the  
24 Commissioner of Insurance must have had, within the previous  
25 10 years, at least 5 years of responsible private sector  
26 experience working full-time in an area under the regulatory  
27 jurisdiction of the Office of the Commissioner of Insurance or  
28 at least 5 years of experience as a senior examiner or other  
29 senior employee of a state or federal agency having regulatory  
30 responsibility over insurers or insurance agencies.

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1           (b) Prior to appointment as commissioner, the  
2 Commissioner of Financial Services must have had, within the  
3 previous 10 years, at least 5 years of responsible private  
4 sector experience working full-time in an area under the  
5 regulatory jurisdiction of the Office of the Commissioner of  
6 Financial Services or at least 5 years of experience as a  
7 senior examiner or other senior employee of a state or federal  
8 agency having regulatory responsibility over financial  
9 institutions, finance companies, or securities companies.

10           Section 4. Transfers.--

11           (1) TRANSFERS TO THE OFFICE OF CHIEF FINANCIAL  
12 OFFICER.--

13           (a) All powers, duties, functions, rules, records,  
14 personnel, property, and unexpended balances of  
15 appropriations, allocations, and other funds of the Office of  
16 the Comptroller;

17           (b) All powers, duties, functions, rules, records,  
18 personnel, property, and unexpended balances of  
19 appropriations, allocations, and other funds of the Department  
20 of Banking and Finance that relate to the constitutional  
21 functions of the Comptroller or to duties relating to  
22 unclaimed property;

23           (c) All powers, duties, functions, rules, records,  
24 personnel, property, and unexpended balances of  
25 appropriations, allocations, and other funds of the Office of  
26 the Treasurer, including the Government Employees Deferred  
27 Compensation Plan and duties relating to security for public  
28 deposits; and

29           (d) All powers, duties, functions, rules, records,  
30 personnel, property, and unexpended balances of  
31 appropriations, allocations, and other funds of the Department



1 of Insurance that relate to the constitutional functions of  
2 the Treasurer  
3  
4 are transferred by a type two transfer, as defined in s.  
5 20.06(2), Florida Statutes, to the Office of Chief Financial  
6 Officer.  
7 (2) TRANSFERS TO THE DEPARTMENT OF INSURANCE AND  
8 FINANCIAL SERVICES.--  
9 (a) All powers, duties, functions, rules, records,  
10 personnel, property, and unexpended balances of  
11 appropriations, allocations, and other funds of the Department  
12 of Banking and Finance not otherwise transferred by this act;  
13 and  
14 (b) All powers, duties, functions, rules, records,  
15 personnel, property, and unexpended balances of  
16 appropriations, allocations, and other funds of the Department  
17 of Insurance not otherwise transferred by this act  
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19 are transferred by a type two transfer, as defined in s.  
20 20.06(2), Florida Statutes, to the Department of Insurance and  
21 Financial Services.  
22 (3) TRANSFERS TO THE DEPARTMENT OF LAW  
23 ENFORCEMENT.--All powers, duties, functions, rules, records,  
24 personnel, property, and unexpended balances of  
25 appropriations, allocations, and other funds of the Division  
26 of Insurance Fraud of the Department of Insurance are  
27 transferred by a type two transfer, as defined in s. 20.06(2),  
28 Florida Statutes, to the Department of Law Enforcement.  
29 (4) EFFECTIVE DATE.--This section shall take effect  
30 January 7, 2003.  
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1           Section 5. (1) Effective January 7, 2003, the rules  
2 of the Department of Banking and Finance and of the Department  
3 of Insurance that were in effect on January 6, 2003, shall  
4 become rules of the Department of Insurance and Financial  
5 Services and shall remain in effect until specifically amended  
6 or repealed in the manner provided by law.

7           (2) Notwithstanding subsection (1):

8           (a) Any such rules that relate to the constitutional  
9 functions of the Comptroller or the Treasurer shall instead  
10 become rules of the Office of Chief Financial Officer and  
11 shall remain in effect until amended or repealed in the manner  
12 provided by law.

13           (b) Any such rules that relate to the functions of the  
14 Division of Insurance Fraud of the Department of Insurance  
15 shall instead become rules of the Department of Law  
16 Enforcement and shall remain in effect until amended or  
17 repealed in the manner provided by law.

18           Section 6. (1) This act shall not affect the validity  
19 of any judicial or administrative action involving the  
20 Department of Banking and Finance or the Department of  
21 Insurance pending on January 7, 2003, and the Department of  
22 Insurance and Financial Services shall be substituted as a  
23 party in interest in any such action.

24           (2) Notwithstanding subsection (1):

25           (a) If the action involves the constitutional  
26 functions of the Comptroller or Treasurer, the Office of Chief  
27 Financial Officer shall instead be substituted as a party in  
28 interest.

29           (b) If the action involves the functions of the  
30 Division of Insurance Fraud of the Department of Insurance,  
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1 the Department of Law Enforcement shall instead be substituted  
2 as a party in interest.

3 Section 7. Transitional provisions.--

4 (1) The office of executive director of the Department  
5 of Insurance and Financial Services is created effective July  
6 1, 2002. By no later than August 1, 2002, the Governor and  
7 Cabinet shall appoint a person, subject to confirmation by the  
8 Senate, who will serve as the executive director of the  
9 department. However, until the creation of the department  
10 takes effect on January 7, 2003, that person shall serve as  
11 the head of the Office of Transition Management under  
12 subsection (2).

13 (2)(a) There is created the Office of Transition  
14 Management. The office shall function independently but shall  
15 for administrative purposes be treated as an office of the  
16 Executive Office of the Governor.

17 (b) The head of the office is the executive director  
18 appointed pursuant to subsection (1), who shall serve at the  
19 pleasure of the Governor and Cabinet.

20 (c) The office shall manage the transition to the new  
21 Department of Insurance and Financial Services and the new  
22 Office of Chief Financial Officer. The management duties of  
23 the office shall include, but not be limited to:

24 1. Ensuring that, by no later than January 7, 2003,  
25 all positions within the Office of the Commissioner of  
26 Insurance and the Office of the Commissioner of Financial  
27 Services, including all senior management positions, are  
28 occupied by qualified persons.

29 2. Providing written recommendations to the  
30 Legislature by no later than February 1, 2003, as to statutory  
31 changes that are necessary or desirable to facilitate the

1 operations of the department. These recommendations shall  
2 include, but not be limited to, detailed legislative  
3 recommendations regarding rulemaking procedures for the  
4 Department of Insurance and Financial Services, including  
5 proposals to streamline the rulemaking process and proposals  
6 regarding adoption of emergency rules.

7 3. Providing a written report that specifies the  
8 placement of those positions that are transferred to the  
9 Office of Chief Financial Officer and transferred to the  
10 Department of Insurance and Financial Services under this act.  
11 The office shall provide the report to the Governor, the  
12 President of the Senate, the Speaker of the House of  
13 Representatives, and the chair of each fiscal committee or  
14 council of the Senate and the House of Representatives.

15 4. Taking action in advance on personnel, purchasing,  
16 and administrative matters.

17 5. Submitting to the Governor and Cabinet a proposed  
18 organizational plan for the Department of Insurance and  
19 Financial Services, which plan the Governor and Cabinet may  
20 adopt by rule.

21 6. Providing monthly written transition status reports  
22 to the President of the Senate and the Speaker of the House of  
23 Representatives.

24 7. Providing such other information as may be  
25 requested by members or staff of the Legislature.

26 (d) The Department of Banking and Finance, the  
27 Department of Insurance, the Office of the Comptroller, and  
28 the Office of the Treasurer shall fully cooperate with the  
29 Office of Transition Management and shall promptly provide the  
30 office with any requested information.

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1           (e) Funding for the Office of Transition Management  
2 shall be as provided in the General Appropriations Act.

3           Section 8. Current references in the Florida Statutes  
4 affected by the passage of this act shall be conformed to  
5 reflect the provisions of this act and included in the edition  
6 of the Florida Statutes prepared by the Division of Statutory  
7 Revision for 2003.

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

10           Section 10. There is hereby appropriated \$227,984 from  
11 the Grants and Donations Trust Fund in the Executive Office of  
12 the Governor and two full-time equivalent (FTE) positions for  
13 the purpose of funding the Office of Transition Management  
14 within the Executive Office of the Governor. This shall be  
15 funded by transfers of \$113,992 from the Administrative Trust  
16 Fund of the Department of Banking and Finance and \$113,992  
17 from the Insurance Commissioner's Regulatory Trust Fund of the  
18 Department of Insurance to the Grants and Donations Trust Fund  
19 in the Executive Office of the Governor. If funding for the  
20 Office of Transition Management is provided in the 2002-2003  
21 General Appropriations Act, this appropriation shall not take  
22 effect.

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