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1 A bill to be entitled
2 An act relating to workers' compensation insurance;
3 providing for startup funding for the Florida Employers
4 Mutual Insurance Company, as created by the act; requiring
5 workers' compensation insurers to report cost data to the
6 Department of Financial Services; requiring insurance
7 carriers to report medical claims data to the Department
8 of Health; providing for the data to be used to determine
9 trends and changes in health care costs associated with
10 workers' compensation claims; requiring the Chief
11 Financial Officer to approve a plan for operating a
12 residual market to guarantee insurance coverage for
13 employers; providing for rates; providing for any deficit
14 to be distributed through an assessment on insurance
15 carriers that write workers' compensation insurance;
16 requiring the Chief Financial Officer to adopt rules;
17 creating the Florida Employers Mutual Insurance Company
18 Act; providing definitions; creating the Florida Employers
19 Mutual Insurance Company to provide workers' compensation
20 insurance and employer's liability coverage; providing for
21 organization of the company as a not-for-profit
22 corporation; providing for a board of directors of the
23 company; providing for appointment of members and terms of
24 office; providing membership qualifications; requiring the
25 board to hire an administrator; providing powers and
26 duties; requiring the administrator to give a bond;
27 providing immunity from liability for official acts taken
28 by a board member, officer, or employee; authorizing the
29 board to establish insurance rates; requiring the board to
30 adopt an investment policy and supervise the investments



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31 of the company; authorizing insurance agents or brokers
32 licensed in this state to sell workers' compensation
33 insurance policies for the company; requiring a workplace
34 safety program for policyholders; prohibiting the
35 appropriation of state funds to the company; requiring an
36 annual audit of the books of the company; requiring a
37 report to the Governor and the Legislature; requiring the
38 administrator to submit a budget to the board; requiring
39 the Department of Financial Services to examine the
40 company; providing definitions; prohibiting discrimination
41 in the payment of dividends; providing that it is an
42 unfair trade practice to condition payment of a dividend
43 upon renewal of a policy; prohibiting certain agreements
44 restraining trade; requiring uniform rating plans;
45 requiring the Chief Financial Officer to conduct certain
46 examinations of insurers; providing penalties; providing
47 for a determination of a competitive market in the
48 workers' compensation and employer's liability lines of
49 business; requiring the Chief Financial Officer to monitor
50 the degree of competition; amending s. 440.02, F.S.;
51 revising, providing, and deleting definitions; amending s.
52 440.05, F.S.; revising requirements relating to submitting
53 notice of election of exemption and maintenance of
54 records; amending s. 440.06, F.S.; revising provisions
55 relating to failure to secure compensation; amending s.
56 440.077, F.S.; providing that a corporate officer electing
57 to be exempt may not receive benefits under ch. 440, F.S.;
58 amending s. 440.09, F.S.; providing for an increase in
59 compensation if the employer knowingly refused or failed
60 to provide a safety appliance or observe a safety rule;



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61 amending s. 440.11, F.S.; providing that certain
62 limitations with respect to an employer's liability do not
63 apply if the employer fails to secure coverage as
64 required; amending s. 440.13, F.S.; revising the number of
65 and period for certain medical services; revising the
66 requirements for contesting a disallowance of payment;
67 establishing certain maximum reimbursement allowances;
68 amending s. 440.15, F.S.; providing that certain time
69 limitations for temporary benefits are presumed
70 sufficient; revising certain benefits for impairment;
71 amending s. 440.16, F.S.; increasing the amount of
72 compensation for funeral expenses and for death; amending
73 s. 440.185, F.S.; revising certain requirements for notice
74 of injury or death; amending s. 440.19, F.S.; revising a
75 limitation on the period for filing a petition for
76 benefits; amending s. 440.381, F.S.; requiring an
77 application for coverage to include job descriptions for
78 the employment for which the employer seeks coverage;
79 requiring that a sworn statement be included with certain
80 audit documents; providing a penalty; amending s. 440.591,
81 F.S.; requiring the Division of Workers' Compensation to
82 adopt rules for a model settlement agreement; amending ss.
83 624.482 and 627.041, F.S.; correcting references; amending
84 s. 627.062, F.S.; deleting an exemption for the
85 application of certain rate standards to workers'
86 compensation or employer's liability insurance; amending
87 s. 627.0645, F.S.; deleting certain requirements for
88 annual filings; amending s. 627.072, F.S.; deleting
89 certain requirements with respect to setting rates for
90 workers' compensation and employer's liability insurance;



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91 amending s. 627.096, F.S.; providing that certain data and
92 other information submitted to the Workers' Compensation
93 Rating Bureau is a public record; amending s. 627.111,
94 F.S.; deleting references; amending s. 627.291, F.S.;
95 deleting requirements for rating organizations to provide
96 certain information; amending s. 631.914, F.S.; deleting a
97 reference; repealing ss. 627.091, 627.101, 627.151,
98 627.211, and 627.281, F.S., relating to rate filings for
99 workers' compensation and employer's liability insurance;
100 providing an effective date.

101
102 Be It Enacted by the Legislature of the State of Florida:

103
104 Section 1. Florida Employers Mutual Insurance Company;
105 loans.--After January 1, 2004, the director of the Division of
106 Workers' Compensation shall make one or more loans to the
107 Florida Employers Mutual Insurance Company in an amount not to
108 exceed an aggregate amount of \$5 million from the fund
109 maintained to administer sections 1 through 22 of this act for
110 startup funding and initial capitalization of the company. The
111 board of the company shall make application to the director for
112 the loans, stating the amount to be loaned to the company. The
113 loans shall be for a term of 5 years and, at the time the
114 application for such loans is approved by the director, shall
115 bear interest at the annual rate based on the rate for linked
116 deposit loans as calculated by the Chief Financial Officer.

117 Section 2. Workers' compensation insurers to report cost
118 data to the Department of Financial Services.--All workers'
119 compensation insurers or their designated agents, self-insurers,
120 and state agencies responsible for the collection or maintenance



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121 of workers' compensation related data shall report claims
122 information necessary to determine and analyze costs of the
123 workers' compensation system to the Chief Financial Officer or
124 to such agents as the Chief Financial Officer designates. The
125 Chief Financial Officer may adopt rules to administer this
126 section. All data, statistics, schedules, or other information
127 submitted to, or considered by, the Department of Financial
128 Services shall be a public record.

129 Section 3. Insurers to report medical claims data to the
130 Department of Health; contents; consolidated health plan;
131 duties; purpose; costs.--

132 (1) Each commercial insurance carrier licensed to sell
133 workers' compensation insurance in this state shall provide to
134 the Department of Health at least every 6 months workers'
135 compensation medical claims history data as required by the
136 department. Such data shall be on electronic media and shall
137 include the current procedural and medical terminology codes
138 relating to the medical treatment, dates of treatment,
139 demographic characteristics of the worker, type of health care
140 provider rendering care, and charges for treatment. The
141 department may require a statistically valid sample of claims.
142 The department may, for purposes of verification, collect data
143 from health care providers relating to the treatment of workers'
144 compensation injuries.

145 (2) The data required in subsection (1) shall be used by
146 the department to determine historical and statistical trends,
147 variations, and changes in health care costs associated with
148 workers' compensation patients compared with nonworkers'
149 compensation patients with similar injuries and conditions. Such
150 data shall be readily available for review by users of the



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151 workers' compensation system, members of the Legislature, the
152 Division of Workers' Compensation, and the Department of
153 Financial Services. Data released by the Department of Health
154 may not identify a patient or health care provider.

155 (3) Any additional personnel or equipment needed by the
156 Department of Health to meet the requirements of this section
157 shall be paid for by the workers' compensation fund.

158 Section 4. Residual market; Department of Financial
159 Services to develop plan; insurers to participate; rates;
160 procedures; duties of Chief Financial Officer.--

161 (1) Within 45 days after August 28, 2003, the Chief
162 Financial Officer shall approve a plan of operation for a new
163 residual market that will guarantee insurance coverage and
164 quality loss prevention and control services for employers
165 seeking coverage through the plan. The new residual market shall
166 begin operation January 1, 2004.

167 (2) Each insurer authorized to write workers' compensation
168 and employers' liability insurance shall participate in the
169 plan, providing for the equitable apportionment among insurers
170 of insurance that may be afforded applicants who are in good
171 faith entitled to but who are unable to procure such insurance
172 through ordinary methods, except that all employers that have
173 expiring annual premiums greater than \$250,000 must negotiate a
174 retrospective rating plan with their insurer which is acceptable
175 to the Chief Financial Officer. The rates, supplementary rate
176 information, and policy forms to be used in such a plan and any
177 future modification thereof must be submitted to the Chief
178 Financial Officer for approval at least 75 days prior to the
179 effective date of the rate. Such rates shall be set by the Chief
180 Financial Officer after hearing so that the amount required in



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181 premiums, together with reasonable investment income earned on
182 those premiums, is not excessive, inadequate, or unfairly
183 discriminatory and is actuarially sufficient to apply claims and
184 losses and reasonable operating expenses of the insurers. This
185 section does not prevent the Chief Financial Officer from
186 including a merit rating plan for nonexperienced rated employers
187 within the residual market plan. The Chief Financial Officer
188 shall adopt within the plan a system to distribute any residual
189 market deficit through an assessment on insurance carriers
190 authorized to write workers' compensation insurance in
191 proportion to the respective share of voluntary market premium
192 written by such carrier.

193 (3) The Chief Financial Officer shall disapprove any
194 filing that does not meet the requirements of this section. A
195 filing shall be deemed to meet such requirements unless
196 approved, disapproved, or modified by the Chief Financial
197 Officer within 75 days after the filing is made. In disapproving
198 a filing made pursuant to this section, the Chief Financial
199 Officer shall have the same authority and follow the same
200 procedures as in disapproving a rate filing pursuant to the
201 requirements for filings in the voluntary market. The designated
202 advisory organization may make and file the plan of operation,
203 rates, rating plans, rules, and policy forms under this section.

204 (4) The Chief Financial Officer shall establish by rule
205 standards to ensure that any employer insured through the plan
206 shall receive the same quality of service in the areas of
207 employee classification, safety engineering, loss control,
208 claims handling, and claim reserving practices as do employers
209 that are voluntarily insured. The standards established by the
210 Chief Financial Officer pursuant to this subsection shall also



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211 specify the procedures and grounds according to which an
 212 employer insured through the plan shall be assigned an insurer,
 213 and the method by which such employers shall be informed of such
 214 procedures and grounds. All insurers of the residual market
 215 shall process applications, conduct safety engineering or other
 216 loss control services, and provide claims handling within the
 217 state or adjoining states.

218 Section 5. Florida Employers Mutual Insurance Company Act;
 219 definitions.--

220 (1) Sections 5 through 15 of this act shall be known by
 221 the popular name the "Florida Employers Mutual Insurance Company
 222 Act."

223 (2) As used in sections 5 through 15 of this act, the
 224 term:

225 (a) "Administrator" means the chief executive officer of
 226 the Florida Employers Mutual Insurance Company.

227 (b) "Board" means the board of directors of the Florida
 228 Employers Mutual Insurance Company.

229 (c) "Company" means the Florida Employers Mutual Insurance
 230 Company.

231 Section 6. Florida Employers Mutual Insurance Company
 232 created; powers; purpose.--The Florida Employers Mutual
 233 Insurance Company is created as an independent public
 234 corporation for the purpose of insuring employers in this state
 235 against liability for workers' compensation, occupational
 236 disease, and employers' liability coverage. The company shall be
 237 organized and operated as a domestic mutual insurance company
 238 and it shall not be a state agency. The company shall have the
 239 powers granted a not-for-profit corporation under chapter 617,
 240 Florida Statutes, to the extent that such provisions do not



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241 conflict with sections 5 through 15 of this act. The company
242 shall be a member of the Florida Insurance Guaranty Association
243 and shall be subject to assessments therefrom, and the members
244 of such association shall bear responsibility in the event of
245 the insolvency of the company. The company shall be established
246 pursuant to sections 5 through 15 of this act. Preference shall
247 be given to employers that develop an annual premium of not
248 greater than \$10,000. The company shall use flexibility and
249 experimentation in developing types of policies and coverages
250 offered to employers, subject to the approval of the Chief
251 Financial Officer.

252 Section 7. Board created; members, appointment,
253 qualifications, and terms.--

254 (1) There is created a board of directors for the company.
255 The board shall be appointed by January 1, 2004, and shall
256 consist of five members appointed or selected as provided in
257 this section. The Governor shall appoint the initial five
258 members of the board, who shall be subject to confirmation by
259 the Senate. Each director shall be appointed to a 4-year term.
260 Terms shall be staggered so that no more than two director's
261 terms expire in any year on the first day of July. The five
262 directors initially appointed by the Governor shall determine
263 their initial terms by lot. At the expiration of the term of any
264 member of the board, the company's policyholders shall elect a
265 new director in accordance with provisions determined by the
266 board.

267 (2) Any person may be a director who:

268 (a) Does not have any interest as a stockholder, employee,
269 attorney, agent, broker, or contractor of an insurance entity,



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270 who writes workers' compensation insurance, or whose affiliates
271 write workers' compensation insurance; and

272 (b) Is of good moral character and who has never pleaded
273 guilty to, or been found guilty of, a felony.

274 (3) The board shall annually elect a chair and any other
275 officers it deems necessary for the performance of its duties.
276 Board committees and subcommittees may also be formed.

277 Section 8. Administrator; qualifications and compensation;
278 powers of board.--

279 (1) By March 1, 2004, the board shall hire an
280 administrator who shall serve at the pleasure of the board and
281 the company shall be fully prepared to be operational by March
282 1, 2005, and assume its responsibilities pursuant to sections 5
283 through 15 of this act. The administrator shall receive
284 compensation as established by the board and must have proven
285 successful experience as an executive at the general management
286 level in the insurance business.

287 (2) The board is vested with full power, authority, and
288 jurisdiction over the company. The board may perform all acts
289 necessary or convenient in the administration of the company or
290 in connection with the insurance business to be carried on by
291 the company. In this regard, the board is empowered to function
292 in all aspects as a governing body of a private insurance
293 carrier.

294 Section 9. Duties of administrator; bond required;
295 immunity from liability for board and employees.--

296 (1) The administrator of the company shall act as the
297 company's chief executive officer. The administrator shall be in
298 charge of the day-to-day operations and management of the
299 company.



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300 (2) Before entering the duties of office, the
301 administrator shall give an official bond in an amount and with
302 sureties approved by the board. The premium for the bond shall
303 be paid by the company.

304 (3) The administrator or his or her designee shall be the
305 custodian of the moneys of the company, and all premiums,
306 deposits, or other moneys paid to the company shall be deposited
307 with a financial institution as designated by the administrator.

308 (4) A board member, officer, or employee of the company
309 may not be held liable in a private capacity for any act
310 performed or obligation entered into when done in good faith,
311 without intent to defraud, and in an official capacity in
312 connection with the administration, management, or conduct of
313 the company or affairs relating to it.

314 Section 10. Rates; board to determine.--The board shall
315 have full power and authority to establish rates to be charged
316 by the company for insurance. The board shall contract for the
317 services of or hire an independent actuary who is a member in
318 good standing with the American Academy of Actuaries to develop
319 and recommend actuarially sound rates. Rates shall be set at
320 amounts sufficient, when invested, to carry all claims to
321 maturity, meet the reasonable expenses of conducting the
322 business of the company, and maintain a reasonable surplus. The
323 company shall conduct a workers' compensation program that shall
324 be neither more nor less than self-supporting.

325 Section 11. Investment policy; board to determine;
326 administrator to make investments.--The board shall formulate
327 and adopt an investment policy and supervise the investment
328 activities of the company. The administrator may invest and
329 reinvest the surplus or reserves of the company subject to the



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330 limitations imposed on domestic insurance companies by state
331 law. The company may retain an independent investment counsel.
332 The board shall periodically review and appraise the investment
333 strategy being followed and the effectiveness of such services.
334 Any investment counsel retained or hired shall periodically
335 report to the board on investment results and related matters.

336 Section 12. Agents authorized to sell policies;
337 commissions.--Any insurance agent or broker licensed to sell
338 workers' compensation insurance in this state shall be
339 authorized to sell insurance policies for the company in
340 compliance with the bylaws adopted by the company. The board
341 shall establish a schedule of commissions to pay for the
342 services of the agent.

343 Section 13. Workplace safety program; reduction in
344 rates.--

345 (1) The administrator shall formulate, implement, and
346 monitor a workplace safety program for all policyholders.

347 (2) The company shall have representatives whose sole
348 purpose is to develop, with policyholders, a written workplace
349 accident and injury reduction plan that promotes safe working
350 conditions and that is based upon clearly stated goals and
351 objectives. Company representatives shall have reasonable access
352 to the premises of any policyholder or applicant during regular
353 working hours. The company shall communicate the importance of a
354 well-defined safety plan and assist in any way to obtain this
355 objective.

356 (3) The administrator or board may refuse to insure, or
357 may terminate the insurance of, any subscriber who refuses to
358 permit on-site examinations or disregards the workplace accident
359 and injury reduction plan.



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360 (4) Upon the completion of a detailed inspection and
361 recognition of a high regard for employee work safety, a
362 deviation may be applied to the rate structure of that insured
363 in recognition of those efforts.

364 Section 14. Company not to receive state
365 appropriation.--The Florida Employers Mutual Insurance Company
366 may not receive any state appropriation, directly or indirectly,
367 except as otherwise expressly provided by law.

368 Section 15. Audit required; procedure; report to Governor
369 and Legislature; administrator to formulate budget; subscribers
370 to be provided policy.--

371 (1) The board shall cause an annual audit of the books of
372 accounts, funds, and securities of the company to be made by a
373 competent and independent firm of certified public accountants
374 and the cost of the audit shall be charged against the company.
375 A copy of the audit report shall be filed with the Chief
376 Financial Officer and the administrator.

377 (2) The board shall submit an annual independently audited
378 report in accordance with procedures governing annual reports
379 adopted by the National Association of Insurance Commissioners
380 by March 1 of each year and the report shall be delivered to the
381 Governor and the Legislature and shall indicate the business
382 done by the company during the previous year and contain a
383 statement of the resources and liabilities of the company.

384 (3) The administrator shall annually submit to the board
385 for its approval an estimated budget of the entire expense of
386 administering the company for the succeeding calendar year,
387 having due regard to the business interests and contract
388 obligations of the company.



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389 (4) The incurred loss experience and expense of the
390 company shall be ascertained each year to include, but not be
391 limited to, estimates of outstanding liabilities for claims
392 reported to the company but not yet paid and liabilities for
393 claims arising from injuries that have occurred but have not yet
394 been reported to the company. If there is an excess of assets
395 over liabilities, necessary reserves, and a reasonable surplus
396 for the catastrophe hazard, a cash dividend may be declared or a
397 credit allowed to an employer who has been insured with the
398 company in accordance with criteria approved by the board, which
399 may account for the employer's safety record and performance.

400 (5) The Department of Financial Services shall conduct an
401 examination of the company in the manner and under the
402 conditions provided by the Florida Insurance Code for the
403 examination of insurance carriers. The board shall pay the cost
404 of the examination as an expense of the company. The company is
405 subject to all provisions of law relating to private insurance
406 carriers and to the jurisdiction of the Department of Financial
407 Services in the same manner as private insurance carriers,
408 except as provided by the Chief Financial Officer.

409 (6) For the purpose of ascertaining the correctness of the
410 amount of payroll reported, the number of employees on the
411 employer's payroll, and other information required by the
412 administrator in the proper administration of the company, the
413 records and payrolls of each employer insured by the company
414 shall always be open to inspection by the administrator or his
415 or her authorized agent or representative.

416 (7) Each employer provided insurance coverage by the
417 company, upon complying with the underwriting standards adopted
418 by the company and completing the application form prescribed by



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419 the company, shall be furnished with a policy showing the date
420 on which the insurance becomes effective.

421 Section 16. Definitions.--As used in sections 16 through
422 22 of this act, the term:

423 (1) "Accepted actuarial standards" means the standards
424 adopted by the Casualty Actuarial Society in its Statement of
425 Principles Regarding Property and Casualty Insurance Ratemaking,
426 and the Standards of Practice adopted by the Actuarial Standards
427 Board.

428 (2) "Advisory organization" means any entity that has two
429 or more member insurers or is controlled either directly or
430 indirectly by two or more insurers and that assists insurers in
431 ratemaking-related activities. Two or more insurers that have a
432 common ownership or operate in this state under common
433 management or control constitute a single insurer for the
434 purpose of this definition. The term does not include a joint
435 underwriting association, any actuarial or legal consultant, any
436 employee of an insurer, or insurers under common control or
437 management or their employees or manager.

438 (3) "Classification system" or "classification" means the
439 plan, system, or arrangement for recognizing differences in
440 exposure to hazards among industries, occupations, or operations
441 of insurance policyholders.

442 (4) "Competitive market" means a market that has not been
443 found to be noncompetitive pursuant to section 21 of this act.

444 (5) "Director" means the Chief Financial Officer.

445 (6) "Expenses" means that portion of any rate attributable
446 to acquisition and field supervision; collection expenses and
447 general expenses; and taxes, licenses, and fees.



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448 (7) "Experience rating" means a rating procedure using
449 past insurance experience of the individual policyholder to
450 forecast future losses by measuring the policyholder's loss
451 experience against the loss experience of policyholders in the
452 same classification to produce a prospective premium credit,
453 debit, or unity modification.

454 (8) "Loss trending" means any procedure for projecting
455 developed losses to the average date of loss for the period
456 during which the policies are to be effective.

457 (9) "Market" means the interaction between buyers and
458 sellers of workers' compensation insurance within this state
459 pursuant to the provisions of sections 16 through 22 of this
460 act.

461 (10) "Noncompetitive market" means a market for which
462 there is a ruling in effect pursuant to section 21 of this act
463 that a reasonable degree of competition does not exist.

464 (11) "Prospective loss costs" means that portion of a rate
465 which does not include provisions for expenses, other than loss
466 adjustment expenses, or profit. Prospective loss costs are
467 developed losses projected through loss trending to a future
468 point in time, including any assessments that are loss-based and
469 ascertained by accepted actuarial standards.

470 (12) "Pure premium rate" means that portion of the rate
471 which represents the loss cost per unit of exposure, including
472 loss adjustments expense.

473 (13) "Rate" means the cost of insurance per exposure base
474 unit, prior to any application of individual risk variations
475 based on loss or expense considerations, and does not include
476 minimum premiums.



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477 (14) "Residual market" means the plan, either voluntary or
 478 mandated by law, involving participation by insurers in the
 479 equitable apportionment among them of insurance that may be
 480 afforded applicants who are unable to obtain insurance through
 481 ordinary methods.

482 (15) "Statistical plan" means the plan, system, or
 483 arrangement used in collecting data.

484 (16) "Supplementary rate information" means any manual or
 485 plan of rates, classifications system, rating schedule, minimum
 486 premium, policy fee, rating rule, rating plan, and any other
 487 similar information needed to determine the applicable premium
 488 for an insured.

489 (17) "Supporting information" means the experience and
 490 judgment of the filer and the experience or data of other
 491 insurers or organizations relied on by the filer, the
 492 interpretation of any statistical data relied on by the filer,
 493 descriptions of methods used in making the rates, and any other
 494 similar information required to be filed by the director.

495 Section 17. Discrimination prohibited; unfair trade
 496 practices.--

497 (1) Nothing in sections 16 through 22 of this act
 498 prohibits or regulates the payment of dividends, savings, or
 499 unabsorbed premium deposits allowed or returned by insurers to
 500 their policyholders, members, or subscribers, but in the payment
 501 of such dividends there may not be unfair discrimination between
 502 policyholders.

503 (2) A plan for the payment of dividends, savings, or
 504 unabsorbed premium deposits allowed or returned by insurers to
 505 their policyholders, members, or subscribers is not a rating
 506 plan or system.



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507 (3) It is an unfair trade practice under the Florida
508 Deceptive and Unfair Trade Practices Act to make the payment of
509 a dividend or any portion thereof conditioned upon renewal of
510 the policy or contract.

511 Section 18. Insurer and advisory organization not to make
512 agreement restraining trade; insurer must use uniform experience
513 rating plan; exceptions.--

514 (1) An insurer or advisory organization may not make any
515 arrangement with any other insurer, advisory organization, or
516 other person which has the purpose or effect of restraining
517 trade unreasonably or of substantially lessening competition in
518 the business of insurance.

519 (2) An insurer may not agree with any other insurer or
520 with the advisory organization to adhere to or use any rate,
521 rating plan, other than the uniform experience rating plan, or
522 rating rule except as otherwise expressly provided by law.

523 (3) The fact that two or more insurers, whether or not
524 members or subscribers of the advisory organization, use
525 consistently or intermittently the same rates, rating plans,
526 rating schedules, rating rules, policy forms, rate
527 classifications, underwriting rules, surveys or inspections, or
528 similar materials is not sufficient in itself to support a
529 finding that an agreement exists.

530 (4) Two or more insurers that have a common ownership or
531 operate in this state under common management or control may act
532 in concert between or among themselves with respect to any
533 matters pertaining to those activities authorized in sections 16
534 through 22 of this act as if they constituted a single insurer.



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535 Section 19. Director may conduct examinations; insurer and
536 advisory organizations to maintain records; cost of examination;
537 out-of-state examination may be accepted.--

538 (1) The director may examine any insurer and the advisory
539 organization as deemed necessary to ascertain compliance with
540 sections 16 through 22 of this act.

541 (2) Each insurer and the advisory organization shall
542 maintain reasonable records of the type and kind reasonably
543 adapted to its method of operation containing its experiences or
544 the experience of its members, including the data, statistics,
545 or information collected or used by it in its activities. These
546 records shall be available at all reasonable times to enable the
547 director to determine whether the activities of the advisory
548 organization, insurer, or association comply with the provisions
549 of sections 16 through 22 of this act. Such records shall be
550 maintained in an office within this state or shall be made
551 available to the director for examination or inspection at any
552 time upon reasonable notice.

553 (3) The reasonable cost of an examination made pursuant to
554 this section shall be paid by the examined party upon
555 presentation of a detailed account of such costs.

556 (4) In lieu of any such examination, the director may
557 accept the report of an examination by the insurance supervisory
558 official of another state which is made pursuant to the laws of
559 such state.

560 Section 20. Penalties for violations; each day a separate
561 violation; license may be suspended or revoked.--

562 (1) The director may, upon a finding that any person or
563 organization has violated any provision of sections 16 through
564 22 of this act, impose a penalty of not more than \$1,000 for



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565 each such violation, but if the director finds such violation to
566 be willful, a penalty of not more than \$10,000 for each such
567 violation may be imposed. Such penalties may be in addition to
568 any other penalty provided by law.

569 (2) For purposes of this section, any insurer using a rate
570 for which the insurer has failed to file the rate, supplementary
571 rate information, or supporting information, as required by
572 sections 16 through 22 of this act, commits a separate violation
573 for each day such failure continues.

574 (3) The director may suspend or revoke the license of any
575 advisory organization or insurer that fails to comply with an
576 order of the director within the time limit specified by such
577 order, or any extension thereof which the director may grant.

578 (4) The director may determine when a suspension of
579 license shall become effective and such suspension shall remain
580 in effect for the period fixed by the director unless the
581 director modifies or rescinds such suspension or until the order
582 upon which such suspension is based is modified, rescinded, or
583 reversed.

584 (5) A penalty may not be imposed and a license may not be
585 suspended or revoked except upon a written order of the director
586 stating the findings made after hearing.

587 Section 21. Competitive market presumed to exist;
588 reasonable degree of competition.--

589 (1) A competitive market is presumed to exist unless the
590 director, after hearing, determines that a reasonable degree of
591 competition does not exist in the market and the director issues
592 an order to that effect. Such an order shall expire no later
593 than 1 year after issue. In determining whether a reasonable
594 degree of competition exists, the director may consider relevant



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595 tests of workable competition pertaining to market structure,
596 market performance, and market conduct. For the purposes of this
597 section, the term "market" means the statewide workers'
598 compensation and employer's liability lines of business.

599 (2) In determining whether a reasonable degree of
600 competition exists, the following factors shall be considered:

601 (a) Generally accepted and relevant tests of competition
602 pertaining to market structure, market performance, and market
603 conduct;

604 (b) Market concentration as measured by the Herfindahl-
605 Herschman Index;

606 (c) The number of insurers transacting workers'
607 compensation insurance in the market;

608 (d) Insurer market shares and changes in market shares;

609 (e) Ease of entry into the market;

610 (f) Whether long-term profitability for insurers in the
611 market is unreasonably high in relation to the risks being
612 insured; and

613 (g) Whether long-term profitability for insurers in the
614 market is reasonable in relation to industries of comparable
615 business risk.

616 Section 22. Director to monitor degree of competition;
617 purpose.--In determining whether or not a competitive market
618 exists pursuant to section 21 of this act, the director shall
619 monitor the degree of competition in this state. In doing so,
620 the director shall use existing relevant information, analytical
621 systems, and other sources; cause or participate in the
622 development of new relevant information, analytical systems, and
623 other sources; or rely on some combination thereof. Such
624 activities may be conducted internally within the Department of



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625 Financial Services, in cooperation with other state insurance
 626 agencies, through outside contractors, or in any other
 627 appropriate manner.

628 Section 23. Subsections (8), (15), and (16), paragraph (c)
 629 of subsection (17), and subsections (38), (41), and (42) of
 630 section 440.02, Florida Statutes, are amended, and a new
 631 subsection (41) is added to said section, to read:

632 440.02 Definitions.--When used in this chapter, unless the
 633 context clearly requires otherwise, the following terms shall
 634 have the following meanings:

635 (8) "Construction industry" means any business that
 636 carries out for-profit activities involving ~~the carrying out of~~
 637 any building, clearing, filling, excavation, or substantial
 638 improvement in the size or use of any structure or the
 639 appearance of any land. ~~When appropriate to the context,~~
 640 ~~"construction" refers to the act of construction or the result~~
 641 ~~of construction.~~ However, "construction" does ~~shall~~ not mean a
 642 homeowner's ~~landowner's~~ act of construction or the result of a
 643 construction upon his or her own premises, provided such
 644 premises are not intended to be sold, ~~or~~ resold, or leased by
 645 the owner within 1 year after the commencement of the
 646 construction. The division may, by rule, establish those
 647 standard industrial classification codes and their definitions
 648 which meet the criteria of the term "construction industry" as
 649 set forth in this section.

650 (15)(a) "Employee" means any person who receives
 651 remuneration from an employer for the performance of any work or
 652 service, whether by ~~engaged in any employment under any~~
 653 appointment or contract for ~~of~~ hire or apprenticeship, express
 654 or implied, oral or written, whether lawfully or unlawfully



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655 employed, and includes, but is not limited to, aliens and
 656 minors.

657 (b) "Employee" includes any person who is an officer of a
 658 corporation and who performs services for remuneration for such
 659 corporation within this state, whether or not such services are
 660 continuous.

661 1. Any officer of a corporation may elect to be exempt
 662 from this chapter by filing written notice of the election with
 663 the department as provided in s. 440.05.

664 2. As to officers of a corporation who are ~~actively~~
 665 engaged in the construction industry, no more than three
 666 officers of a corporation or of any group of affiliated
 667 corporations may elect to be exempt from this chapter by filing
 668 written notice of the election with the department as provided
 669 in s. 440.05. Officers must be shareholders, each owning at
 670 least 10 percent of the stock of such corporation, in order to
 671 elect exemptions under this chapter. ~~However, any exemption~~
 672 ~~obtained by a corporate officer of a corporation actively~~
 673 ~~engaged in the construction industry is not applicable with~~
 674 ~~respect to any commercial building project estimated to be~~
 675 ~~valued at \$250,000 or greater.~~

676 3. An officer of a corporation who elects to be exempt
 677 from this chapter by filing a written notice of the election
 678 with the department as provided in s. 440.05 is not an employee.

679
 680 Services are presumed to have been rendered to the corporation
 681 if the officer is compensated by other than dividends upon
 682 shares of stock of the corporation which the officer owns.

683 (c)~~1~~. "Employee" includes:



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684 1. A sole proprietor or a partner who devotes full time to
685 the proprietorship or partnership and, ~~except as provided in~~
686 ~~this paragraph,~~ elects to be included in the definition of
687 employee by filing notice thereof as provided in s. 440.05.

688 2. Any person who is being paid by a construction
689 contractor, except as otherwise permitted by this chapter, for
690 work performed by or as a subcontractor or employee of a
691 subcontractor.

692 3. An independent contractor working or performing
693 services in the construction industry. ~~Partners or sole~~
694 ~~proprietors actively engaged in the construction industry are~~
695 ~~considered employees unless they elect to be excluded from the~~
696 ~~definition of employee by filing written notice of the election~~
697 ~~with the department as provided in s. 440.05. However, no more~~
698 ~~than three partners in a partnership that is actively engaged in~~
699 ~~the construction industry may elect to be excluded.~~

700 4. A sole proprietor ~~or partner~~ who is actively engaged in
701 the construction industry and a partner or partnership that is
702 engaged in the construction industry. ~~who elects to be exempt~~
703 ~~from this chapter by filing a written notice of the election~~
704 ~~with the department as provided in s. 440.05 is not an employee.~~
705 ~~For purposes of this chapter, an independent contractor is an~~
706 ~~employee unless he or she meets all of the conditions set forth~~
707 ~~in subparagraph (d)1.~~

708 ~~2. Notwithstanding the provisions of subparagraph 1., the~~
709 ~~term "employee" includes a sole proprietor or partner actively~~
710 ~~engaged in the construction industry with respect to any~~
711 ~~commercial building project estimated to be valued at \$250,000~~
712 ~~or greater. Any exemption obtained is not applicable, with~~
713 ~~respect to work performed at such a commercial building project.~~



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714 (d) "Employee" does not include:

715 1. An independent contractor that is not engaged in the
716 construction industry., ~~if:~~

717 a. ~~The independent contractor maintains a separate~~
718 ~~business with his or her own work facility, truck, equipment,~~
719 ~~materials, or similar accommodations;~~

720 b. ~~The independent contractor holds or has applied for a~~
721 ~~federal employer identification number, unless the independent~~
722 ~~contractor is a sole proprietor who is not required to obtain a~~
723 ~~federal employer identification number under state or federal~~
724 ~~requirements;~~

725 e. ~~The independent contractor performs or agrees to~~
726 ~~perform specific services or work for specific amounts of money~~
727 ~~and controls the means of performing the services or work;~~

728 d. ~~The independent contractor incurs the principal~~
729 ~~expenses related to the service or work that he or she performs~~
730 ~~or agrees to perform;~~

731 e. ~~The independent contractor is responsible for the~~
732 ~~satisfactory completion of work or services that he or she~~
733 ~~performs or agrees to perform and is or could be held liable for~~
734 ~~a failure to complete the work or services;~~

735 f. ~~The independent contractor receives compensation for~~
736 ~~work or services performed for a commission or on a per-job or~~
737 ~~competitive-bid basis and not on any other basis;~~

738 g. ~~The independent contractor may realize a profit or~~
739 ~~suffer a loss in connection with performing work or services;~~

740 h. ~~The independent contractor has continuing or recurring~~
741 ~~business liabilities or obligations; and~~



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742 ~~i. The success or failure of the independent contractor's~~
743 ~~business depends on the relationship of business receipts to~~
744 ~~expenditures.~~

745
746 ~~However, the determination as to whether an individual included~~
747 ~~in the Standard Industrial Classification Manual of 1987,~~
748 ~~Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782,~~
749 ~~0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449,~~
750 ~~or a newspaper delivery person, is an independent contractor is~~
751 ~~governed not by the criteria in this paragraph but by common-law~~
752 ~~principles, giving due consideration to the business activity of~~
753 ~~the individual. Notwithstanding the provisions of this paragraph~~
754 ~~or any other provision of this chapter, with respect to any~~
755 ~~commercial building project estimated to be valued at \$250,000~~
756 ~~or greater, a person who is actively engaged in the construction~~
757 ~~industry is not an independent contractor and is either an~~
758 ~~employer or an employee who may not be exempt from the coverage~~
759 ~~requirements of this chapter.~~

760 2. A real estate salesperson or agent, if that person
761 agrees, in writing, to perform for remuneration solely by way of
762 commission.

763 3. Bands, orchestras, and musical and theatrical
764 performers, including disk jockeys, performing in licensed
765 premises as defined in chapter 562, if a written contract
766 evidencing an independent contractor relationship is entered
767 into before the commencement of such entertainment.

768 4. An owner-operator of a motor vehicle who transports
769 property under a written contract with a motor carrier which
770 evidences a relationship by which the owner-operator assumes the
771 responsibility of an employer for the performance of the



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772 contract, if the owner-operator is required to furnish the
773 necessary motor vehicle equipment and all costs incidental to
774 the performance of the contract, including, but not limited to,
775 fuel, taxes, licenses, repairs, and hired help; and the owner-
776 operator is paid a commission for transportation service and is
777 not paid by the hour or on some other time-measured basis.

778 5. A person whose employment is both casual and not in the
779 course of the trade, business, profession, or occupation of the
780 employer.

781 6. A volunteer, except a volunteer worker for the state or
782 a county, municipality, or other governmental entity. A person
783 who does not receive monetary remuneration for services is
784 presumed to be a volunteer unless there is substantial evidence
785 that a valuable consideration was intended by both employer and
786 employee. For purposes of this chapter, the term "volunteer"
787 includes, but is not limited to:

788 a. Persons who serve in private nonprofit agencies and who
789 receive no compensation other than expenses in an amount less
790 than or equivalent to the standard mileage and per diem expenses
791 provided to salaried employees in the same agency or, if such
792 agency does not have salaried employees who receive mileage and
793 per diem, then such volunteers who receive no compensation other
794 than expenses in an amount less than or equivalent to the
795 customary mileage and per diem paid to salaried workers in the
796 community as determined by the department; and

797 b. Volunteers participating in federal programs
798 established under Pub. L. No. 93-113.

799 7. Unless otherwise prohibited by this chapter, any
800 officer of a corporation who elects to be exempt from this
801 chapter.



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802 8. An ~~A sole proprietor or~~ officer of a corporation ~~who~~
803 ~~actively engages in the construction industry, and a partner in~~
804 ~~a partnership~~ that is actively engaged in the construction
805 industry, ~~who~~ elects to be exempt from the provisions of this
806 chapter, as otherwise permitted in this chapter. Such ~~sole~~
807 ~~proprietor, officer, or partner~~ is not an employee for any
808 reason until the notice of revocation of election filed pursuant
809 to s. 440.05 is effective.

810 9. An exercise rider who does not work for a single horse
811 farm or breeder, and who is compensated for riding on a case-by-
812 case basis, provided a written contract is entered into prior to
813 the commencement of such activity which evidences that an
814 employee/employer relationship does not exist.

815 10. A taxicab, limousine, or other passenger vehicle-for-
816 hire driver who operates said vehicles pursuant to a written
817 agreement with a company which provides any dispatch, marketing,
818 insurance, communications, or other services under which the
819 driver and any fees or charges paid by the driver to the company
820 for such services are not conditioned upon, or expressed as a
821 proportion of, fare revenues.

822 11. A person who performs services as a sports official
823 for an entity sponsoring an interscholastic sports event or for
824 a public entity or private, nonprofit organization that sponsors
825 an amateur sports event. For purposes of this subparagraph, such
826 a person is an independent contractor. For purposes of this
827 subparagraph, the term "sports official" means any person who is
828 a neutral participant in a sports event, including, but not
829 limited to, umpires, referees, judges, linespersons,
830 scorekeepers, or timekeepers. This subparagraph does not apply
831 to any person employed by a district school board who serves as



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832 a sports official as required by the employing school board or
833 who serves as a sports official as part of his or her
834 responsibilities during normal school hours.

835 (16) (a) "Employer" means the state and all political
836 subdivisions thereof, all public and quasi-public corporations
837 therein, every person carrying on any employment, and the legal
838 representative of a deceased person or the receiver or trustees
839 of any person. If the employer is a corporation, parties in
840 actual control of the corporation, including, but not limited
841 to, the president, officers who exercise broad corporate powers,
842 directors, and all shareholders who directly or indirectly own a
843 controlling interest in the corporation, are considered the
844 employer for the purposes of ss. 440.105 and 440.106.

845 (b) However, a landowner shall not be considered the
846 employer of a person hired by the landowner to carry out
847 construction on the landowner's own premises if those premises
848 are not intended for immediate sale or resale.

849 (17)

850 (c) "Employment" does not include service performed by or
851 as:

- 852 1. Domestic servants in private homes.
- 853 2. Agricultural labor performed on a farm in the employ of
854 a bona fide farmer, or association of farmers, that employs 5 or
855 fewer regular employees and that employs fewer than 12 other
856 employees at one time for seasonal agricultural labor that is
857 completed in less than 30 days, provided such seasonal
858 employment does not exceed 45 days in the same calendar year.
859 The term "farm" includes stock, dairy, poultry, fruit, fur-
860 bearing animals, fish, and truck farms, ranches, nurseries, and
861 orchards. The term "agricultural labor" includes field foremen,



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862 timekeepers, checkers, and other farm labor supervisory
863 personnel.

864 3. Professional athletes, such as professional boxers,
865 wrestlers, baseball, football, basketball, hockey, polo, tennis,
866 jai alai, and similar players, and motorsports teams competing
867 in a motor racing event as defined in s. 549.08.

868 4. Persons performing labor under a sentence of a court to
869 perform community services as provided in s. 316.193.

870 5. State prisoners or county inmates, except those
871 performing services for private employers or those enumerated in
872 s. 948.03(8)(a).

873 (38) "Catastrophic injury" means a permanent impairment
874 constituted by:

875 (a) Spinal cord injury involving severe paralysis of an
876 arm, a leg, or the trunk;

877 (b) Amputation of an arm, a hand, a foot, or a leg
878 involving the effective loss of use of that appendage;

879 (c) Severe brain or closed-head injury as evidenced by:

880 1. Severe sensory or motor disturbances;

881 2. Severe communication disturbances;

882 3. Severe complex integrated disturbances of cerebral
883 function;

884 4. Severe episodic neurological disorders; or

885 5. Other severe brain and closed-head injury conditions at
886 least as severe in nature as any condition provided in
887 subparagraphs 1.-4.;

888 (d) Second-degree or third-degree burns of 25 percent or
889 more of the total body surface or third-degree burns of 5
890 percent or more to the face and hands; or

891 (e) Total or industrial blindness. ~~;~~ ~~or~~



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892 ~~(f) Any other injury that would otherwise qualify under~~
893 ~~this chapter of a nature and severity that would qualify an~~
894 ~~employee to receive disability income benefits under Title II or~~
895 ~~supplemental security income benefits under Title XVI of the~~
896 ~~federal Social Security Act as the Social Security Act existed~~
897 ~~on July 1, 1992, without regard to any time limitations provided~~
898 ~~under that act.~~

899 (41) "Specificity" means information on the petition for
900 benefits sufficient to put the employer or carrier on notice of
901 the exact statutory classification and outstanding time period
902 of benefits being requested and includes a detailed explanation
903 of any benefits received that should be increased, decreased,
904 changed, or otherwise modified. If the petition is for medical
905 benefits, the information shall include specific details as to
906 why such benefits are being requested, why such benefits are
907 medically necessary, and why current treatment, if any, is not
908 sufficient.

909 ~~(41) "Commercial building" means any building or structure~~
910 ~~intended for commercial or industrial use, or any building or~~
911 ~~structure intended for multifamily use of more than four~~
912 ~~dwelling units, as well as any accessory use structures~~
913 ~~constructed in conjunction with the principal structure. The~~
914 ~~term, "commercial building," does not include the conversion of~~
915 ~~any existing residential building to a commercial building.~~

916 ~~(42) "Residential building" means any building or~~
917 ~~structure intended for residential use containing four or fewer~~
918 ~~dwelling units and any structures intended as an accessory use~~
919 ~~to the residential structure.~~

920 Section 24. Subsections (3), (6), (10), and (13) of
921 section 440.05, Florida Statutes, are amended to read:



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922 440.05 Election of exemption; revocation of election;
 923 notice; certification.--

924 (3) Each ~~sole proprietor, partner, or~~ officer of a
 925 corporation who is ~~actively~~ engaged in the construction industry
 926 and who elects an exemption from this chapter or who, after
 927 electing such exemption, revokes that exemption, must mail a
 928 written notice to such effect to the department on a form
 929 prescribed by the department. The notice of election to be
 930 exempt from the provisions of this chapter must be notarized and
 931 under oath. The notice of election to be exempt which is
 932 submitted to the department by the ~~sole proprietor, partner, or~~
 933 officer of a corporation who is allowed to claim an exemption as
 934 provided by this chapter must list the name, federal tax
 935 identification number, social security number, all certified or
 936 registered licenses issued pursuant to chapter 489 held by the
 937 person seeking the exemption, a copy of relevant documentation
 938 as to employment status filed with the Internal Revenue Service
 939 as specified by the department, a copy of the relevant
 940 occupational license in the primary jurisdiction of the
 941 business, and, ~~for corporate officers and partners,~~ the
 942 registration number of the corporation ~~or partnership~~ filed with
 943 the Division of Corporations of the Department of State along
 944 with a copy of the stock certificate evidencing the required
 945 ownership under this chapter. The notice of election to be
 946 exempt must identify each ~~sole proprietorship, partnership, or~~
 947 corporation that employs the person electing the exemption and
 948 must list the social security number or federal tax
 949 identification number of each such employer and the additional
 950 documentation required by this section. In addition, the notice
 951 of election to be exempt must provide that the ~~sole proprietor,~~



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952 ~~partner, or~~ officer electing an exemption is not entitled to
953 benefits under this chapter, must provide that the election does
954 not exceed exemption limits for officers ~~and partnerships~~
955 provided in s. 440.02, and must certify that any employees of
956 the corporation whose sole proprietor, partner, or officer
957 elects ~~electing~~ an exemption are covered by workers'
958 compensation insurance. Upon receipt of the notice of the
959 election to be exempt, receipt of all application fees, and a
960 determination by the department that the notice meets the
961 requirements of this subsection, the department shall issue a
962 certification of the election to the ~~sole proprietor, partner,~~
963 ~~or~~ officer, unless the department determines that the
964 information contained in the notice is invalid. The department
965 shall revoke a certificate of election to be exempt from
966 coverage upon a determination by the department that the person
967 does not meet the requirements for exemption or that the
968 information contained in the notice of election to be exempt is
969 invalid. The certificate of election must list the name ~~names~~ of
970 the ~~sole proprietorship, partnership, or~~ corporation listed in
971 the request for exemption. A new certificate of election must be
972 obtained each time the person is employed by a new ~~sole~~
973 ~~proprietorship, partnership,~~ or different corporation that is
974 not listed on the certificate of election. A copy of the
975 certificate of election must be sent to each workers'
976 compensation carrier identified in the request for exemption.
977 Upon filing a notice of revocation of election, an ~~a~~ ~~sole~~
978 ~~proprietor, partner, or~~ officer who is a subcontractor or an
979 officer of a corporate subcontractor must notify her or his
980 contractor. Upon revocation of a certificate of election of
981 exemption by the department, the department shall notify the



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982 workers' compensation carriers identified in the request for
983 exemption.

984 (6) A construction industry certificate of election to be
985 exempt which is issued in accordance with this section shall be
986 valid for 2 years after the effective date stated thereon. Both
987 the effective date and the expiration date must be listed on the
988 face of the certificate by the department. The construction
989 industry certificate must expire at midnight, 2 years from its
990 issue date, as noted on the face of the exemption certificate.
991 Any person who has received from the division a construction
992 industry certificate of election to be exempt which is in effect
993 on December 31, 1998, shall file a new notice of election to be
994 exempt by the last day in his or her birth month following
995 December 1, 1998. A construction industry certificate of
996 election to be exempt may be revoked before its expiration by
997 the ~~sole proprietor, partner, or~~ officer for whom it was issued
998 or by the department for the reasons stated in this section. At
999 least 60 days prior to the expiration date of a construction
1000 industry certificate of exemption issued after December 1, 1998,
1001 the department shall send notice of the expiration date and an
1002 application for renewal to the certificateholder at the address
1003 on the certificate.

1004 (10) Each ~~sole proprietor, partner, or~~ officer of a
1005 corporation who is actively engaged in the construction industry
1006 and who elects an exemption from this chapter shall maintain
1007 business records as specified by the division by rule, which
1008 rules must include the provision that any corporation with
1009 exempt officers ~~and any partnership actively~~ engaged in the
1010 construction industry ~~with exempt partners~~ must maintain written



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1011 statements of those exempted persons affirmatively acknowledging
 1012 each such individual' s exempt status.

1013 (13) Any corporate officer permitted by this chapter to
 1014 claim ~~claiming~~ an exemption ~~under this section~~ must be listed on
 1015 the records of this state's Secretary of State, Division of
 1016 Corporations, as a corporate officer. ~~If the person who claims~~
 1017 ~~an exemption as a corporate officer is not so listed on the~~
 1018 ~~records of the Secretary of State, the individual must provide~~
 1019 ~~to the division, upon request by the division, a notarized~~
 1020 ~~affidavit stating that the individual is a bona fide officer of~~
 1021 ~~the corporation and stating the date his or her appointment or~~
 1022 ~~election as a corporate officer became or will become effective.~~
 1023 ~~The statement must be signed under oath by both the officer and~~
 1024 ~~the president or chief operating officer of the corporation and~~
 1025 ~~must be notarized.~~ The division shall issue a stop-work order
 1026 under s. 440.107(1) to any corporation who employs a person who
 1027 claims to be exempt as a corporate officer but who fails or
 1028 refuses to produce the documents required under this subsection
 1029 to the division within 3 business days after the request is
 1030 made.

1031 Section 25. Section 440.06, Florida Statutes, is amended
 1032 to read:

1033 440.06 Failure to secure compensation; effect.--Every
 1034 employer who fails to secure the payment of compensation, as
 1035 provided in s. 440.10, by failing to meet the requirements of
 1036 ~~under this chapter as provided in s. 440.38~~ may not, in any suit
 1037 brought against him or her by an employee subject to this
 1038 chapter to recover damages for injury or death, defend such a
 1039 suit on the grounds that the injury was caused by the negligence
 1040 of a fellow servant, that the employee assumed the risk of his



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1041 or her employment, or that the injury was due to the comparative
 1042 negligence of the employee.

1043 Section 26. Section 440.077, Florida Statutes, is amended
 1044 to read:

1045 440.077 When a corporate ~~sole proprietor, partner, or~~
 1046 officer rejects chapter, effect.--An A sole proprietor, partner,
 1047 ~~or~~ officer of a corporation who is permitted to elect an
 1048 exemption under this chapter ~~actively engaged in the~~
 1049 ~~construction industry~~ and who elects to be exempt from the
 1050 provisions of this chapter may not recover benefits under this
 1051 chapter.

1052 Section 27. Subsection (5) of section 440.09, Florida
 1053 Statutes, is amended to read:

1054 440.09 Coverage.--

1055 (5) If injury is caused by the knowing refusal of the
 1056 employee to use a safety appliance or observe a safety rule
 1057 required by statute or lawfully adopted by the division, and
 1058 brought prior to the accident to the employee's knowledge, or if
 1059 injury is caused by the knowing refusal of the employee to use a
 1060 safety appliance provided by the employer, the compensation as
 1061 provided in this chapter shall be reduced 25 percent. If injury
 1062 occurs while the employer has knowingly refused or failed to
 1063 provide a safety appliance or observe a safety rule required by
 1064 statute or lawfully adopted by the department, the compensation
 1065 provided in this chapter shall be increased 25 percent.

1066 Section 28. Subsection (4) of section 440.11, Florida
 1067 Statutes, is amended, and subsection (5) is added to said
 1068 section, to read:

1069 440.11 Exclusiveness of liability.--



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1070 (4) Notwithstanding the provisions of s. 624.155, the
1071 liability of a carrier to an employee or to anyone entitled to
1072 bring suit in the name of the employee shall be as provided in
1073 this chapter, which shall be exclusive and in place of all other
1074 liability, except as provided in s. 624.155.

1075 (5) The limits placed on the employer's liability under
1076 this section do not apply if the employer fails to have secured
1077 coverage mandated under this chapter at the time of a work-
1078 related accident.

1079 Section 29. Paragraph (a) of subsection (2), subsection
1080 (7), and paragraph (a) of subsection (12) of section 440.13,
1081 Florida Statutes, are amended to read:

1082 440.13 Medical services and supplies; penalty for
1083 violations; limitations.--

1084 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.--

1085 (a) Subject to the limitations specified elsewhere in this
1086 chapter, the employer shall furnish to the employee such
1087 medically necessary remedial treatment, care, and attendance for
1088 such period as the nature of the injury or the process of
1089 recovery may require, including medicines, medical supplies,
1090 durable medical equipment, orthoses, prostheses, and other
1091 medically necessary apparatus. Remedial treatment, care, and
1092 attendance, including work-hardening programs or pain-management
1093 programs accredited by the Commission on Accreditation of
1094 Rehabilitation Facilities or Joint Commission on the
1095 Accreditation of Health Organizations or pain-management
1096 programs affiliated with medical schools, shall be considered as
1097 covered treatment only when such care is given based on a
1098 referral by a physician as defined in this chapter. Each
1099 facility shall maintain outcome data, including work status at



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1100 discharges, total program charges, total number of visits, and
 1101 length of stay. The department shall utilize such data and
 1102 report to the President of the Senate and the Speaker of the
 1103 House of Representatives regarding the efficacy and cost-
 1104 effectiveness of such program, no later than October 1, 1994.
 1105 Medically necessary treatment, care, and attendance does not
 1106 include chiropractic services in excess of 36 ~~48~~ treatments or
 1107 rendered 16 ~~8~~ weeks beyond the date of the initial chiropractic
 1108 treatment, whichever comes first, unless the carrier authorizes
 1109 additional treatment or the employee is catastrophically
 1110 injured.

1111 (7) UTILIZATION AND REIMBURSEMENT DISPUTES.--

1112 (a) Any health care provider, carrier, or employer who
 1113 elects to contest the disallowance or adjustment of payment by a
 1114 carrier under subsection (6) may file a ~~must, within 30 days~~
 1115 ~~after receipt of notice of disallowance or adjustment of~~
 1116 ~~payment, petition under s. 440.192 and proceed in the same~~
 1117 manner as a claimant, including the application of s. 440.34 ~~the~~
 1118 ~~agency to resolve the dispute. The petitioner must serve a copy~~
 1119 ~~of the petition on the carrier and on all affected parties by~~
 1120 ~~certified mail. The petition must be accompanied by all~~
 1121 ~~documents and records that support the allegations contained in~~
 1122 ~~the petition. Failure of a petitioner to submit such~~
 1123 ~~documentation to the agency results in dismissal of the~~
 1124 ~~petition.~~

1125 ~~(b) The carrier must submit to the agency within 10 days~~
 1126 ~~after receipt of the petition all documentation substantiating~~
 1127 ~~the carrier's disallowance or adjustment. Failure of the carrier~~
 1128 ~~to submit the requested documentation to the agency within 10~~
 1129 ~~days constitutes a waiver of all objections to the petition.~~



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1130 ~~(c) Within 60 days after receipt of all documentation, the~~
1131 ~~agency must provide to the petitioner, the carrier, and the~~
1132 ~~affected parties a written determination of whether the carrier~~
1133 ~~properly adjusted or disallowed payment. The agency must be~~
1134 ~~guided by standards and policies set forth in this chapter,~~
1135 ~~including all applicable reimbursement schedules, in rendering~~
1136 ~~its determination.~~

1137 ~~(d) If the agency finds an improper disallowance or~~
1138 ~~improper adjustment of payment by an insurer, the insurer shall~~
1139 ~~reimburse the health care provider, facility, insurer, or~~
1140 ~~employer within 30 days, subject to the penalties provided in~~
1141 ~~this subsection.~~

1142 ~~(e) The agency shall adopt rules to carry out this~~
1143 ~~subsection. The rules may include provisions for consolidating~~
1144 ~~petitions filed by a petitioner and expanding the timetable for~~
1145 ~~rendering a determination upon a consolidated petition.~~

1146 (b)(f) Any carrier that engages in a pattern or practice
1147 of arbitrarily or unreasonably disallowing or reducing payments
1148 to health care providers may be subject to one or more of the
1149 following penalties imposed by the agency:

1150 1. Repayment of the appropriate amount to the health care
1151 provider.

1152 2. An administrative fine assessed by the agency in an
1153 amount not to exceed \$5,000 per instance of improperly
1154 disallowing or reducing payments.

1155 3. Award of the health care provider's costs, including a
1156 reasonable attorney's fee, for prosecuting the petition.

1157 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
1158 REIMBURSEMENT ALLOWANCES. --



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1159 (a) A three-member panel is created, consisting of the
1160 Insurance Commissioner, or the Insurance Commissioner's
1161 designee, and two members to be appointed by the Governor,
1162 subject to confirmation by the Senate, one member who, on
1163 account of present or previous vocation, employment, or
1164 affiliation, shall be classified as a representative of
1165 employers, the other member who, on account of previous
1166 vocation, employment, or affiliation, shall be classified as a
1167 representative of employees. The panel shall determine statewide
1168 schedules of maximum reimbursement allowances for medically
1169 necessary treatment, care, and attendance provided by
1170 physicians, hospitals, ambulatory surgical centers, work-
1171 hardening programs, pain programs, and durable medical
1172 equipment. The maximum reimbursement allowances for inpatient
1173 hospital care shall be based on a schedule of per diem rates, to
1174 be approved by the three-member panel no later than March 1,
1175 1994, to be used in conjunction with a precertification manual
1176 as determined by the agency. All compensable charges for
1177 hospital outpatient care shall be reimbursed at 75 percent of
1178 usual and customary charges. Until the three-member panel
1179 approves a schedule of per diem rates for inpatient hospital
1180 care and it becomes effective, all compensable charges for
1181 hospital inpatient care must be reimbursed at 75 percent of
1182 their usual and customary charges. Annually, the three-member
1183 panel shall adopt schedules of maximum reimbursement allowances
1184 for physicians, hospital inpatient care, hospital outpatient
1185 care, ambulatory surgical centers, work-hardening programs, and
1186 pain programs. However, the maximum percentage of increase in
1187 the individual reimbursement allowance may not exceed the
1188 percentage of increase in the Consumer Price Index for the



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1189 previous year. The maximum reimbursement allowance may not be
1190 less than 150 percent of the amount of reimbursement provided by
1191 Medicare for nonsurgical medical care and procedures, and may
1192 not be less than 200 percent of the amount of reimbursement
1193 provided by Medicare for surgical procedures. An individual
1194 physician, hospital, ambulatory surgical center, pain program,
1195 or work-hardening program shall be reimbursed either the usual
1196 and customary charge for treatment, care, and attendance, the
1197 agreed-upon contract price, or the maximum reimbursement
1198 allowance in the appropriate schedule, whichever is less.

1199 Section 30. Paragraph (a) of subsection (2), paragraphs
1200 (a) and (b) of subsection (3), and paragraph (b) of subsection
1201 (4) of section 440.15, Florida Statutes, are amended to read:

1202 440.15 Compensation for disability.--Compensation for
1203 disability shall be paid to the employee, subject to the limits
1204 provided in s. 440.12(2), as follows:

1205 (2) TEMPORARY TOTAL DISABILITY.--

1206 (a) In case of disability total in character but temporary
1207 in quality, $66 \frac{2}{3}$ percent of the average weekly wages shall be
1208 paid to the employee during the continuance thereof, not to
1209 exceed 104 weeks except as provided in this subsection, s.
1210 440.12(1), and s. 440.14(3). This time limitation for temporary
1211 benefits shall be presumed sufficient unless there is clear and
1212 convincing evidence to the contrary as determined by the judge
1213 of compensation claims. Temporary benefits may not exceed 260
1214 weeks. Once the employee reaches the maximum number of weeks
1215 allowed, or the employee reaches the date of maximum medical
1216 improvement, whichever occurs earlier, temporary disability
1217 benefits shall cease and the injured worker's permanent
1218 impairment shall be determined.



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1219 (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--

1220 (a) Impairment benefits.--

1221 1. Once the employee has reached the date of maximum
1222 medical improvement, impairment benefits are due and payable
1223 within 20 days after the carrier has knowledge of the
1224 impairment.

1225 2. The three-member panel, in cooperation with the
1226 department, shall establish and use a uniform permanent
1227 impairment rating schedule. This schedule must be based on
1228 medically or scientifically demonstrable findings as well as the
1229 systems and criteria set forth in the American Medical
1230 Association's Guides to the Evaluation of Permanent Impairment;
1231 the Snellen Charts, published by American Medical Association
1232 Committee for Eye Injuries; and the Minnesota Department of
1233 Labor and Industry Disability Schedules. The schedule should be
1234 based upon objective findings. The schedule shall be more
1235 comprehensive than the AMA Guides to the Evaluation of Permanent
1236 Impairment and shall expand the areas already addressed and
1237 address additional areas not currently contained in the guides.
1238 On August 1, 1979, and pending the adoption, by rule, of a
1239 permanent schedule, Guides to the Evaluation of Permanent
1240 Impairment, copyright 1977, 1971, 1988, by the American Medical
1241 Association, shall be the temporary schedule and shall be used
1242 for the purposes hereof. For injuries after July 1, 1990,
1243 pending the adoption by rule of a uniform disability rating
1244 agency schedule, the Minnesota Department of Labor and Industry
1245 Disability Schedule shall be used unless that schedule does not
1246 address an injury. In such case, the Guides to the Evaluation of
1247 Permanent Impairment by the American Medical Association shall
1248 be used. Determination of permanent impairment under this



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1249 schedule must be made by a physician licensed under chapter 458,
1250 a doctor of osteopathic medicine licensed under chapters 458 and
1251 459, a chiropractic physician licensed under chapter 460, a
1252 podiatric physician licensed under chapter 461, an optometrist
1253 licensed under chapter 463, or a dentist licensed under chapter
1254 466, as appropriate considering the nature of the injury. No
1255 other persons are authorized to render opinions regarding the
1256 existence of or the extent of permanent impairment.

1257 3. All impairment income benefits shall be based on an
1258 impairment rating using the impairment schedule referred to in
1259 subparagraph 2. Impairment income benefits are paid weekly at
1260 the rate of 66 2/3 ~~50~~ percent of the employee's average weekly
1261 wages ~~temporary total disability benefit~~ not to exceed the
1262 maximum weekly benefit under s. 440.12. An employee's
1263 entitlement to impairment income benefits begins the day after
1264 the employee reaches maximum medical improvement or the
1265 expiration of temporary benefits, whichever occurs earlier, and
1266 continues until the earlier of:

- 1267 a. The expiration of a period computed at the rate of 3
1268 weeks for each percentage point of impairment; or
1269 b. The death of the employee.

1270 4. After the employee has been certified by a doctor as
1271 having reached maximum medical improvement or 6 weeks before the
1272 expiration of temporary benefits, whichever occurs earlier, the
1273 certifying doctor shall evaluate the condition of the employee
1274 and assign an impairment rating, using the impairment schedule
1275 referred to in subparagraph 2. Compensation is not payable for
1276 the mental, psychological, or emotional injury arising out of
1277 depression from being out of work. If the certification and
1278 evaluation are performed by a doctor other than the employee's



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1279 treating doctor, the certification and evaluation must be
 1280 submitted to the treating doctor, and the treating doctor must
 1281 indicate agreement or disagreement with the certification and
 1282 evaluation. The certifying doctor shall issue a written report
 1283 to the department, the employee, and the carrier certifying that
 1284 maximum medical improvement has been reached, stating the
 1285 impairment rating, and providing any other information required
 1286 by the department by rule. If the employee has not been
 1287 certified as having reached maximum medical improvement before
 1288 the expiration of 102 weeks after the date temporary total
 1289 disability benefits begin to accrue, the carrier shall notify
 1290 the treating doctor of the requirements of this section.

1291 5. The carrier shall pay the employee impairment income
 1292 benefits for a period based on the impairment rating.

1293 6. The department may by rule specify forms and procedures
 1294 governing the method of payment of wage loss and impairment
 1295 benefits for dates of accidents before January 1, 1994, and for
 1296 dates of accidents on or after January 1, 1994.

1297 (b) Supplemental benefits.--

1298 1. All supplemental benefits must be paid in accordance
 1299 with this subsection. An employee is entitled to supplemental
 1300 benefits as provided in this paragraph as of the expiration of
 1301 the impairment period, if:

1302 a. The employee has an impairment rating from the
 1303 compensable injury of 10 ~~20~~ percent or more as determined
 1304 pursuant to this chapter;

1305 b. The employee has not returned to work or has returned
 1306 to work earning less than 80 percent of the employee's average
 1307 weekly wage as a direct result of the employee's impairment; and



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1308 c. The employee has in good faith attempted to obtain
1309 employment commensurate with the employee's ability to work.

1310 2. If an employee is not entitled to supplemental benefits
1311 at the time of payment of the final weekly impairment income
1312 benefit because the employee is earning at least 80 percent of
1313 the employee's average weekly wage, the employee may become
1314 entitled to supplemental benefits at any time within 1 year
1315 after the impairment income benefit period ends if:

1316 a. The employee earns wages that are less than 80 percent
1317 of the employee's average weekly wage for a period of at least
1318 90 days;

1319 b. The employee meets the other requirements of
1320 subparagraph 1.; and

1321 c. The employee's decrease in earnings is a direct result
1322 of the employee's impairment from the compensable injury.

1323 3. If an employee earns wages that are at least 80 percent
1324 of the employee's average weekly wage for a period of at least
1325 90 days during which the employee is receiving supplemental
1326 benefits, the employee ceases to be entitled to supplemental
1327 benefits for the filing period. Supplemental benefits that have
1328 been terminated shall be reinstated when the employee satisfies
1329 the conditions enumerated in subparagraph 2. and files the
1330 statement required under subparagraph 4. Notwithstanding any
1331 other provision, if an employee is not entitled to supplemental
1332 benefits for 12 consecutive months, the employee ceases to be
1333 entitled to any additional income benefits for the compensable
1334 injury. If the employee is discharged within 12 months after
1335 losing entitlement under this subsection, benefits may be
1336 reinstated if the employee was discharged at that time with the
1337 intent to deprive the employee of supplemental benefits.



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1338 4. After the initial determination of supplemental
1339 benefits, the employee must file a statement with the carrier
1340 stating that the employee has earned less than 80 percent of the
1341 employee's average weekly wage as a direct result of the
1342 employee's impairment, stating the amount of wages the employee
1343 earned in the filing period, and stating that the employee has
1344 in good faith sought employment commensurate with the employee's
1345 ability to work. The statement must be filed quarterly on a form
1346 and in the manner prescribed by the department. The department
1347 may modify the filing period as appropriate to an individual
1348 case. Failure to file a statement relieves the carrier of
1349 liability for supplemental benefits for the period during which
1350 a statement is not filed.

1351 5. The carrier shall begin payment of supplemental
1352 benefits not later than the seventh day after the expiration
1353 date of the impairment income benefit period and shall continue
1354 to timely pay those benefits. The carrier may request a
1355 mediation conference for the purpose of contesting the
1356 employee's entitlement to or the amount of supplemental income
1357 benefits.

1358 6. Supplemental benefits are calculated quarterly and paid
1359 monthly. For purposes of calculating supplemental benefits, 80
1360 percent of the employee's average weekly wage and the average
1361 wages the employee has earned per week are compared quarterly.
1362 For purposes of this paragraph, if the employee is offered a
1363 bona fide position of employment that the employee is capable of
1364 performing, given the physical condition of the employee and the
1365 geographic accessibility of the position, the employee's weekly
1366 wages are considered equivalent to the weekly wages for the
1367 position offered to the employee.



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1368 7. Supplemental benefits are payable at the rate of 80
 1369 percent of the difference between 80 percent of the employee's
 1370 average weekly wage determined pursuant to s. 440.14 and the
 1371 weekly wages the employee has earned during the reporting
 1372 period, not to exceed the maximum weekly income benefit under s.
 1373 440.12.

1374 8. The department may by rule define terms that are
 1375 necessary for the administration of this section and forms and
 1376 procedures governing the method of payment of supplemental
 1377 benefits for dates of accidents before January 1, 1994, and for
 1378 dates of accidents on or after January 1, 1994.

1379 (4) TEMPORARY PARTIAL DISABILITY.--

1380 (b) Such benefits shall be paid during the continuance of
 1381 such disability, not to exceed a period of 104 weeks, as
 1382 provided by this subsection and subsection (2). This time
 1383 limitation for temporary benefits shall be presumed sufficient
 1384 unless there is clear and convincing evidence to the contrary as
 1385 determined by the judge of compensation claims. Temporary
 1386 benefits may not exceed 260 weeks. Once the injured employee
 1387 reaches the maximum number of weeks, temporary disability
 1388 benefits cease and the injured worker's permanent impairment
 1389 must be determined. The department may by rule specify forms and
 1390 procedures governing the method of payment of temporary
 1391 disability benefits for dates of accidents before January 1,
 1392 1994, and for dates of accidents on or after January 1, 1994.

1393 Section 31. Subsection (1) of section 440.16, Florida
 1394 Statutes, is amended to read:

1395 440.16 Compensation for death.--



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1396 (1) If death results from the accident within 1 year
1397 thereafter or follows continuous disability and results from the
1398 accident within 5 years thereafter, the employer shall pay:

1399 (a) Within 14 days after receiving the bill, actual
1400 funeral expenses not to exceed \$10,000 ~~\$5,000~~.

1401 (b) Compensation, in addition to the above, in the
1402 following percentages of the average weekly wages to the
1403 following persons entitled thereto on account of dependency upon
1404 the deceased, and in the following order of preference, subject
1405 to the limitation provided in subparagraph 2., but such
1406 compensation shall be subject to the limits provided in s.
1407 440.12(2), shall not exceed \$250,000 ~~\$100,000~~, and may be less
1408 than, but shall not exceed, for all dependents or persons
1409 entitled to compensation, 66 2/3 percent of the average wage:

1410 1. To the spouse, if there is no child, 50 percent of the
1411 average weekly wage, such compensation to cease upon the
1412 spouse's death.

1413 2. To the spouse, if there is a child or children, the
1414 compensation payable under subparagraph 1. and, in addition, 16
1415 2/3 percent on account of the child or children. However, when
1416 the deceased is survived by a spouse and also a child or
1417 children, whether such child or children are the product of the
1418 union existing at the time of death or of a former marriage or
1419 marriages, the judge of compensation claims may provide for the
1420 payment of compensation in such manner as may appear to the
1421 judge of compensation claims just and proper and for the best
1422 interests of the respective parties and, in so doing, may
1423 provide for the entire compensation to be paid exclusively to
1424 the child or children; and, in the case of death of such spouse,
1425 33 1/3 percent for each child. However, upon the surviving



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1426 spouse's remarriage, the spouse shall be entitled to a lump-sum
1427 payment equal to 26 weeks of compensation at the rate of 50
1428 percent of the average weekly wage as provided in s. 440.12(2),
1429 unless the \$100,000 limit provided in this paragraph is
1430 exceeded, in which case the surviving spouse shall receive a
1431 lump-sum payment equal to the remaining available benefits in
1432 lieu of any further indemnity benefits. In no case shall a
1433 surviving spouse's acceptance of a lump-sum payment affect
1434 payment of death benefits to other dependents.

1435 3. To the child or children, if there is no spouse, 33 1/3
1436 percent for each child.

1437 4. To the parents, 25 percent to each, such compensation
1438 to be paid during the continuance of dependency.

1439 5. To the brothers, sisters, and grandchildren, 15 percent
1440 for each brother, sister, or grandchild.

1441 (c) To the surviving spouse, payment of postsecondary
1442 student fees for instruction at any area technical center
1443 established under s. 1001.44 for up to 1,800 classroom hours or
1444 payment of student fees at any community college established
1445 under part III of chapter 1004 for up to 80 semester hours. The
1446 spouse of a deceased state employee shall be entitled to a full
1447 waiver of such fees as provided in ss. 1009.22 and 1009.23 in
1448 lieu of the payment of such fees. The benefits provided for in
1449 this paragraph shall be in addition to other benefits provided
1450 for in this section and shall terminate 7 years after the death
1451 of the deceased employee, or when the total payment in eligible
1452 compensation under paragraph (b) has been received. To qualify
1453 for the educational benefit under this paragraph, the spouse
1454 shall be required to meet and maintain the regular admission
1455 requirements of, and be registered at, such area technical



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1456 center or community college, and make satisfactory academic
 1457 progress as defined by the educational institution in which the
 1458 student is enrolled.

1459 Section 32. Subsection (1) of section 440.185, Florida
 1460 Statutes, is amended to read:

1461 440.185 Notice of injury or death; reports; penalties for
 1462 violations.--

1463 (1) An employee who suffers an injury arising out of and
 1464 in the course of employment shall advise his or her employer of
 1465 the injury within 30 days after the date of or initial
 1466 manifestation of the injury. Failure to so advise the employer
 1467 shall bar a petition under this chapter unless:

1468 (a) The employer or the employer's agent had actual
 1469 knowledge of the injury;

1470 (b) The cause of the injury could not be identified
 1471 without a medical opinion and the employee advised the employer
 1472 within 30 days after obtaining a medical opinion indicating that
 1473 the injury arose out of and in the course of employment;

1474 (c) The employer did not put its employees on notice of
 1475 the requirements of this section by posting notice pursuant to
 1476 s. 440.055; or

1477 (d) The judge of compensation claims excuses such failure
 1478 on the ground that, for some satisfactory reason, such notice
 1479 could not be given. ~~Exceptional circumstances, outside the scope~~
 1480 ~~of paragraph (a) or paragraph (b) justify such failure.~~

1481
 1482 In the event of death arising out of and in the course of
 1483 employment, the requirements of this subsection shall be
 1484 satisfied by the employee's agent or estate. Documents prepared
 1485 by counsel in connection with litigation, including but not



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1486 limited to notices of appearance, petitions, motions, or
 1487 complaints, shall not constitute notice for purposes of this
 1488 section.

1489 Section 33. Subsection (2) of section 440.19, Florida
 1490 Statutes, is amended to read:

1491 440.19 Time bars to filing petitions for benefits.--

1492 (2) Payment of any indemnity benefit or the furnishing of
 1493 remedial treatment, care, or attendance pursuant to either a
 1494 notice of injury or a petition for benefits shall toll the
 1495 limitations period set forth above for 2 years following ~~1 year~~
 1496 ~~from~~ the date of such payment. ~~This tolling period does not~~
 1497 ~~apply to the issues of compensability, date of maximum medical~~
 1498 ~~improvement, or permanent impairment.~~

1499 Section 34. Subsections (2) and (3) of section 440.381,
 1500 Florida Statutes, are amended to read:

1501 440.381 Application for coverage; reporting payroll;
 1502 payroll audit procedures; penalties.--

1503 (2) The application must contain a statement that the
 1504 filing of an application containing false, misleading, or
 1505 incomplete information with the purpose of avoiding or reducing
 1506 the amount of premiums for workers' compensation coverage is a
 1507 felony of the third degree, punishable as provided in s.
 1508 775.082, s. 775.083, or s. 775.084. The application must contain
 1509 a sworn statement by the employer attesting to the accuracy of
 1510 the information submitted and acknowledging the provisions of
 1511 former s. 440.37(4). The application must contain written job
 1512 descriptions completed by the employer describing the job
 1513 responsibilities of all forms of employment for which the
 1514 employer seeks coverage as required by s. 440.38. The
 1515 application must contain a sworn statement by the agent



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1516 attesting that the agent explained to the employer or officer
1517 the classification codes that are used for premium calculations
1518 and for the accuracy of the classification codes used in
1519 accordance with the written job descriptions provided by the
1520 employer.

1521 (3) The department shall establish by rule minimum
1522 requirements for audits of payroll and classifications in order
1523 to ensure that the appropriate premium is charged for workers'
1524 compensation coverage. The rules shall ensure that audits
1525 performed by both carriers and employers are adequate to provide
1526 that all sources of payments to employees, subcontractors, and
1527 independent contractors have been reviewed and that the accuracy
1528 of classification of employees has been verified. The rules
1529 shall provide that employers in all classes other than the
1530 construction class be audited not less frequently than
1531 biennially and may provide for more frequent audits of employers
1532 in specified classifications based on factors such as amount of
1533 premium, type of business, loss ratios, or other relevant
1534 factors. In no event shall employers in the construction class,
1535 generating more than the amount of premium required to be
1536 experience rated, be audited less than annually. The annual
1537 audits required for construction classes shall consist of
1538 physical onsite audits. Payroll verification audit rules must
1539 include, but need not be limited to, the use of state and
1540 federal reports of employee income, payroll and other accounting
1541 records, certificates of insurance maintained by subcontractors,
1542 and duties of employees. At the completion of an audit, the
1543 employer or officer of the corporation and the auditor must
1544 print and sign their names on the audit document and attach
1545 proof of identification to the audit document. Each audit



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1546 document must contain a sworn statement to be signed by the
 1547 auditor which shall attest that the requirements for audits of
 1548 payroll and classifications as established by the rules adopted
 1549 by the Department of Financial Services have been strictly
 1550 complied with in the performance of the audit. An auditor who
 1551 fails to strictly comply with the rules adopted by the
 1552 department setting forth the minimum requirements for audits of
 1553 payroll and classifications commits a felony of the third
 1554 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1555 775.084.

1556 Section 35. Section 440.591, Florida Statutes, is amended
 1557 to read:

1558 440.591 Administrative procedure; rulemaking authority;
 1559 washouts.--

1560 (1) The ~~division~~ department, the agency, and the
 1561 Department of Education may adopt rules pursuant to ss.
 1562 120.536(1) and 120.54 to implement the provisions of this
 1563 chapter conferring duties upon it.

1564 (2) The division shall adopt rules to provide for a model
 1565 settlement agreement that may be used in any washout agreement
 1566 where the employee is represented by an attorney and that
 1567 includes:

1568 (a) The amount of the settlement;

1569 (b) The amount allocated to past and future medical care
 1570 which is potentially covered by Medicare;

1571 (c) The amount allocated to past and future medical care
 1572 which is not potentially covered by Medicare;

1573 (d) The amount of past indemnity benefits;

1574 (e) The amount of future indemnity benefits; and



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1575 (f) The amount of child support owed by the employee, if
 1576 any, which will be deducted from the washout proceeds.

1577 (3) The washout of any workers' compensation case may not
 1578 be made contingent on the execution of a release of other
 1579 existing or potential employment rights.

1580 (4) Settlement agreements under this section shall be
 1581 reviewed by the judge of compensation claims to determine if the
 1582 settlement agreement complies with this section and the rules
 1583 adopted under this section, in which case the judge of
 1584 compensation claims shall approve the settlement.

1585 Section 36. Subsection (10) of section 624.482, Florida
 1586 Statutes, is amended to read:

1587 624.482 Making and use of rates.--

1588 (10) Any self-insurance fund that writes workers'
 1589 compensation insurance and employer's liability insurance is
 1590 subject to, and shall make all rate filings for workers'
 1591 compensation insurance and employer's liability insurance in
 1592 accordance with, ss. ~~627.091, 627.101,~~ 627.111, 627.141,
 1593 ~~627.151,~~ 627.171, and 627.191, ~~and 627.211.~~

1594 Section 37. Subsection (9) of section 627.041, Florida
 1595 Statutes, is amended to read:

1596 627.041 Definitions.--As used in this part:

1597 (9) "Insurer," for purposes of ss. ~~627.091,~~ 627.096,
 1598 ~~627.101,~~ 627.111, 627.141, 627.171, 627.191, ~~627.211,~~ and
 1599 627.291, includes a commercial self-insurance fund as defined in
 1600 s. 624.462 and a group self-insurance fund as defined in s.
 1601 624.4621.

1602 Section 38. Subsection (2) of section 627.062, Florida
 1603 Statutes, is amended to read:

1604 627.062 Rate standards.--



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1605 (2) As to all such classes of insurance:

1606 (a) Insurers or rating organizations shall establish and
1607 use rates, rating schedules, or rating manuals to allow the
1608 insurer a reasonable rate of return on such classes of insurance
1609 written in this state. A copy of rates, rating schedules,
1610 rating manuals, premium credits or discount schedules, and
1611 surcharge schedules, and changes thereto, shall be filed with
1612 the department under one of the following procedures:

1613 1. If the filing is made at least 90 days before the
1614 proposed effective date and the filing is not implemented during
1615 the department's review of the filing and any proceeding and
1616 judicial review, then such filing shall be considered a "file
1617 and use" filing. In such case, the department shall finalize
1618 its review by issuance of a notice of intent to approve or a
1619 notice of intent to disapprove within 90 days after receipt of
1620 the filing. The notice of intent to approve and the notice of
1621 intent to disapprove constitute agency action for purposes of
1622 the Administrative Procedure Act. Requests for supporting
1623 information, requests for mathematical or mechanical
1624 corrections, or notification to the insurer by the department of
1625 its preliminary findings shall not toll the 90-day period during
1626 any such proceedings and subsequent judicial review. The rate
1627 shall be deemed approved if the department does not issue a
1628 notice of intent to approve or a notice of intent to disapprove
1629 within 90 days after receipt of the filing.

1630 2. If the filing is not made in accordance with the
1631 provisions of subparagraph 1., such filing shall be made as soon
1632 as practicable, but no later than 30 days after the effective
1633 date, and shall be considered a "use and file" filing. An
1634 insurer making a "use and file" filing is potentially subject to



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1635 an order by the department to return to policyholders portions
1636 of rates found to be excessive, as provided in paragraph (h).

1637 (b) Upon receiving a rate filing, the department shall
1638 review the rate filing to determine if a rate is excessive,
1639 inadequate, or unfairly discriminatory. In making that
1640 determination, the department shall, in accordance with
1641 generally accepted and reasonable actuarial techniques, consider
1642 the following factors:

1643 1. Past and prospective loss experience within and without
1644 this state.

1645 2. Past and prospective expenses.

1646 3. The degree of competition among insurers for the risk
1647 insured.

1648 4. Investment income reasonably expected by the insurer,
1649 consistent with the insurer's investment practices, from
1650 investable premiums anticipated in the filing, plus any other
1651 expected income from currently invested assets representing the
1652 amount expected on unearned premium reserves and loss reserves.

1653 The department may promulgate rules utilizing reasonable
1654 techniques of actuarial science and economics to specify the
1655 manner in which insurers shall calculate investment income
1656 attributable to such classes of insurance written in this state
1657 and the manner in which such investment income shall be used in
1658 the calculation of insurance rates. Such manner shall
1659 contemplate allowances for an underwriting profit factor and
1660 full consideration of investment income which produce a
1661 reasonable rate of return; however, investment income from
1662 invested surplus shall not be considered. The profit and
1663 contingency factor as specified in the filing shall be utilized
1664 in computing excess profits in conjunction with s. 627.0625.



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- 1665 5. The reasonableness of the judgment reflected in the
 1666 filing.
- 1667 6. Dividends, savings, or unabsorbed premium deposits
 1668 allowed or returned to Florida policyholders, members, or
 1669 subscribers.
- 1670 7. The adequacy of loss reserves.
- 1671 8. The cost of reinsurance.
- 1672 9. Trend factors, including trends in actual losses per
 1673 insured unit for the insurer making the filing.
- 1674 10. Conflagration and catastrophe hazards, if applicable.
- 1675 11. A reasonable margin for underwriting profit and
 1676 contingencies.
- 1677 12. The cost of medical services, if applicable.
- 1678 13. Other relevant factors which impact upon the frequency
 1679 or severity of claims or upon expenses.
- 1680 (c) In the case of fire insurance rates, consideration
 1681 shall be given to the availability of water supplies and the
 1682 experience of the fire insurance business during a period of not
 1683 less than the most recent 5-year period for which such
 1684 experience is available.
- 1685 (d) If conflagration or catastrophe hazards are given
 1686 consideration by an insurer in its rates or rating plan,
 1687 including surcharges and discounts, the insurer shall establish
 1688 a reserve for that portion of the premium allocated to such
 1689 hazard and shall maintain the premium in a catastrophe reserve.
- 1690 Any removal of such premiums from the reserve for purposes
 1691 other than paying claims associated with a catastrophe or
 1692 purchasing reinsurance for catastrophes shall be subject to
 1693 approval of the department. Any ceding commission received by



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1694 an insurer purchasing reinsurance for catastrophes shall be
1695 placed in the catastrophe reserve.

1696 (e) After consideration of the rate factors provided in
1697 paragraphs (b), (c), and (d), a rate may be found by the
1698 department to be excessive, inadequate, or unfairly
1699 discriminatory based upon the following standards:

1700 1. Rates shall be deemed excessive if they are likely to
1701 produce a profit from Florida business that is unreasonably high
1702 in relation to the risk involved in the class of business or if
1703 expenses are unreasonably high in relation to services rendered.

1704 2. Rates shall be deemed excessive if, among other things,
1705 the rate structure established by a stock insurance company
1706 provides for replenishment of surpluses from premiums, when the
1707 replenishment is attributable to investment losses.

1708 3. Rates shall be deemed inadequate if they are clearly
1709 insufficient, together with the investment income attributable
1710 to them, to sustain projected losses and expenses in the class
1711 of business to which they apply.

1712 4. A rating plan, including discounts, credits, or
1713 surcharges, shall be deemed unfairly discriminatory if it fails
1714 to clearly and equitably reflect consideration of the
1715 policyholder's participation in a risk management program
1716 adopted pursuant to s. 627.0625.

1717 5. A rate shall be deemed inadequate as to the premium
1718 charged to a risk or group of risks if discounts or credits are
1719 allowed which exceed a reasonable reflection of expense savings
1720 and reasonably expected loss experience from the risk or group
1721 of risks.

1722 6. A rate shall be deemed unfairly discriminatory as to a
1723 risk or group of risks if the application of premium discounts,



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1724 credits, or surcharges among such risks does not bear a
1725 reasonable relationship to the expected loss and expense
1726 experience among the various risks.

1727 (f) In reviewing a rate filing, the department may require
1728 the insurer to provide at the insurer's expense all information
1729 necessary to evaluate the condition of the company and the
1730 reasonableness of the filing according to the criteria
1731 enumerated in this section.

1732 (g) The department may at any time review a rate, rating
1733 schedule, rating manual, or rate change; the pertinent records
1734 of the insurer; and market conditions. If the department finds
1735 on a preliminary basis that a rate may be excessive, inadequate,
1736 or unfairly discriminatory, the department shall initiate
1737 proceedings to disapprove the rate and shall so notify the
1738 insurer. However, the department may not disapprove as excessive
1739 any rate for which it has given final approval or which has been
1740 deemed approved for a period of 1 year after the effective date
1741 of the filing unless the department finds that a material
1742 misrepresentation or material error was made by the insurer or
1743 was contained in the filing. Upon being so notified, the
1744 insurer or rating organization shall, within 60 days, file with
1745 the department all information which, in the belief of the
1746 insurer or organization, proves the reasonableness, adequacy,
1747 and fairness of the rate or rate change. The department shall
1748 issue a notice of intent to approve or a notice of intent to
1749 disapprove pursuant to the procedures of paragraph (a) within 90
1750 days after receipt of the insurer's initial response. In such
1751 instances and in any administrative proceeding relating to the
1752 legality of the rate, the insurer or rating organization shall
1753 carry the burden of proof by a preponderance of the evidence to



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1754 show that the rate is not excessive, inadequate, or unfairly
1755 discriminatory. After the department notifies an insurer that a
1756 rate may be excessive, inadequate, or unfairly discriminatory,
1757 unless the department withdraws the notification, the insurer
1758 shall not alter the rate except to conform with the department's
1759 notice until the earlier of 120 days after the date the
1760 notification was provided or 180 days after the date of the
1761 implementation of the rate. The department may, subject to
1762 chapter 120, disapprove without the 60-day notification any rate
1763 increase filed by an insurer within the prohibited time period
1764 or during the time that the legality of the increased rate is
1765 being contested.

1766 (h) In the event the department finds that a rate or rate
1767 change is excessive, inadequate, or unfairly discriminatory, the
1768 department shall issue an order of disapproval specifying that a
1769 new rate or rate schedule which responds to the findings of the
1770 department be filed by the insurer. The department shall
1771 further order, for any "use and file" filing made in accordance
1772 with subparagraph (a)2., that premiums charged each policyholder
1773 constituting the portion of the rate above that which was
1774 actuarially justified be returned to such policyholder in the
1775 form of a credit or refund. If the department finds that an
1776 insurer's rate or rate change is inadequate, the new rate or
1777 rate schedule filed with the department in response to such a
1778 finding shall be applicable only to new or renewal business of
1779 the insurer written on or after the effective date of the
1780 responsive filing.

1781 (i) Except as otherwise specifically provided in this
1782 chapter, the department shall not prohibit any insurer,
1783 including any residual market plan or joint underwriting



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1784 association, from paying acquisition costs based on the full
 1785 amount of premium, as defined in s. 627.403, applicable to any
 1786 policy, or prohibit any such insurer from including the full
 1787 amount of acquisition costs in a rate filing.

1788
 1789 The provisions of this subsection shall not apply to ~~workers'~~
 1790 ~~compensation and employer's liability insurance and to motor~~
 1791 vehicle insurance.

1792 Section 39. Subsections (1) and (4) of section 627.0645,
 1793 Florida Statutes, are amended to read:

1794 627.0645 Annual filings.--

1795 (1) Each rating organization filing rates for, and each
 1796 insurer writing, any line of property or casualty insurance to
 1797 which this part applies, except:

1798 ~~(a) Workers' compensation and employer's liability~~
 1799 ~~insurance; or~~

1800 ~~(b)~~ commercial property and casualty insurance as defined
 1801 in s. 627.0625(1) other than commercial multiple line and
 1802 commercial motor vehicle, shall make an annual base rate filing
 1803 for each such line with the department no later than 12 months
 1804 after its previous base rate filing, demonstrating that its
 1805 rates are not inadequate.

1806 (4) An insurer may satisfy the annual filing requirements
 1807 of this section by being a member or subscriber of a licensed
 1808 rating organization which complies with the requirements of this
 1809 section, except workers' compensation and employer's liability
 1810 insurance.

1811 Section 40. Section 627.072, Florida Statutes, is amended
 1812 to read:

1813 627.072 Making and use of rates.--



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1814 ~~(1) As to workers' compensation and employer's liability~~
 1815 ~~insurance, the following factors shall be used in the~~
 1816 ~~determination and fixing of rates:~~

1817 ~~(a) The past loss experience and prospective loss~~
 1818 ~~experience within and outside this state;~~

1819 ~~(b) The conflagration and catastrophe hazards;~~

1820 ~~(c) A reasonable margin for underwriting profit and~~
 1821 ~~contingencies;~~

1822 ~~(d) Dividends, savings, or unabsorbed premium deposits~~
 1823 ~~allowed or returned by insurers to their policyholders, members,~~
 1824 ~~or subscribers;~~

1825 ~~(e) Investment income on unearned premium reserves and~~
 1826 ~~loss reserves;~~

1827 ~~(f) Past expenses and prospective expenses, both those~~
 1828 ~~countrywide and those specifically applicable to this state; and~~

1829 ~~(g) All other relevant factors, including judgment~~
 1830 ~~factors, within and outside this state.~~

1831 (1)~~(2)~~ As to all rates which are subject to this part, the
 1832 systems of expense provisions included in the rates for use by
 1833 an insurer or group of insurers may differ from those of other
 1834 insurers or groups of insurers to reflect the requirements of
 1835 the operating methods of any such insurer or group with respect
 1836 to any kind of insurance or with respect to any subdivision or
 1837 combination thereof for which subdivision or combination
 1838 separate expense provisions are applicable.

1839 (2)~~(3)~~ As to all rates which are subject to this part,
 1840 risks may be grouped by classifications for the establishment of
 1841 rates and minimum premiums. Classification rates may be
 1842 modified to produce rates for individual risks in accordance
 1843 with rating plans which establish standards for measuring



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1844 variations in hazards or expense provisions, or both. Such
1845 standards may measure any difference among risks that can be
1846 demonstrated to have a probable effect upon losses or expenses.
1847 Such classifications and modifications shall apply to all risks
1848 under the same or substantially the same circumstances or
1849 conditions.

1850 ~~(4)(a) In the case of workers' compensation and employer's~~
1851 ~~liability insurance, the department shall consider utilizing the~~
1852 ~~following methodology in rate determinations: Premiums,~~
1853 ~~expenses, and expected claim costs would be discounted to a~~
1854 ~~common point of time, such as the initial point of a policy~~
1855 ~~year, in the determination of rates; the cash-flow pattern of~~
1856 ~~premiums, expenses, and claim costs would be determined~~
1857 ~~initially by using data from 8 to 10 of the largest insurers~~
1858 ~~writing workers' compensation insurance in the state; such~~
1859 ~~insurers may be selected for their statistical ability to report~~
1860 ~~the data on an accident-year basis and in accordance with~~
1861 ~~subparagraphs (b)1., 2., and 3., for at least 2 1/2 years; such~~
1862 ~~a cash-flow pattern would be modified when necessary in~~
1863 ~~accordance with the data and whenever a radical change in the~~
1864 ~~payout pattern is expected in the policy year under~~
1865 ~~consideration.~~

1866 ~~(b) If the methodology set forth in paragraph (a) is~~
1867 ~~utilized, to facilitate the determination of such a cash-flow~~
1868 ~~pattern methodology:~~

1869 ~~1. Each insurer shall include in its statistical reporting~~
1870 ~~to the rating bureau and the department the accident year by~~
1871 ~~calendar quarter data for paid-claim costs;~~

1872 ~~2. Each insurer shall submit financial reports to the~~
1873 ~~rating bureau and the department which shall include total~~



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1874 ~~incurred claim amounts and paid claim amounts by policy year and~~
 1875 ~~by injury types as of December 31 of each calendar year; and~~

1876 ~~3. Each insurer shall submit to the rating bureau and the~~
 1877 ~~department paid premium data on an individual risk basis in~~
 1878 ~~which risks are to be subdivided by premium size as follows:~~

1879

1880

1881 ~~Number of Risks in~~

	Premium Range	Standard Premium Size
	. . . (to be filled in by carrier) . . .	\$300—999
	. . . (to be filled in by carrier) . . .	1,000—4,999
	. . . (to be filled in by carrier) . . .	5,000—49,999
	. . . (to be filled in by carrier) . . .	50,000—99,999
	. . . (to be filled in by carrier) . . .	100,000 or more

1889 ~~Total:~~

1890 Section 41. Subsection (1) of section 627.096, Florida
 1891 Statutes, is amended to read:

1892 627.096 Workers' Compensation Rating Bureau.--

1893 (1) There is created within the department a Workers'
 1894 Compensation Rating Bureau, which shall make an investigation
 1895 and study of all insurers authorized to issue workers'
 1896 compensation and employer's liability coverage in this state.
 1897 Such bureau shall study the data, statistics, schedules, or
 1898 other information as it may deem necessary to assist and advise
 1899 the department in its review of filings made by or on behalf of
 1900 workers' compensation and employer's liability insurers. The
 1901 department shall have the authority to promulgate rules
 1902 requiring all workers' compensation and employer's liability
 1903 insurers to submit to the rating bureau any data, statistics,



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1904 schedules, and other information deemed necessary to the rating
 1905 bureau's study and advisement. All data, statistics, schedules,
 1906 or other information submitted to, or considered by, the
 1907 Workers' Compensation Rating Bureau shall be a public record.

1908 Section 42. Subsection (1) of section 627.111, Florida
 1909 Statutes, is amended to read:

1910 627.111 Effective date of filing.--

1911 (1) If, ~~pursuant to s. 627.101(2),~~ the department
 1912 determines to hold a public hearing as to a filing, ~~or it holds~~
 1913 ~~such a public hearing pursuant to request therefor under s.~~
 1914 ~~627.101(3),~~ it shall give written notice thereof to the rating
 1915 organization or insurer that made the filing and shall hold such
 1916 hearing within 30 days, and not less than 10 days prior to the
 1917 date of the hearing, it shall give written notice of the hearing
 1918 to the insurer or rating organization that made the filing. The
 1919 department may also, in its discretion, give advance public
 1920 notice of such hearing by publication of notice in one or more
 1921 daily newspapers of general circulation in this state.

1922 Section 43. Section 627.291, Florida Statutes, is amended
 1923 to read:

1924 627.291 Information to be furnished insureds; appeal by
 1925 insureds; workers' compensation and employer's liability
 1926 insurances.--

1927 (1) As to workers' compensation and employer's liability
 1928 insurances, ~~every rating organization and every insurer that~~
 1929 ~~which~~ makes its own rates shall, within a reasonable time after
 1930 receiving written request therefor and upon payment of such
 1931 reasonable charge as it may make, furnish to any insured
 1932 affected by a rate made by it, or to the authorized



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1933 representative of such insured, all pertinent information as to
 1934 such rate.

1935 (2) As to workers' compensation and employer's liability
 1936 insurances, ~~every rating organization and~~ every insurer that
 1937 ~~which~~ makes its own rates shall provide within this state
 1938 reasonable means whereby any person aggrieved by the application
 1939 of its rating system may be heard, in person or by his or her
 1940 authorized representative, on his or her written request to
 1941 review the manner in which such rating system has been applied
 1942 in connection with the insurance afforded him or her. If the
 1943 ~~rating organization or~~ insurer fails to grant or rejects such
 1944 request within 30 days after it is made, the applicant may
 1945 proceed in the same manner as if his or her application had been
 1946 rejected. Any party affected by the action of such rating
 1947 organization or insurer on such request may, within 30 days
 1948 after written notice of such action, appeal to the department,
 1949 which may affirm or reverse such action.

1950 Section 44. Paragraph (c) of subsection (1) of section
 1951 631.914, Florida Statutes, is amended to read:

1952 631.914 Assessments.--

1953 (1)

1954 (c)1. Effective July 1, 1999, if assessments otherwise
 1955 authorized in paragraph (a) are insufficient to make all
 1956 payments on reimbursements then owing to claimants in a calendar
 1957 year, then upon certification by the board, the department shall
 1958 levy additional assessments of up to 1.5 percent of the
 1959 insurer's net direct written premiums in this state during the
 1960 calendar year next preceding the date of such assessments
 1961 against insurers to secure the necessary funds.



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1962 2. To assure that insurers paying assessments levied under
 1963 this paragraph continue to charge rates that are neither
 1964 inadequate nor excessive, each insurer that is to be assessed
 1965 pursuant to this paragraph, or a licensed rating organization to
 1966 which the insurer subscribes, may make, within 90 days after
 1967 being notified of such assessments, a rate filing for workers'
 1968 compensation coverage pursuant to s. ss. 627.072 and 627.091. If
 1969 the filing reflects a percentage rate change equal to the
 1970 difference between the rate of such assessment and the rate of
 1971 the previous year's assessment under this paragraph, the filing
 1972 shall consist of a certification so stating and shall be deemed
 1973 approved when made. Any rate change of a different percentage
 1974 shall be subject to the standards and procedures of s. ss.
 1975 627.072 and 627.091.

1976 Section 45. Sections 627.091, 627.101, 627.151, 627.211,
 1977 and 627.281, Florida Statutes, are repealed.

1978 Section 46. This act shall take effect July 1, 2003.