CHAMBER ACTION

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1 The Committee on Insurance recommends the following:
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3 **Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to a joint underwriting plan of insurers;
7 amending s. 627.311, F.S.; revising provisions requiring
8 the Office of Insurance Regulation to approve a joint
9 underwriting plan for workers' compensation and employer's
10 liability insurers; requiring plan rates to be
11 noncompetitive with the voluntary market for certain
12 purposes; deleting authorization for insureds to select
13 certain alternative coverages; requiring the plan of
14 operation to establish three tiers for eligible employers;
15 specifying criteria and rates for each tier; providing for
16 an Assigned Risk Adjustment Program for certain employers;
17 deleting provisions requiring establishment of certain
18 subplans; providing policyholder choice under certain
19 circumstances; providing requirements for premiums under
20 such tiers; revising criteria, requirements, and
21 limitations for a required depopulation program to reduce
22 numbers of insureds under the tiers; providing an
23 application fee for administration and fraud prevention;

24 revising certain tier notice requirements; providing for
25 funding of the plan through deficit funding; providing for
26 a one-time capital contribution from the Workers'
27 Compensation Administration Trust Fund to defray deficits
28 prior to certain assessments; providing a mechanism for
29 collecting deficit assessments; providing duties of the
30 office; providing requirements, procedures, and
31 limitations for collecting and enforcing deficit
32 assessments; providing for transfers of funds from the
33 Workers’ Compensation Administration Trust Fund to the
34 plan under certain circumstances; providing an exclusion
35 for deficit assessments from certain taxes; specifying
36 that deficit assessments are plan funds when collected;
37 providing notice requirements for certain policies;
38 providing for liability of certain insureds for certain
39 additional deficit assessments; specifying venue for
40 proceedings to enforce or collect assessments; expanding a
41 prohibition against providing certain persons with
42 workers’ compensation and employers’ liability insurance;
43 providing an exclusion for the plan from certain taxes and
44 assessments; providing an effective date.
45
46 Be It Enacted by the Legislature of the State of Florida:
47
48 Section 1. Paragraphs (a), (c), (d), (e), (g), and (p) of
49 subsection (5) of section 627.311, Florida Statutes, are
50 amended, and paragraph (q) is added to said subsection, to read:

51 627.311 Joint underwriters and joint reinsurers; public
52 records and public meetings exemptions.--
53 (5)(a) The office shall, after consultation with insurers,
54 approve a joint underwriting plan of insurers which shall
55 operate as a nonprofit entity. For the purposes of this
56 subsection, the term "insurer" includes group self-insurance
57 funds authorized by s. 624.4621, commercial self-insurance funds
58 authorized by s. 624.462, assessable mutual insurers authorized
59 under s. 628.6011, and insurers licensed to write workers'
60 compensation and employer's liability insurance in this state.
61 The purpose of the plan is to provide workers' compensation and
62 employer's liability insurance to applicants who are required by
63 law to maintain workers' compensation and employer's liability
64 insurance and who are in good faith entitled to but who are
65 unable to procure ~~purchase~~ such insurance through the voluntary
66 market. The plan must have actuarially sound rates that are not
67 competitive with approved voluntary market rates so ~~assure~~ that
68 the plan functions as a residual market mechanism ~~is self-~~
69 ~~supporting~~.
70 (c) The operation of the plan shall be governed by a plan
71 of operation that is prepared at the direction of the board of
72 governors. The plan of operation may be changed at any time by
73 the board of governors or upon request of the office. The plan
74 of operation and all changes thereto are subject to the approval
75 of the office. The plan of operation shall:
76 1. Authorize the board to engage in the activities
77 necessary to implement this subsection, including, but not
78 limited to, borrowing money.

79 2. Develop criteria for eligibility for coverage by the
80 plan, including, but not limited to, documented rejection by at
81 least two insurers which reasonably assures that insureds
82 covered under the plan are unable to acquire coverage in the
83 voluntary market. ~~Any insured may voluntarily elect to accept~~
84 ~~coverage from an insurer for a premium equal to or greater than~~
85 ~~the plan premium if the insurer writing the coverage adheres to~~
86 ~~the provisions of s. 627.171.~~
87 3. Require notice from the agent to the insured at the
88 time of the application for coverage that the application is for
89 coverage with the plan and that coverage may be available
90 through an insurer, group self-insurers' fund, commercial self-
91 insurance fund, or assessable mutual insurer through another
92 agent at a lower cost.
93 4. Establish programs to encourage insurers to provide
94 coverage to applicants of the plan in the voluntary market and
95 to insureds of the plan, including, but not limited to:
96 a. Establishing procedures for an insurer to use in
97 notifying the plan of the insurer's desire to provide coverage
98 to applicants to the plan or existing insureds of the plan and
99 in describing the types of risks in which the insurer is
100 interested. The description of the desired risks must be on a
101 form developed by the plan.
102 b. Developing forms and procedures that provide an insurer
103 with the information necessary to determine whether the insurer
104 wants to write particular applicants to the plan or insureds of
105 the plan.

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106 c. Developing procedures for notice to the plan and the
107 applicant to the plan or insured of the plan that an insurer
108 will insure the applicant or the insured of the plan, and notice
109 of the cost of the coverage offered; and developing procedures
110 for the selection of an insuring entity by the applicant or
111 insured of the plan.
112 d. Provide for a market-assistance plan to assist in the
113 placement of employers. All applications for coverage in the
114 plan received 45 days before the effective date for coverage
115 shall be processed through the market-assistance plan. A market-
116 assistance plan specifically designed to serve the needs of
117 small, good policyholders as defined by the board must be
118 finalized by January 1, 1994.
119 5. Provide for policy and claims services to the insureds
120 of the plan of the nature and quality provided for insureds in
121 the voluntary market.
122 6. Provide for the review of applications for coverage
123 with the plan for reasonableness and accuracy, using any
124 available historic information regarding the insured.
125 7. Provide for procedures for auditing insureds of the
126 plan which are based on reasonable business judgment and are
127 designed to maximize the likelihood that the plan will collect
128 the appropriate premiums.
129 8. Authorize the plan to terminate the coverage of and
130 refuse future coverage for any insured that submits a fraudulent
131 application to the plan or provides fraudulent or grossly
132 erroneous records to the plan or to any service provider of the
133 plan in conjunction with the activities of the plan.

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134 9. Establish service standards for agents who submit
135 business to the plan.
136 10. Establish criteria and procedures to prohibit any
137 agent who does not adhere to the established service standards
138 from placing business with the plan or receiving, directly or
139 indirectly, any commissions for business placed with the plan.
140 11. Provide for the establishment of reasonable safety
141 programs for all insureds in the plan. All insureds of the plan
142 must participate in the safety program.
143 12. Authorize the plan to terminate the coverage of and
144 refuse future coverage to any insured who fails to pay premiums
145 or surcharges when due; who, at the time of application, is
146 delinquent in payments of workers' compensation or employer's
147 liability insurance premiums or surcharges owed to an insurer,
148 group self-insurers' fund, commercial self-insurance fund, or
149 assessable mutual insurer licensed to write such coverage in
150 this state; or who refuses to substantially comply with any
151 safety programs recommended by the plan.
152 13. Authorize the board of governors to provide the
153 services required by the plan through staff employed by the
154 plan, through reasonably compensated service providers who
155 contract with the plan to provide services as specified by the
156 board of governors, or through a combination of employees and
157 service providers.
158 14. Provide for service standards for service providers,
159 methods of determining adherence to those service standards,
160 incentives and disincentives for service, and procedures for

161 terminating contracts for service providers that fail to adhere
162 to service standards.
163 15. Provide procedures for selecting service providers and
164 standards for qualification as a service provider that
165 reasonably assure that any service provider selected will
166 continue to operate as an ongoing concern and is capable of
167 providing the specified services in the manner required.
168 16. Provide for reasonable accounting and data-reporting
169 practices.
170 17. Provide for annual review of costs associated with the
171 administration and servicing of the policies issued by the plan
172 to determine alternatives by which costs can be reduced.
173 18. Authorize the acquisition of such excess insurance or
174 reinsurance as is consistent with the purposes of the plan.
175 19. Provide for an annual report to the office on a date
176 specified by the office and containing such information as the
177 office reasonably requires.
178 20. Establish multiple rating plans for various
179 classifications of risk which reflect risk of loss, hazard
180 grade, actual losses, size of premium, and compliance with loss
181 control. At least one of such plans must be a preferred-rating
182 plan to accommodate small-premium policyholders with good
183 experience as defined in sub-subparagraph 22.a.
184 21. Establish agent commission schedules.
185 22. For employers otherwise eligible for coverage under
186 the plan, establish three tiers of employers meeting the
187 criteria and subject to the rate limitations specified in this
188 subparagraph. ~~Establish four subplans as follows:~~

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189 a. Tier One.--
190 (I) Criteria; rated employers.--An employer that has an
191 experience modification rating shall be included in Tier One if
192 the employer meets all of the following:
193 (A) The experience modification is below 1.00.
194 (B) The employer had no lost-time claims subsequent to the
195 applicable experience modification rating period.
196 (C) The total of the employer's medical-only claims
197 subsequent to the applicable experience modification rating
198 period did not exceed 20 percent of premium.
199 (II) Criteria; non-rated employers.--An employer that does
200 not have an experience modification rating shall be included in
201 Tier One if the employer meets all of the following:
202 (A) The employer had no lost-time claims for the 3-year
203 period immediately preceding the inception date or renewal date
204 of the employer's coverage under the plan.
205 (B) The total of the employer's medical-only claims for
206 the 3-year period immediately preceding the inception date or
207 renewal date of the employer's coverage under the plan did not
208 exceed 20 percent of premium.
209 (C) The employer has secured workers' compensation
210 coverage for the entire 3-year period immediately preceding the
211 inception date or renewal date of the employer's coverage under
212 the plan.
213 (D) The employer is able to provide the plan with a loss
214 history generated by the employer's prior workers' compensation
215 insurer.
216 (E) The employer is not a new business.

217 (III) Premiums.--The premiums for Tier One insureds shall
218 be set at a premium level 25 percent above the comparable
219 voluntary market premiums until the plan has sufficient
220 experience as determined by the board to establish an
221 actuarially sound rate for Tier One, at which point the board
222 shall adjust the rates, if necessary, to produce actuarially
223 sound rates, provided, such rate adjustment shall not take
224 effect prior to January 1, 2007. ~~Subplan "A" must include those~~
225 ~~insureds whose annual premium does not exceed $2,500 and who~~
226 ~~have neither incurred any lost-time claims nor incurred medical-~~
227 ~~only claims exceeding 50 percent of their premium for the~~
228 ~~immediate 2 years.~~
229 b. Tier Two.--
230 (I) Criteria; rated employers.--An employer that has an
231 experience modification rating shall be included in Tier Two if
232 the employer meets all of the following:
233 (A) The experience modification is equal to or greater
234 than 1.00 but not greater than 1.10.
235 (B) The employer had no lost-time claims subsequent to the
236 applicable experience modification rating period.
237 (C) The total of the employer's medical-only claims
238 subsequent to the applicable experience modification rating
239 period did not exceed 20 percent of premium.
240 (II) Criteria; non-rated employers.--An employer that does
241 not have any experience modification rating shall be included in
242 Tier Two if the employer is a new business. An employer shall be
243 included in Tier Two if the employer has less than 3 years of
244 loss experience in the 3-year period immediately preceding the

245 inception date or renewal date of the employer's coverage under
246 the plan and the employer meets all of the following:
247 (A) The employer had no lost-time claims for the 3-year
248 period immediately preceding the inception date or renewal date
249 of the employer's coverage under the plan.
250 (B) The total of the employer's medical-only claims for
251 the 3-year period immediately preceding the inception date or
252 renewal date of the employer's coverage under the plan did not
253 exceed 20 percent of premium.
254 (C) The employer is able to provide the plan with a loss
255 history generated by the workers' compensation insurer that
256 provided coverage for the portion or portions of such period
257 during which the employer had secured workers' compensation
258 coverage.
259 (III) Premiums.--The premiums for Tier Two insureds shall
260 be set at a rate level 50 percent above the comparable voluntary
261 market premiums until the plan has sufficient experience as
262 determined by the board to establish an actuarially sound rate
263 for Tier Two, at which point the board shall adjust the rates,
264 if necessary, to produce actuarially sound rates, provided, such
265 rate adjustment shall not take effect prior to January 1, 2007.
266 (IV) Assigned Risk Adjustment Program.--Employers assigned
267 to Tier Two shall be subject to the Assigned Risk Adjustment
268 Program, as applicable. ~~Subplan "B" must include insureds that~~
269 ~~are employers identified by the board of governors as high-risk~~
270 ~~employers due solely to the nature of the operations being~~
271 ~~performed by those insureds and for whom no market exists in the~~

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272 ~~voluntary market, and whose experience modifications are less~~
273 ~~than 1.00.~~
274 c. Tier Three.--
275 (I) Eligibility.--An employer shall be included in Tier
276 Three if the employer does not meet the criteria for Tier One or
277 Tier Two.
278 (II) Rates.--The board shall establish, and the plan shall
279 charge, actuarially sound rates for Tier Three insureds.
280 (III) Assigned Risk Adjustment Program.--Employers
281 assigned to Tier Three shall be subject to the Assigned Risk
282 Adjustment Program, as applicable. ~~Subplan "C" must include all~~
283 ~~insureds within the plan that are not eligible for subplan "A,"~~
284 ~~subplan "B," or subplan "D."~~
285 ~~d. Subplan "D" must include any employer, regardless of~~
286 ~~the length of time for which it has conducted business~~
287 ~~operations, which has an experience modification factor of 1.10~~
288 ~~or less and either employs 15 or fewer employees or is an~~
289 ~~organization that is exempt from federal income tax pursuant to~~
290 ~~s. 501(c)(3) of the Internal Revenue Code and receives more than~~
291 ~~50 percent of its funding from gifts, grants, endowments, or~~
292 ~~federal or state contracts. The rate plan for subplan "D" shall~~
293 ~~be the same rate plan as the plan approved under ss. 627.091-~~
294 ~~627.151, and each participant in subplan "D" shall pay the~~
295 ~~premium determined under such rate plan, plus a surcharge~~
296 ~~determined by the board to be sufficient to ensure that the plan~~
297 ~~does not compete with the voluntary market rate for any~~
298 ~~participant, but not to exceed 25 percent. However, the~~
299 ~~surcharge shall not exceed 10 percent for an organization that~~

300 ~~is exempt from federal income tax pursuant to s. 501(c)(3) of~~
301 ~~the Internal Revenue Code.~~
302 23. Provide for a depopulation program to reduce the
303 number of insureds in the plan ~~subplan "D."~~ If an employer
304 insured through the plan ~~subplan "D"~~ is offered coverage from a
305 voluntary market carrier:
306 a. During the first 30 days of coverage under the plan
307 ~~subplan~~;
308 b. Before a policy is issued under the plan ~~subplan~~;
309 c. By issuance of a policy upon expiration or cancellation
310 of the policy under the plan ~~subplan~~; or
311 d. By assumption of the plan's ~~subplan's~~ obligation with
312 respect to an in-force policy,
313
314 that employer is no longer eligible for coverage through the
315 plan. The premium for risks assumed by the voluntary market
316 carrier must be the ~~same~~ premium ~~plus, for the first 2 years,~~
317 ~~the surcharge~~ as determined in subparagraph 22. unless the
318 employer's experience modification rating and loss history
319 necessitates qualification for a different tier within the plan,
320 at which time the voluntary market carrier may charge the
321 employer the premium determined in subparagraph 22. for the tier
322 in which the employer qualifies. Such premium change shall occur
323 upon renewal, but in no event more than once annually ~~sub-~~
324 ~~subparagraph 22.d~~. A premium under this subparagraph~~, including~~
325 ~~surcharge,~~ is deemed approved and is not an excess premium for
326 purposes of s. 627.171.

327 24. Require that policies issued ~~under subplan "D"~~ and
328 applications ~~for such policies~~ must include a notice that the
329 policy ~~issued under subplan "D"~~ could be replaced by a policy
330 issued from a voluntary market carrier and that, if an offer of
331 coverage is obtained from a voluntary market carrier, the
332 policyholder is no longer eligible for coverage through the plan
333 ~~subplan "D~~.~~"~~ The notice must also specify that acceptance of
334 coverage under the plan ~~subplan "D"~~ creates a conclusive
335 presumption that the applicant or policyholder is aware of this
336 potential.
337 25. Require that each application for coverage and each
338 renewal premium be accompanied by a nonrefundable fee of $475 to
339 cover costs of administration and fraud prevention. The board
340 may, with the approval of the office, increase the amount of the
341 fee pursuant to a rate filing to reflect increased costs of
342 administration and fraud prevention. The fee is not subject to
343 commission and is fully earned upon commencement of coverage.
344 (d)1. The funding of the plan shall include premiums as
345 provided in subparagraph (c)22. and assessments as provided in
346 this paragraph. For the 2004-2005 fiscal year, a one-time
347 capital contribution is appropriated from the Workers'
348 Compensation Administration Trust Fund in the amount of $10
349 million to defray any deficit in the plan. ~~The plan must be~~
350 ~~funded through actuarially sound premiums charged to insureds of~~
351 ~~the plan.~~
352 2.a. If the board determines that a deficit exists in Tier
353 One or Tier Two or that there is any deficit remaining
354 attributable to any of the plan's former subplans and that the

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355 deficit cannot be funded without the use of deficit assessments,
356 the board shall request the office to levy, by order, a deficit
357 assessment against premiums charged to insureds for workers'
358 compensation insurance by insurers as defined in s. 631.904(5).
359 The office shall issue the order after verifying the amount of
360 the deficit. The assessment shall be specified as a percentage
361 of future premium collections, as recommended by the board and
362 approved by the office. The same percentage shall apply to
363 premiums on all workers' compensation policies issued or renewed
364 during the 12-month period beginning on the effective date of
365 the assessment, as specified in the order.
366 b. With respect to each insurer collecting premiums that
367 are subject to the assessment, the insurer shall collect the
368 assessment at the same time as the insurer collects the premium
369 payment for each policy and shall remit the assessments
370 collected to the plan as provided in the order issued by the
371 office. The office shall verify the accurate and timely
372 collection and remittance of deficit assessments and shall
373 report such information to the board. Each insurer collecting
374 assessments shall provide such information with respect to
375 premiums and collections as may be required by the office to
376 enable the office to monitor and audit compliance with this
377 paragraph.
378 c. Deficit assessments are not considered part of an
379 insurer's rate, are not premium, and are not subject to the
380 premium tax, to the assessments under ss. 440.49 and 440.51, to
381 the surplus lines tax, to any fees, or to any commissions. The
382 deficit assessment imposed shall become plan funds at the moment

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383 of collection and shall not constitute income to the insurer for
384 any purpose, including financial reporting on the insurer's
385 income statement. An insurer is liable for all assessments that
386 the insurer collects and must treat the failure of an insured to
387 pay an assessment as a failure to pay premium. An insurer is not
388 liable for uncollectible assessments.
389 d. When an insurer is required to return unearned premium,
390 the insurer shall also return any collected assessments
391 attributable to the unearned premium. ~~The plan may issue~~
392 ~~assessable policies only to those insureds in subplans "C" and~~
393 ~~"D." Subject to verification by the department, the board may~~
394 ~~levy assessments against insureds in subplan "C" or subplan "D,"~~
395 ~~on a pro rata earned premium basis, to fund any deficits that~~
396 ~~exist in those subplans. Assessments levied against subplan "C"~~
397 ~~participants shall cover only the deficits attributable to~~
398 ~~subplan "C," and assessments levied against subplan "D"~~
399 ~~participants shall cover only the deficits attributable to~~
400 ~~subplan "D." In no event may the plan levy assessments against~~
401 ~~any person or entity, except as authorized by this paragraph.~~
402 ~~Those assessable policies must be clearly identified as~~
403 ~~assessable by containing, in contrasting color and in not less~~
404 ~~than 10-point type, the following statements: "This is an~~
405 ~~assessable policy. If the plan is unable to pay its obligations,~~
406 ~~policyholders will be required to contribute on a pro rata~~
407 ~~earned premium basis the money necessary to meet any assessment~~
408 ~~levied."~~
409 3.a. All policies issued to Tier Three insureds shall be
410 assessable. All Tier Three assessable policies must be clearly

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411 identified as assessable by containing, in contrasting color and
412 in not less than 10-point type, the following statements:
413 "This is an assessable policy. If the plan is unable to
414 pay its obligations, policyholders will be required to
415 contribute on a pro rata earned premium basis the money
416 necessary to meet any assessment levied."
417 b. The board may from time to time assess Tier Three
418 insureds to whom the plan has issued assessable policies for the
419 purpose of funding plan deficits. Any such assessment shall be
420 based upon a reasonable actuarial estimate of the amount of the
421 deficit, taking into account the amount needed to fund medical
422 and indemnity reserves and reserves for incurred but not
423 reported claims, and allowing for general administrative
424 expenses, the cost of levying and collecting the assessment, a
425 reasonable allowance for estimated uncollectible assessments,
426 and allocated and unallocated loss adjustment expenses.
427 c. Each Tier Three insured's share of a deficit shall be
428 computed by applying to the premium earned on the insured's
429 policy or policies during the period to be covered by the
430 assessment the ratio of the total deficit to the total premiums
431 earned during such period upon all policies subject to the
432 assessment. If one or more Tier Three insureds fail to pay an
433 assessment, the other Tier Three insureds shall be liable on a
434 proportionate basis for additional assessments to fund the
435 deficit. The plan may compromise and settle individual
436 assessment claims without affecting the validity of or amounts
437 due on assessments levied against other insureds. The plan may
438 offer and accept discounted payments for assessments which are

439 promptly paid. The plan may offset the amount of any unpaid
440 assessment against unearned premiums which may otherwise be due
441 to an insured. The plan shall institute legal action when
442 necessary and appropriate to collect the assessment from any
443 insured who fails to pay an assessment when due.
444 d. The venue of a proceeding to enforce or collect an
445 assessment or to contest the validity or amount of an assessment
446 shall be in the Circuit Court of Leon County.
447 e. If the board finds that a deficit in Tier Three exists
448 for any period and that an assessment is necessary, the board
449 shall certify to the office the need for an assessment. No
450 sooner than 30 days after the date of such certification, the
451 board shall notify in writing each insured who is to be assessed
452 that an assessment is being levied against the insured, and
453 informing the insured of the amount of the assessment, the
454 period for which the assessment is being levied, and the date by
455 which payment of the assessment is due. The board shall
456 establish a date by which payment of the assessment is due,
457 which shall be no sooner than 30 days nor later than 120 days
458 after the date on which notice of the assessment is mailed to
459 the insured.
460 f. Whenever the deficit in Tier Three exceeds 1 percent of
461 net direct workers' compensation premiums written in the state
462 by all workers' compensation insurers as defined in s.
463 631.904(5) in the preceding calendar year, the plan is
464 authorized to request the department to transfer funds from the
465 Workers' Compensation Administration Trust Fund to the plan in
466 an amount sufficient to meet the financial needs of the plan as

467 determined by the board and verified by the office, subject to
468 the approval of the Legislative Budget Commission. This sub-
469 subparagraph shall not apply until the plan determines and the
470 office verifies that assessments collected by the plan pursuant
471 to sub-subparagraph b. are insufficient to fund the deficit in
472 Tier Three. ~~The plan may issue assessable policies with~~
473 ~~differing terms and conditions to different groups within~~
474 ~~subplans "C" and "D" when a reasonable basis exists for the~~
475 ~~differentiation.~~
476 4. The plan may offer rating, dividend plans, and other
477 plans to encourage loss prevention programs.
478 (e) The plan shall establish and use its rates and rating
479 plans, and the plan may establish and use changes in rating
480 plans at any time, but no more frequently than two times per any
481 rating class for any calendar year. By December 1, 1993, and
482 December 1 of each year thereafter, except as provided in
483 subparagraph (c)22., the board shall establish and use
484 actuarially sound rates for use by the plan to assure that the
485 plan is self-funding while those rates are in effect. Such rates
486 and rating plans must be filed with the office within 30
487 calendar days after their effective dates, and shall be
488 considered a "use and file" filing. Any disapproval by the
489 office must have an effective date that is at least 60 days from
490 the date of disapproval of the rates and rating plan and must
491 have prospective effect only. The plan may not be subject to any
492 order by the office to return to policyholders any portion of
493 the rates disapproved by the office. The office may not
494 disapprove any rates or rating plans unless it demonstrates that

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495 such rates and rating plans are excessive, inadequate, or
496 unfairly discriminatory.
497 (g) Whenever a deficit exists, the plan shall, within 90
498 days, provide the office with a program to eliminate the deficit
499 within a reasonable time. The deficit may be funded through
500 increased premiums charged to insureds of the plan for
501 subsequent years, through the use of policyholder surplus
502 attributable to any year, through the use of assessments as
503 provided in subparagraph (d)2., and through assessments on
504 ~~insureds in the plan if the plan uses~~ assessable policies as
505 provided in subparagraph (d)3.
506 (p) No insurer shall provide workers' compensation and
507 employer's liability insurance to any person who is delinquent
508 in the payment of premiums, assessments, penalties, or
509 surcharges owed to the plan or to any person who is an
510 affiliated person of a person who is delinquent in the payment
511 of premiums, assessments, penalties, or surcharges owed to the
512 plan. For purposes of this paragraph, the term "affiliated
513 person" of another person means:
514 1. The spouse of such other natural person;
515 2. Any person who directly or indirectly owns or controls,
516 or holds with the power to vote, 5 percent or more of the
517 outstanding voting securities of such other person;
518 3. Any person who directly or indirectly owns 5 percent or
519 more of the outstanding voting securities that are directly or
520 indirectly owned or controlled, or held with the power to vote,
521 by such other person;

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522 4. Any person or group of persons who directly or
523 indirectly control, are controlled by, or are under common
524 control with such other person;
525 5. Any officer, director, trustee, partner, owner,
526 manager, joint venturer, or employee, or other person performing
527 duties similar to persons in those positions, of such other
528 persons; or
529 6. Any person who has an officer, director, trustee,
530 partner, or joint venturer in common with such other person.
531 (q) Effective July 1, 2004, the plan is exempt from the
532 premium tax under s. 624.509 and any assessments under ss.
533 440.49 and 440.51.
534 Section 2. This act shall take effect upon becoming a law.