

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Berfield offered the following:

2

3 **Amendment (with title amendment)**

4 **Amendment**

5 On page 7, line 26, through page 8, line 5,

6 remove: all of said lines

7

8 and insert:

9

10 4. An owner-operator of a motor vehicle who transports
11 property under a written contract with a motor carrier which
12 evidences a relationship by which the owner-operator assumes the
13 responsibility of an employer for the performance of the
14 contract, if the owner-operator is required to furnish ~~the~~
15 necessary motor vehicle equipment as identified in the written
16 contract and the principal ~~all~~ costs incidental to the
performance of the contract, including, but not limited to, fuel

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17 and , taxes, licenses, repairs, provided a motor carrier's
18 advance of costs to the owner-operator when a written contract
19 evidences the owner-operator's obligation to reimburse such
20 advance shall be treated as the owner-operator furnishing such
21 cost and hired help; and the owner-operator ~~is paid a commission~~
22 ~~for transportation service and~~ is not paid by the hour or on
23 some other time-measured basis.

24 5. A person whose employment is both casual and not in the
25 course of the trade, business, profession, or occupation of the
26 employer.

27 6. A volunteer other than, ~~except~~ a volunteer worker for
28 the state or a county, municipality, or other governmental
29 entity. A person who does not receive monetary remuneration for
30 services is presumed to be a volunteer unless there is
31 substantial evidence that a valuable consideration was intended
32 by both employer and employee. For purposes of this chapter, the
33 term "volunteer" includes, but is not limited to:

34 a. Persons who serve in private nonprofit agencies and who
35 receive no compensation other than expenses in an amount less
36 than or equivalent to the standard mileage and per diem expenses
37 provided to salaried employees in the same agency or, if such
38 agency does not have salaried employees who receive mileage and
39 per diem, then such volunteers who receive no compensation other
40 than expenses in an amount less than or equivalent to the
41 customary mileage and per diem paid to salaried workers in the
42 community as determined by the department; and

43 b. Volunteers participating in federal programs
44 established under Pub. L. No. 93-113.

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45 7. Unless otherwise prohibited by this chapter, any
46 officer of a corporation who elects to be exempt from this
47 chapter. Such officer is not an employee for any reason under
48 this chapter until the notice of revocation of election filed
49 pursuant to s. 440.05 is effective.

50 8. An officer of a corporation or member of a limited
51 liability company that is engaged in the construction industry
52 who elects to be exempt from the provisions of this chapter, as
53 otherwise permitted by this chapter. Such officer or member is
54 not an employee for any reason until the notice of revocation of
55 election filed pursuant to s. 440.05 is effective.

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

61 10. A taxicab, limousine, or other passenger vehicle-for-
62 hire driver who operates said vehicles pursuant to a written
63 agreement with a company which provides any dispatch, marketing,
64 insurance, communications, or other services under which the
65 driver and any fees or charges paid by the driver to the company
66 for such services are not conditioned upon, or expressed as a
67 proportion of, fare revenues.

68 11. A person who performs services as a sports official
69 for an entity sponsoring an interscholastic sports event or for
70 a public entity or private, nonprofit organization that sponsors
71 an amateur sports event. For purposes of this subparagraph, such
72 a person is an independent contractor. For purposes of this

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73 subparagraph, the term "sports official" means any person who is
74 a neutral participant in a sports event, including, but not
75 limited to, umpires, referees, judges, linespersons,
76 scorekeepers, or timekeepers. This subparagraph does not apply
77 to any person employed by a district school board who serves as
78 a sports official as required by the employing school board or
79 who serves as a sports official as part of his or her
80 responsibilities during normal school hours.

81 12. Medicaid-enrolled clients under chapter 393 who are
82 excluded from the definition of employment under s.
83 443.036(21)(d)5. and served by Adult Day Training Services under
84 the Home and Community-Based Medicaid Waiver program in a
85 sheltered workshop setting licensed by the United States
86 Department of Labor for the purpose of training and earning less
87 than the federal hourly minimum wage.

88 (16)(a) "Employer" means the state and all political
89 subdivisions thereof, all public and quasi-public corporations
90 therein, every person carrying on any employment, and the legal
91 representative of a deceased person or the receiver or trustees
92 of any person. "Employer" also includes ~~employment agencies,~~
93 employee leasing companies, establishments primarily engaged in
94 supplying temporary or continuing help on a contract or fee
95 basis where the help supplied is always on the payroll of the
96 supplying establishment but under the direct or general
97 supervision of the business to which the help is furnished and
98 ~~similar agents who provide employees to other persons.~~ If the
99 employer is a corporation, parties in actual control of the
100 corporation, including, but not limited to, the president,

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101 officers who exercise broad corporate powers, directors, and all
102 shareholders who directly or indirectly own a controlling
103 interest in the corporation, are considered the employer for the
104 purposes of ss. 440.105, 440.106, and 440.107.

105 (b) A homeowner shall not be considered the employer of
106 persons hired by the homeowner to carry out construction on the
107 homeowner's own premises if those premises are not intended for
108 immediate lease, sale, or resale.

109 (c) Facilities serving individuals under subparagraph
110 (15)(d)12. shall be considered agents of the Agency for Health
111 Care Administration as it relates to providing Adult Day
112 Training Services under the Home and Community-Based Medicaid
113 Waiver program and not employers or third parties for the
114 purpose of limiting or denying Medicaid benefits.

115 Section 2. Section 624.447, Florida Statutes, is amended
116 to read:

117 624.447 Certificate of insurance for contractors.--

118 (1) Any insurer shall, upon written request accompanied by
119 a copy of a certificate of insurance, verify in writing whether
120 that insurer's policies listed on the a certificate of insurance
121 are in effect on any contractor, as defined in s. 768.0425.

122 (2) If a written contract requires a subcontractor, sub-
123 subcontractor, or materialman to provide a policy of insurance
124 or a certificate of insurance to a general contractor or
125 subcontractor, extending specific coverage rights to an
126 additional insured:

127 (a) The general contractor or subcontractor shall have 7
128 calendar days from receipt to either accept the certificate of

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129 insurance or the underlying policy of insurance or reject either
130 as being nonconforming. If the certificate of insurance or the
131 underlying policy of insurance is rejected as being
132 nonconforming, the general contractor or subcontractor must
133 state the specific reasons for the rejection.

134 (b) The certificate of insurance or underlying policy of
135 insurance is deemed accepted by the general contractor or
136 subcontractor, if not rejected as being non-conforming, and the
137 general contractor or subcontractor may not use non-conforming
138 insurance as a reason to withhold payment to or reject completed
139 work by a subcontractor, sub-subcontractor, or materialman.
140 However, this subsection does not apply if the certificate of
141 insurance was fraudulently issued by the agent or insurer; the
142 certificate of insurance reflects coverages or conditions not
143 contained in the underlying policy of insurance; or the
144 underlying policy of insurance is cancelled, non-renewed, or is
145 materially and adversely altered during the term of the
146 contract.

147 Section 3. Paragraph (a) of subsection (3) of section
148 626.2815, Florida Statutes, is amended to read:

149 626.2815 Continuing education required; application;
150 exceptions; requirements; penalties.--

151 (3)(a) Each person subject to the provisions of this
152 section must, except as set forth in paragraphs (b) and (c),
153 complete a minimum of 24 hours of continuing education courses
154 every 2 years in basic or higher-level courses prescribed by
155 this section or in other courses approved by the department.
156 Each person subject to the provisions of this section must

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157 complete, as part of his or her required number of continuing
158 education hours, 3 hours of continuing education, approved by
159 the department, every 2 years on the subject matter of ethics
160 and a minimum of 2 hours of continuing education, approved by
161 the department, every 2 years on the subject matter of
162 unauthorized entities engaging in the business of insurance. The
163 scope of the topic of unauthorized entities shall include the
164 Florida Nonprofit Multiple Employer Welfare Arrangement Act and
165 the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001
166 et seq., as it relates to the provision of health insurance by
167 employers to their employees and the regulation thereof.

168 Section 4. Present subsections (15) through (17) of
169 section 626.015, Florida Statutes, are redesignated as
170 subsections (16) through (18), respectively, and a new
171 subsection (15) is added to that section to read:

172 626.015 Definitions.--As used in this part:

173 (15) "Personal lines agent" means a general lines agent
174 who is limited to transacting business related to property and
175 casualty insurance sold to individuals and families for
176 noncommercial purposes.

177 Section 5. Subsection (3) is added to section 626.022,
178 Florida Statutes, to read:

179 626.022 Scope of part.--

180 (3) Provisions of this part that apply to general lines
181 agents and applicants also apply to personal lines agents and
182 applicants, except where otherwise provided.

183 Section 6. Subsection (8) is added to section 626.241,
184 Florida Statutes, to read:

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185 626.241 Scope of examination.--

186 (8) An examination for licensure as a personal lines agent
187 shall consist of 100 questions and shall be limited in scope to
188 the kinds of business transacted under such license.

189 Section 7. Subsection (1) of section 626.311, Florida
190 Statutes, is amended to read:

191 626.311 Scope of license.--

192 (1) Except as to personal lines agents and limited
193 licenses, the applicant for license as a general lines agent or
194 customer representative shall qualify for all property, marine,
195 casualty, and surety lines except bail bonds which require a
196 separate license under chapter 648. The license of a general
197 lines agent may also cover health insurance if health insurance
198 is included in the agent's appointment by an insurer as to which
199 the licensee is also appointed as agent for property or casualty
200 or surety insurance. The license of a customer representative
201 shall provide, in substance, that it covers all of such classes
202 of insurance that his or her appointing general lines agent or
203 agency is currently so authorized to transact under the general
204 lines agent's license and appointments. No such license shall
205 be issued limited to particular classes of insurance except for
206 bail bonds which require a separate license under chapter 648 or
207 for personal lines agents. Personal lines agents are limited to
208 transacting business related to property and casualty insurance
209 sold to individuals and families for noncommercial purposes.

210 Section 8. Section 626.727, Florida Statutes, is amended
211 to read:

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212 626.727 Scope of this part.--This part applies only to
213 general lines agents, customer representatives, service
214 representatives, and managing general agents, all as defined in
215 s. 626.015. Provisions of this part which apply to general lines
216 agents and applicants also apply to personal lines agents and
217 applicants, except where otherwise provided.

218 Section 9. Subsection (1) of section 626.732, Florida
219 Statutes, is amended to read:

220 626.732 Requirement as to knowledge, experience, or
221 instruction.--

222 (1) Except as provided in subsection (3), no applicant for
223 a license as a general lines agent or personal lines agent,
224 except for a chartered property and casualty underwriter (CPCU),
225 other than as to a limited license as to baggage and motor
226 vehicle excess liability insurance, credit property insurance,
227 credit insurance, in-transit and storage personal property
228 insurance, or communications equipment property insurance or
229 communication equipment inland marine insurance, shall be
230 qualified or licensed unless within the 4 years immediately
231 preceding the date the application for license is filed with the
232 department the applicant has:

233 (a) Taught or successfully completed classroom courses in
234 insurance, 3 hours of which shall be on the subject matter of
235 ethics, satisfactory to the department at a school, college, or
236 extension division thereof, approved by the department. To
237 qualify for licensure as a personal lines agent, the applicant
238 must complete a total of 52 hours of classroom courses in
239 insurance;

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240 (b) Completed a correspondence course in insurance, 3
241 hours of which shall be on the subject matter of ethics,
242 satisfactory to the department and regularly offered by
243 accredited institutions of higher learning in this state and,
244 except if he or she is applying for a limited license under s.
245 626.321, for licensure as a general lines agent, has had at
246 least 6 months of responsible insurance duties as a
247 substantially full-time bona fide employee in all lines of
248 property and casualty insurance set forth in the definition of
249 general lines agent under s. 626.015 or, for licensure as a
250 personal lines agent, has completed at least 3 months in
251 responsible insurance duties as a substantially full-time
252 employee in property and casualty insurance sold to individuals
253 and families for noncommercial purposes;

254 (c) For licensure as a general lines agent, completed at
255 least 1 year in responsible insurance duties as a substantially
256 full-time bona fide employee in all lines of property and
257 casualty insurance, exclusive of aviation and wet marine and
258 transportation insurances but not exclusive of boats of less
259 than 36 feet in length or aircraft not held out for hire, as set
260 forth in the definition of a general lines agent under s.
261 626.015, without the education requirement mentioned in
262 paragraph (a) or paragraph (b) or, for licensure as a personal
263 lines agent, has completed at least 6 months in responsible
264 insurance duties as a substantially full-time employee in
265 property and casualty insurance sold to individuals and families
266 for noncommercial purposes without the education requirement in
267 paragraph (a) or paragraph(b); ~~or~~

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268 (d)1. For licensure as a general lines agent, completed at
269 least 1 year of responsible insurance duties as a licensed and
270 appointed customer representative or limited customer
271 representative in commercial or personal lines of property and
272 casualty insurance and 40 hours of classroom courses approved by
273 the department covering the areas of property, casualty, surety,
274 health, and marine insurance; or

275 2. For licensure as a personal lines agent, completed at
276 least 6 months of responsible duties as a licensed and appointed
277 customer representative or limited customer representative in
278 property and casualty insurance sold to individuals and families
279 for noncommercial purposes and 20 hours of classroom courses
280 approved by the department which are related to property and
281 casualty insurance sold to individuals and families for
282 noncommercial purposes;

283 (e)1.2- For licensure as a general lines agent, completed
284 at least 1 year of responsible insurance duties as a licensed
285 and appointed service representative in either commercial or
286 personal lines of property and casualty insurance and 80 hours
287 of classroom courses approved by the department covering the
288 areas of property, casualty, surety, health, and marine
289 insurance; or-

290 2. For licensure as a personal lines agent, completed at
291 least 6 months of responsible insurance duties as a licensed and
292 appointed service representative in property and casualty
293 insurance sold to individuals and families for noncommercial
294 purposes and 40 hours of classroom courses approved by the

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295 department related to property and casualty insurance sold to
296 individuals and families for noncommercial purposes; or

297 (f) For licensure as a personal lines agent, completed at
298 least 3 years of responsible duties as a licensed and appointed
299 customer representative in property and casualty insurance sold
300 to individuals and families for noncommercial purposes.

301 Section 10. The Department of Financial Services does not
302 have to begin issuing licenses to personal lines agents on the
303 effective date of this act if the department has not completed
304 the process of incorporating necessary procedures for issuing
305 personal lines licenses into its licensing systems.

306 Section 11. Subsection (1) of section 626.747, Florida
307 Statutes, is amended to read:

308 626.747 Branch agencies.--

309 (1) Each branch place of business established by an agent
310 or agency, firm, corporation, or association shall be in the
311 active full-time charge of a licensed general lines agent who is
312 appointed to represent one or more insurers. Any agent or
313 agency, firm, corporation, or association which has established
314 one or more branch places of business shall be required to have
315 at least one licensed general lines agent who is appointed to
316 represent one or more insurers at each location of the agency
317 including its headquarters location.

318 Section 12. Section 627.0915, Florida Statutes, is amended
319 to read:

320 627.0915 Rate filings; workers' compensation, drug-free
321 workplace, and safe employers.--

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322 (1) The office shall approve rating plans for workers'
323 compensation and employer's liability insurance that give
324 specific identifiable consideration in the setting of rates to
325 employers that either implement a drug-free workplace program
326 pursuant to s. 440.102 and rules adopted thereunder ~~by the~~
327 ~~commission~~ or implement a safety program pursuant to provisions
328 of the rating plan or implement both a drug-free workplace
329 program and a safety program. The plans must be actuarially
330 sound and must state the savings anticipated to result from such
331 drug-testing and safety programs.

332 (2) An insurer offering a rate plan approved under this
333 section shall notify the employer at the time of a written offer
334 of insurance and at the time of each renewal of the policy of
335 the availability of the premium discount where a drug-free
336 workplace plan is used by the employer pursuant to s. 440.102
337 and related rules. The commission shall adopt rules to implement
338 this section.

339 Section 13. Paragraph (r) is added to subsection (6) of
340 section 627.351, Florida Statutes, to read:

341 627.351 Insurance risk apportionment plans.--

342 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

343 (r) A salaried employee of the corporation who performs
344 policy administration services subsequent to the effectuation of
345 a corporation policy is not required to be licensed as an agent
346 under the provisions of s. 626.112.

347 Section 14. Paragraphs (c) and (d) of subsection (1) of
348 section 626.321, Florida Statutes, are amended to read:

349 626.321 Limited licenses.--

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350 (1) The department shall issue to a qualified individual,
351 or a qualified individual or entity under paragraphs (c), (d),
352 (e), and (i), a license as agent authorized to transact a
353 limited class of business in any of the following categories:

354 (c) Personal accident insurance.--License covering only
355 policies of personal accident insurance covering the risks of
356 travel, except as provided in subparagraph 2. The license may
357 be issued only:

358 1. To a full-time salaried employee of a common carrier or
359 a full-time salaried employee or owner of a transportation
360 ticket agency and may authorize the sale of such ticket policies
361 only in connection with the sale of transportation tickets, or
362 to the full-time salaried employee of such an agent. No such
363 policy shall be for a duration of more than 48 hours or for the
364 duration of a specified one-way trip or round trip.

365 2. To a full-time salaried employee of a business which
366 offers motor vehicles for rent or lease, or to a business entity
367 ~~office of a business~~ which offers motor vehicles for rent or
368 lease ~~if insurance sales activities authorized by the license~~
369 ~~are limited to full-time salaried employees.~~ A business office
370 licensed or a person licensed pursuant to this subparagraph may,
371 as an agent of an insurer, transact insurance that provides
372 coverage for accidental personal injury or death of the lessee
373 and any passenger who is riding or driving with the covered
374 lessee in the rental motor vehicle if the lease or rental
375 agreement is for not more than 30 days, or if the lessee is not
376 provided coverage for more than 30 consecutive days per lease
377 period; however, if the lease is extended beyond 30 days, the

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378 coverage may be extended one time only for a period not to
379 exceed an additional 30 days.

380 (d) Baggage and motor vehicle excess liability insurance.-

381 -

382 1. License covering only insurance of personal effects
383 except as provided in subparagraph 2. The license may be issued
384 only:

385 a. To a full-time salaried employee of a common carrier or
386 a full-time salaried employee or owner of a transportation
387 ticket agency, which person is engaged in the sale or handling
388 of transportation of baggage and personal effects of travelers,
389 and may authorize the sale of such insurance only in connection
390 with such transportation; or

391 b. To the full-time salaried employee of a licensed
392 general lines agent, ~~a full-time salaried employee of a business~~
393 ~~which offers motor vehicles for rent or lease,~~ or to ~~a business~~
394 ~~office of~~ a business entity that ~~which~~ offers motor vehicles for
395 rent or lease if insurance sales activities authorized by the
396 license are in connection with and incidental to the rental of
397 a motor vehicle limited to full-time salaried employees . An
398 entity applying for a license under this sub-subparagraph:

399 (I) Is required to submit only one application for a
400 license under s. 626.171. The requirements of s. 626.171(5)
401 shall apply only to the officers and directors of the entity
402 submitting the application.

403 (II) Is required to obtain a license for each office,
404 branch office, or place of business making use of the entity's
405 business name by applying to the department for the license on a

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406 simplified application form developed by rule of the department
407 for this purpose.

408 (III) Is required to pay the applicable fees for a license
409 as prescribed in s. 624.501, be appointed under s. 626.112, and
410 pay the prescribed appointment fee under s. 624.501. A licensed
411 and appointed entity shall be directly responsible and
412 accountable for all acts of the licensee's employees.

413

414 The purchaser of baggage insurance shall be provided written
415 information disclosing that the insured's homeowner's policy may
416 provide coverage for loss of personal effects and that the
417 purchase of such insurance is not required in connection with
418 the purchase of tickets or in connection with the lease or
419 rental of a motor vehicle.

420 2. A business entity that ~~office licensed pursuant to~~
421 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
422 ~~1. who is a full-time salaried employee of a business which~~
423 offers motor vehicles for rent or lease, may include lessees
424 under a master contract providing coverage to the lessor or may
425 transact excess motor vehicle liability insurance providing
426 coverage in excess of the standard liability limits provided by
427 the lessor in its lease to a person renting or leasing a motor
428 vehicle from the licensee's employer for liability arising in
429 connection with the negligent operation of the leased or rented
430 motor vehicle, provided that the lease or rental agreement is
431 for not more than 30 days; that the lessee is not provided
432 coverage for more than 30 consecutive days per lease period,
433 and, if the lease is extended beyond 30 days, the coverage may

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434 be extended one time only for a period not to exceed an
435 additional 30 days; that the lessee is given written notice that
436 his or her personal insurance policy providing coverage on an
437 owned motor vehicle may provide additional excess coverage; and
438 that the purchase of the insurance is not required in connection
439 with the lease or rental of a motor vehicle. The excess
440 liability insurance may be provided to the lessee as an
441 additional insured on a policy issued to the licensee's
442 employer.

443 3. A business entity that ~~office licensed pursuant to~~
444 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
445 ~~1. who is a full-time salaried employee of a business which~~
446 offers motor vehicles for rent or lease, may, as an agent of an
447 insurer, transact insurance that provides coverage for the
448 liability of the lessee to the lessor for damage to the leased
449 or rented motor vehicle if:

450 a. The lease or rental agreement is for not more than 30
451 days; or the lessee is not provided coverage for more than 30
452 consecutive days per lease period, but, if the lease is extended
453 beyond 30 days, the coverage may be extended one time only for a
454 period not to exceed an additional 30 days;

455 b. The lessee is given written notice that his or her
456 personal insurance policy that provides coverage on an owned
457 motor vehicle may provide such coverage with or without a
458 deductible; and

459 c. The purchase of the insurance is not required in
460 connection with the lease or rental of a motor vehicle.

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461 Section 15. Subsection (2) of section 628.709, Florida
462 Statutes, is amended to read:

463 628.709 Formation of a mutual insurance holding company.--

464 (2) All of the initial shares of the capital stock of the
465 insurance company which reorganized as a subsidiary insurance
466 company shall be issued either to the mutual insurance holding
467 company, or to an intermediate holding company which is wholly
468 owned by the mutual insurance holding company. This restriction
469 does not preclude the subsequent issuance of additional shares
470 of stock by the subsidiary insurance company so long as the
471 mutual insurance holding company at all times owns directly or
472 through one or more intermediate holding companies, a majority
473 of the voting shares of the capital stock of the subsidiary
474 insurance company. The membership interests of the policyholders
475 of the subsidiary insurance company shall become membership
476 interests in the mutual insurance holding company. Policyholders
477 of the subsidiary insurance company which was formerly the
478 mutual insurer shall be members of the mutual insurance holding
479 company in accordance with the articles of incorporation and
480 bylaws of the mutual insurance holding company. At the time of
481 formation, policyholders of any other subsidiary insurance
482 company of the mutual insurance holding company shall not be
483 members of the mutual insurance holding company unless:

484 (a) They are policyholders of a subsidiary which was a
485 mutual insurer which merged with the holding company pursuant to
486 s. 628.715; or

487 (b) They are policyholders of an affiliated stock
488 insurance company, provided such policyholders were members of

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489 the mutual insurance company at the time the mutual insurance
490 company policies were assumed by the affiliated stock insurance
491 company and the assumption occurred in connection with the
492 conversion.

493
494 Subsequent to formation, membership shall be governed by s.
495 628.727.

496 Section 16. Subsection (6) is added to section 631.021,
497 Florida Statutes, to read:

498 631.021 Jurisdiction of delinquency proceeding; venue;
499 change of venue; exclusiveness of remedy; appeal.--

500 (6) The domiciliary court acquiring jurisdiction over
501 persons subject to this chapter may exercise exclusive
502 jurisdiction to the exclusion of all other courts, except as
503 limited by the provisions of this chapter. Upon the issuance of
504 an order of conservation, rehabilitation, or liquidation, the
505 Circuit Court of Leon County shall have exclusive jurisdiction
506 with respect to assets or property of any insurer subject to
507 such proceedings and claims against said insurer's assets or
508 property.

509 Section 17. Subsection (6) is added to section 631.041,
510 Florida Statutes, to read:

511 631.041 Automatic stay; relief from stay; injunctions.--

512 (6) The estate of an insurer in rehabilitation or
513 liquidation which is injured by any willful violation of an
514 applicable stay or injunction shall be entitled to actual
515 damages, including costs and attorney's fees, and, in

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516 appropriate circumstances, the receivership court may impose
517 additional sanctions.

518 Section 18. Section 631.0515, Florida Statutes, is amended
519 to read:

520 631.0515 Appointment of receiver; insurance holding
521 company.--A delinquency proceeding pursuant to this chapter
522 constitutes the sole and exclusive method of dissolving,
523 liquidating, rehabilitating, reorganizing, conserving, or
524 appointing a receiver of a Florida corporation which is not
525 insolvent as defined by s. 607.01401(16); which through its
526 shareholders, board of directors, or governing body is
527 deadlocked in the management of its affairs; and which directly
528 or indirectly owns all of the stock of a Florida domestic
529 insurer. The department may petition for an order directing it
530 to rehabilitate such corporation if the interests of
531 policyholders or the public will be harmed as a result of the
532 deadlock. The department shall use due diligence to resolve the
533 deadlock. Whether or not the department petitions for an order,
534 the circuit court shall not have jurisdiction pursuant to s.
535 607.271, s. 607.274, or s. 607.277 to dissolve, liquidate, or
536 appoint receivers with respect to, a Florida corporation which
537 directly or indirectly owns all of the stock of a Florida
538 domestic insurer and which is not insolvent as defined by s.
539 607.01401(16). However, a managing general agent or holding
540 company with a controlling interest in a domestic insurer in
541 this state is subject to jurisdiction of the court under the
542 provisions of s. 631.025.

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543 Section 19. Paragraph (a) of subsection (7) of section
544 631.141, Florida Statutes, is amended to read:

545 631.141 Conduct of delinquency proceeding; domestic and
546 alien insurers.--

547 (7)(a) In connection with a delinquency proceeding, the
548 department may appoint one or more special agents to act for it,
549 and it may employ such counsel, clerks, and assistants as it
550 deems necessary. The compensation of the special agents,
551 counsel, clerks, or assistants and all expenses of taking
552 possession of the insurer and of conducting the proceeding shall
553 be fixed by the receiver, subject to the approval of the court,
554 and shall be paid out of the funds or assets of the insurer.
555 Such expenses are administrative expenses and are recoverable by
556 the receiver in any actions in which the receiver is authorized
557 or entitled to recover its administrative expenses. Within the
558 limits of duties imposed upon them, special agents shall possess
559 all the powers given to and, in the exercise of those powers,
560 shall be subject to all duties imposed upon the receiver with
561 respect to such proceeding.

562 Section 20. Section 631.205, Florida Statutes, is amended
563 to read:

564 631.205 Reinsurance proceeds.--All reinsurance proceeds
565 payable under a contract of reinsurance to which the insolvent
566 insurer is a party are to be paid directly to the domiciliary
567 receiver as general assets of the receivership estate unless the
568 reinsurance contract contains a clause which specifically names
569 the insolvent insurer's insured as a direct beneficiary of the
570 reinsurance contract. The entry of an order of conservation,

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571 rehabilitation, or liquidation shall not be deemed an
572 anticipatory breach of any reinsurance contract, nor shall
573 insolvency or notice of insolvency be grounds for retroactive
574 revocation or retroactive cancellation of any reinsurance
575 contracts by the reinsurer.

576 Section 21. Section 631.206, Florida Statutes, is created
577 to read:

578 631.206 Arbitration.--If an insurer in receivership has
579 entered into an agreement containing an arbitration provision
580 for resolution of disputes, that provision is void and shall be
581 replaced by operation of law with the following provision: Any
582 controversy or claim arising out of or relating to this
583 contract, or the breach thereof, shall be settled by arbitration
584 pursuant to the American Arbitration Association Commercial
585 Arbitration Rules and chapter 682, Florida Statutes, and
586 judgment on the award rendered by the arbitrators shall be
587 entered by the receivership court. Venue shall be in Leon
588 County, Florida. Disputes shall be submitted to a panel of three
589 arbitrators, one to be chosen by each party and the third by the
590 two so chosen. Arbitrators shall be selected from a list of
591 potential qualified arbitrators with 10 years' experience
592 involving the insurance industry. If the parties do not agree
593 upon the qualifications of a mediator, each party shall select
594 its mediator from a list of potential mediators approved by the
595 receivership court.

596 Section 22. Subsection (1) of section 631.261, Florida
597 Statutes, is amended, and subsection (4) is added to said
598 section, to read:

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599 631.261 Voidable transfers.--

600 (1)(a) Any transfer of, or lien upon, the property of an
601 insurer or affiliate which is made or created within 4 months
602 prior to the commencement of any delinquency proceeding under
603 this chapter which gives ~~with the intent of giving to~~ any
604 creditor of the insurer a preference or enables ~~of enabling~~ the
605 creditor to obtain a greater percentage of her or his debt than
606 any other creditor of the same class, ~~and which is accepted by~~
607 ~~such creditor having reasonable cause to believe that such~~
608 ~~preference will occur,~~ shall be voidable.

609 (b) Any transfer of, or lien upon, the property of an
610 insurer or affiliate which is made or created between 4 months
611 and 1 year prior to the commencement of any delinquency
612 proceeding under this chapter is void if such transfer or lien
613 inured to the benefit of a director, officer, employee,
614 stockholder, member, subscriber, affiliate, managing general
615 agent, or insider or any relative of any director, officer,
616 employee, stockholder, member, subscriber, affiliate, managing
617 general agent, or insider.

618 (4) For purposes of this section, a transfer is not made
619 or created until the insurer or affiliate has acquired rights in
620 the property transferred.

621 Section 23. Subsection (2) of section 631.262, Florida
622 Statutes, is amended to read:

623 631.262 Transfers prior to petition.--

624 (2) Transfers shall be deemed to have been made or
625 suffered, or obligations incurred, when perfected according to
626 the following criteria:

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627 (a) A transfer of property other than real property shall
628 be deemed to be made or suffered when it becomes so far
629 perfected that no subsequent lien obtainable by legal or
630 equitable proceedings on a simple contract could become superior
631 to the rights of the transferee.†

632 (b) A transfer of real property shall be deemed to be made
633 or suffered when it becomes so far perfected that no subsequent
634 bona fide purchaser from the insurer could obtain rights
635 superior to the rights of the transferee.†

636 (c) A transfer which creates an equitable lien shall not
637 be deemed to be perfected if there are available means by which
638 a legal lien could be created.†

639 (d) Any transfer not perfected prior to the filing of a
640 petition in a delinquency proceeding shall be deemed to be made
641 immediately before the filing of a successful petition.†

642 (e) For the purposes of this section, a transfer is not
643 made until the insurer or affiliate has acquired rights in the
644 property transferred.

645 (f)~~(e)~~ Paragraphs (a)-(e) ~~(a)-(d)~~ apply whether or not
646 there are or were creditors who might have obtained any liens or
647 persons who might have become bona fide purchasers.

648 Section 24. Subsection (6) is added to section 631.263,
649 Florida Statutes, to read:

650 631.263 Transfers after petition.--

651 (6) For the purposes of this section, a transfer is not
652 made until the insurer or affiliate has acquired rights in the
653 property transferred.

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654 Section 25. Subsection (3) of section 631.54, Florida
655 Statutes, is amended to read:

656 631.54 Definitions.--As used in this part:

657 (3) "Covered claim" means an unpaid claim, including one
658 of unearned premiums, which arises out of, and is within the
659 coverage, and not in excess of, the applicable limits of an
660 insurance policy to which this part applies, issued by an
661 insurer, if such insurer becomes an insolvent insurer ~~after~~
662 ~~October 1, 1970~~, and the claimant or insured is a resident of
663 this state at the time of the insured event or the property from
664 which the claim arises is permanently located in this state.

665 "Covered claim" shall not include:

666 (a) Any amount due any reinsurer, insurer, insurance pool,
667 or underwriting association, sought directly or indirectly
668 through a third party, as subrogation, contribution,
669 indemnification, or otherwise; or

670 (b) Any claim that would otherwise be a covered claim
671 under this part that has been rejected by any other state
672 guaranty fund on the grounds that an insured's net worth is
673 greater than that allowed under that state's guaranty law .
674 Member insurers shall have no right of subrogation,
675 contribution, indemnification, or otherwise, sought directly or
676 indirectly through a third party, against the insured of any
677 insolvent member.

678 Section 26. Subsection (2) of section 631.904, Florida
679 Statutes, is amended to read:

680 631.904 Definitions.--As used in this part, the term:

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681 (2) "Covered claim" means an unpaid claim, including a
682 claim for return of unearned premiums, which arises out of, is
683 within the coverage of, and is not in excess of the applicable
684 limits of, an insurance policy to which this part applies, which
685 policy was issued by an insurer and which claim is made on
686 behalf of a claimant or insured who was a resident of this state
687 at the time of the injury. The term "covered claim" does not
688 include any amount sought as a return of premium under any
689 retrospective rating plan; any amount due any reinsurer,
690 insurer, insurance pool, or underwriting association, as
691 subrogation recoveries or otherwise; any claim that would
692 otherwise be a covered claim that has been rejected by any other
693 state guaranty fund on the grounds that the insured's net worth
694 is greater than that allowed under that state's guaranty fund or
695 liquidation law, except this exclusion from the definition of
696 covered claim shall not apply to claims of employers who, prior
697 to April 30, 2004, entered into an agreement with the
698 corporation preserving the employer's right to seek coverage of
699 claims rejected by another state's guaranty fund; or any return
700 of premium resulting from a policy that was not in force on the
701 date of the final order of liquidation. Member insurers have no
702 right of subrogation against the insured of any insolvent
703 insurer. This provision shall be applied retroactively to cover
704 claims of an insolvent self-insurance fund resulting from
705 accidents or losses incurred prior to January 1, 1994,
706 regardless of the date the petition in circuit court was filed
707 alleging insolvency and the date the court entered an order
708 appointing a receiver.

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709 Section 27. Section 634.1815, Florida Statutes, is created
710 to read:

711 634.1815 Rebating; when allowed.--

712 (1) No salesperson shall rebate any portion of his or her
713 commission except as follows:

714 (a) The rebate shall be available to all consumers in the
715 same actuarial class.

716 (b) The rebate shall be in accordance with a rebating
717 schedule filed by the salesperson with the service agreement
718 company issuing the service agreement to which the rebate
719 applies. The service agreement company shall maintain a copy of
720 all rebating schedules for a period of 3 years.

721 (c) The rebating schedule shall be uniformly applied so
722 all consumers who purchase the same service agreement through
723 the salesperson for the same coverage shall receive the same
724 percentage rebate.

725 (d) The rebate schedule shall be prominently displayed in
726 public view in the salesperson's place of business, and a copy
727 shall be made available to consumers on request at no charge.

728 (e) The age, sex, place of residence, race, nationality,
729 ethnic origin, marital status, or occupation of the consumer
730 shall not be used in determining the percentage of the rebate or
731 whether a rebate is available.

732 (2) No rebate shall be withheld or limited in amount based
733 on factors which are unfairly discriminatory.

734 (3) No rebate shall be given which is not reflected on the
735 rebate schedule.

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736 (4) No rebate shall be refused or granted based upon the
737 purchase of or failure to purchase collateral business.

738 Section 28. Section 634.3205, Florida Statutes, is created
739 to read:

740 634.3205 Rebating; when allowed.--

741 (1) No sales representative shall rebate any portion of
742 his or her commission except as follows:

743 (a) The rebate shall be available to all consumers in the
744 same actuarial class.

745 (b) The rebate shall be in accordance with a rebating
746 schedule filed by the sales representative with the home
747 warranty association issuing the home warranty to which the
748 rebate applies. The home warranty association shall maintain a
749 copy of all rebating schedules for a period of 3 years.

750 (c) The rebating schedule shall be uniformly applied so
751 all consumers who purchase the same home warranty through the
752 sales representative for the same coverage shall receive the
753 same percentage rebate.

754 (d) The rebate schedule shall be prominently displayed in
755 public view in the sales representative's place of business, and
756 a copy shall be made available to consumers on request at no
757 charge.

758 (e) The age, sex, place of residence, race, nationality,
759 ethnic origin, marital status, or occupation of the consumer
760 shall not be used in determining the percentage of the rebate or
761 whether a rebate is available.

762 (2) No rebate shall be withheld or limited in amount based
763 on factors which are unfairly discriminatory.

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764 (3) No rebate shall be given which is not reflected on the
765 rebate schedule.

766 (4) No rebate shall be refused or granted based upon the
767 purchase of or failure to purchase collateral business.

768 Section 29. Subsection (8) is added to section 634.406,
769 Florida Statutes, to read:

770 634.406 Financial requirements.--

771 (8) An association licensed under this part and holding no
772 other license under part I or part II of this chapter is not
773 required to establish an unearned premium reserve or maintain
774 contractual liability insurance and may allow its premiums to
775 exceed the ratio to net assets limitation of this section if the
776 association complies with the following:

777 (a) The association or, if the association is a direct or
778 indirect wholly owned subsidiary of a parent corporation, its
779 parent corporation has, and maintains at all times, a minimum
780 net worth of at least \$100 million and provides the office with
781 the following:

782 1. A copy of the association's annual audited financial
783 statements or the audited consolidated financial statements of
784 the association's parent corporation, prepared by an independent
785 certified public accountant in accordance with generally
786 accepted accounting principles, which clearly demonstrate the
787 net worth of the association or its parent corporation to be
788 \$100 million and a quarterly written certification to the office
789 that such entity continues to maintain the net worth required
790 under this paragraph.

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791 2. The association's, or its parent corporation's, Form
792 10K, Form 10Q, or Form 20F as filed with the United States
793 Securities and Exchange Commission or such other documents
794 required to be filed with a recognized stock exchange, which
795 shall be provided on a quarterly and annual basis within 10 days
796 after the last date each such report must be filed with the
797 Securities and Exchange Commission, the National Association of
798 Security Dealers Automated Quotation system, or other recognized
799 stock exchange.

800
801 Failure to timely file the documents required under this
802 paragraph may, at the discretion of the office, subject the
803 association to suspension or revocation of its license under
804 this part. An association or parent corporation demonstrating
805 compliance with subparagraph 1. and subparagraph 2. must
806 maintain outstanding debt obligations, if any, rated in the top
807 four rating categories by a recognized rating service.

808 (b) If the net worth of a parent corporation is used to
809 satisfy the net worth provisions of paragraph (a), the following
810 provisions must be met:

811 1. The parent corporation must guarantee all service
812 warranty obligations of the association, wherever written, on a
813 form approved in advance by the office. No cancellation,
814 termination, or modification of the guarantee shall become
815 effective unless the parent corporation provides the office
816 written notice at least 90 days before the effective date of the
817 cancellation, termination, or modification and the office
818 approves the request in writing. Prior to the effective date of

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819 cancellation, termination, or modification of the guarantee, the
820 association must demonstrate to the satisfaction of the office
821 compliance with all applicable provisions of this part,
822 including whether the association will meet the requirements of
823 this section by the purchase of contractual liability insurance,
824 establishing required reserves, or other method allowed under
825 this section. If the association or parent corporation does not
826 demonstrate to the satisfaction of the office compliance with
827 all applicable provisions of this part, it shall immediately
828 cease writing new and renewal business upon the effective date
829 of the cancellation, termination, or modification.

830 2. The association must maintain at all times net assets
831 of at least \$750,000.

832 Section 30. Section 634.4225, Florida Statutes, is created
833 to read:

834 634.4225 Rebating; when allowed.--

835 (1) No sales representative shall rebate any portion of
836 his or her commission except as follows:

837 (a) The rebate shall be available to all consumers in the
838 same actuarial class.

839 (b) The rebate shall be in accordance with a rebating
840 schedule filed by the sales representative with the association
841 issuing the service warranty to which the rebate applies. The
842 association shall maintain a copy of all rebating schedules for
843 a period of 3 years.

844 (c) The rebating schedule shall be uniformly applied so
845 all consumers who purchase the same service warranty through the

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846 sales representative for the same coverage shall receive the
847 same percentage rebate.

848 (d) The rebate schedule shall be prominently displayed in
849 public view in the sales representative's place of business, and
850 a copy shall be made available to consumers on request at no
851 charge.

852 (e) The age, sex, place of residence, race, nationality,
853 ethnic origin, marital status, or occupation of the consumer
854 shall not be used in determining the percentage of the rebate or
855 whether a rebate is available.

856 (2) No rebate shall be withheld or limited in amount based
857 on factors which are unfairly discriminatory.

858 (3) No rebate shall be given which is not reflected on the
859 rebate schedule.

860 (4) No rebate shall be refused or granted based upon the
861 purchase of or failure to purchase collateral business.

862 Section 31. Subsection (2) of section 624.4072, Florida
863 Statutes, is amended to read:

864 624.4072 Minority-owned property and casualty insurers;
865 limited exemption for taxation and assessments.--

866 (2) Subsection (1) applies only to personal lines and
867 commercial lines residential property insurance policies as
868 defined in s. 627.4025, and applies only to an insurer that has
869 employees in this state and has a home office or a regional
870 office in this state. With respect to any tax year or
871 assessment year, beginning with the original enactment of this
872 section, the exemptions provided by subsection (1) apply only if
873 during the year ~~an average of at least 10 percent of the~~

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874 insurer's Florida residential property policies in force
875 included coverage of ~~covered~~ properties located in enterprise
876 zones designated pursuant to s. 290.0065.

877 Section 32. Subsection (1) of section 627.0629, Florida
878 Statutes, is amended to read:

879 627.0629 Residential property insurance; rate filings.--

880 (1)(a) Effective June 1, 2002, a rate filing for
881 residential property insurance must include actuarially
882 reasonable discounts, credits, or other rate differentials, or
883 appropriate reductions in deductibles, for properties on which
884 fixtures or construction techniques demonstrated to reduce the
885 amount of loss in a windstorm have been installed or
886 implemented. The fixtures or construction techniques shall
887 include, but not be limited to, fixtures or construction
888 techniques which enhance roof strength, roof covering
889 performance, roof-to-wall strength, wall-to-floor-to-foundation
890 strength, opening protection, and window, door, and skylight
891 strength. Credits, discounts, or other rate differentials for
892 fixtures and construction techniques which meet the minimum
893 requirements of the Florida Building Code must be included in
894 the rate filing. All insurance companies must make a rate filing
895 which includes the credits, discounts, or other rate
896 differentials by February 28, 2003.

897 (b) An insurer may petition the office for a hardship
898 exemption from the requirements of this section. In applying for
899 such an exemption, the insurer must demonstrate:

900 1.a. That the number of policies written is insufficient
901 or of insufficient size to determine the appropriate credit,

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902 discount, or other rate differential or reduction in
903 deductibles; or

904 b. That the premium derived from the number of policies
905 written is so low as to render any credit, discount, or other
906 rate differential or appropriate reduction in deductibles not
907 cost-effective;

908 3. That the cost of complying is greater to the insurer
909 than the resultant likely savings by virtue of any such credit,
910 discount, or other rate differential or appropriate reduction in
911 deductibles due to the actuarially demonstrated or actual small
912 number of policyholders likely to qualify for or qualifying for
913 the discount, credit, or other rate differential or appropriate
914 reduction in deductibles;

915 4. That the type and condition of the market generally and
916 specifically to the insurer is such that the discount, credit,
917 or other rate differential or appropriate reduction in
918 deductibles is not actuarially justified;

919 5. That granting the exemption is in the best interest of
920 the insurer; and

921 6. That granting the exemption will not place the insurer
922 in an unfair competitive position with respect to other insurers
923 in the marketplace.

924
925 The office may grant the exemption upon its determination that
926 the conditions and standards set forth in this paragraph have
927 been met. The exemption is valid for 3 years after the date
928 granted. With respect to any petition for renewal of the
929 exemption, the chief executive officer of the insurer must

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930 | certify that there has been no material change in the conditions
931 | under which the exemption was granted.

932 | Section 33. Sections 627.066 and 627.215, Florida
933 | Statutes, are repealed.

934 | Section 34. Paragraph (d) of subsection (2) of section
935 | 627.0651, Florida Statutes, is amended to read:

936 | 627.0651 Making and use of rates for motor vehicle
937 | insurance.--

938 | (2) Upon receiving notice of a rate filing or rate change,
939 | the office shall review the rate or rate change to determine if
940 | the rate is excessive, inadequate, or unfairly discriminatory.
941 | In making that determination, the office shall in accordance
942 | with generally accepted and reasonable actuarial techniques
943 | consider the following factors:

944 | (d) Investment income reasonably expected by the insurer,
945 | consistent with the insurer's investment practices, from
946 | investable premiums anticipated in the filing, plus any other
947 | expected income from currently invested assets representing the
948 | amount expected on unearned premium reserves and loss reserves.
949 | Such investment income shall not include income from invested
950 | surplus. The commission may adopt rules utilizing reasonable
951 | techniques of actuarial science and economics to specify the
952 | manner in which insurers shall calculate investment income
953 | attributable to motor vehicle insurance policies written in this
954 | state and the manner in which such investment income is used in
955 | the calculation of insurance rates. Such manner shall
956 | contemplate the use of a positive underwriting profit allowance
957 | in the rates that will be compatible with a reasonable rate of

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958 return plus provisions for contingencies. ~~The total of the~~
959 ~~profit and contingency factor as specified in the filing shall~~
960 ~~be utilized in computing excess profits in conjunction with s.~~
961 ~~627.066.~~ In adopting such rules, the commission shall in all
962 instances adhere to and implement the provisions of this
963 paragraph.

964 Section 35. Subsection (4) of section 628.6017, Florida
965 Statutes, is amended to read:

966 628.6017 Converting assessable mutual insurer.--

967 (4) An assessable mutual insurer becoming a stock insurer
968 or a nonassessable mutual insurer shall not be subject to ~~s.~~
969 ~~627.215 or s. 627.351(5)~~ for 5 years following authorization of
970 the conversion by the office. ~~However, the converted stock~~
971 ~~insurer or nonassessable mutual insurer shall file all necessary~~
972 ~~data required by s. 627.215. Such amounts otherwise subject to~~
973 ~~s. 627.215(10) shall be maintained as surplus as to~~
974 ~~policyholders and not be available for dividends for a period of~~
975 ~~5 years.~~

976 Section 36. Effective upon this act becoming a law, and
977 contingent upon the enactment of SB 2910, HB 1629, or similar
978 legislation, subsection (20) of section 627.64872, Florida
979 Statutes, is created to read:

980 627.64872 Florida Health Insurance Plan.--

981 (20) COMBINING MEMBERSHIP OF THE FLORIDA COMPREHENSIVE
982 HEALTH ASSOCIATION.--

983 (a)1. Upon implementation of the Florida Health Insurance
984 Plan, the Florida Comprehensive Health Association, as specified
985 in s. 627.6488, is abolished as a separate nonprofit entity and

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986 shall be subsumed under the Board of Directors of the Florida
987 Health Insurance Plan. All individuals actively enrolled in the
988 Florida Comprehensive Health Association shall be enrolled in
989 the plan subject to its rules and requirements, except as
990 otherwise specified in this section. Maximum lifetime benefits
991 paid to an individual in the plan may not exceed the amount
992 established under subsection (16), and benefits previously paid
993 for any individual by the Florida Comprehensive Health
994 Association shall be used in the determination of the total
995 lifetime benefits paid under the plan.

996 2. All persons enrolled in the Florida Comprehensive
997 Health Association upon implementation of the Florida Health
998 Insurance Plan are eligible only for the benefits authorized
999 under subsection (16). Persons identified by this section shall
1000 convert to the benefits authorized under subsection (16) no
1001 later than January 1, 2005.

1002 3. Except as otherwise provided in this section, the
1003 Florida Comprehensive Health Association shall operate under the
1004 existing plan of operation without modification until the
1005 adoption of the new plan of operation for the Florida Health
1006 Insurance Plan.

1007 (b) As a condition of doing business in this state, an
1008 insurer shall pay an assessment to the board in the amount
1009 prescribed by this paragraph. For operating losses incurred on
1010 or after July 1, 2004, by persons previously enrolled in the
1011 Florida Comprehensive Health Association, each insurer shall
1012 annually be assessed by the board in the following calendar year
1013 a portion of such incurred operating losses of the plan. Such

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1014 portion shall be determined by multiplying such operating losses
1015 by a fraction, the numerator of which equals the insurer's
1016 earned premium pertaining to direct writings of health insurance
1017 in the state during the calendar year proceeding that for which
1018 the assessment is levied, and the denominator of which equals
1019 the total of all such premiums earned by participating insurers
1020 in the state during such calendar year. For the purposes of this
1021 section only, the term "health insurance" means any hospital and
1022 medical expense incurred policy, minimum premium plan, stop-loss
1023 coverage, health maintenance organization contract, prepaid
1024 health clinic contract, multiple-employer welfare arrangement
1025 contract, or fraternal benefit society health benefits contract,
1026 whether sold as an individual or group policy or contract. The
1027 term does not include any policy covering medical payment
1028 coverage or personal injury protection coverage in a motor
1029 vehicle policy, coverage issued as a supplement to liability
1030 insurance, or workers' compensation.

1031 Section 37. Section 624.428, Florida Statutes, is amended
1032 to read:

1033 624.428 Licensed agent law, life and health insurances.--

1034 (1) No ~~life~~ insurer shall deliver or issue for delivery in
1035 this state any policy of life insurance, master group life
1036 insurance contract, master credit life policy or agreement,
1037 annuity contract, or contract or policy of health insurance,
1038 unless the application for such policy or contract is taken by,
1039 and the delivery of such policy or contract is made through, a
1040 resident or nonresident ~~an~~ insurance agent of the insurer duly

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1041 licensed and appointed under the law of this state, who shall
1042 receive the usual commission due to an agent from such insurer.

1043 (2) Each such insurer shall maintain a licensed and
1044 appointed resident or nonresident agent at all times for the
1045 purpose of and through whom policies or contracts issued or
1046 delivered in this state shall be serviced.

1047 (3) This section does not apply to policies of insurance
1048 or annuity contracts on nonresidents which are applied for
1049 outside, and delivered in, the state or to reissuance of
1050 insurance policies or endorsements thereto which are part of a
1051 mass reissuance of such policies or endorsements and do not
1052 involve a change of premium or payment of agent's commissions.

1053 Section 38. Section 627.0915, Florida Statutes, is amended
1054 to read:

1055 627.0915 Rate filings; workers' compensation, drug-free
1056 workplace, and safe employers.--

1057 (1) The office shall approve rating plans for workers'
1058 compensation and employer's liability insurance that give
1059 specific identifiable consideration in the setting of rates to
1060 employers that either implement a drug-free workplace program
1061 pursuant to s. 440.102 and rules adopted thereunder ~~by the~~
1062 ~~commission~~ or implement a safety program pursuant to provisions
1063 of the rating plan or implement both a drug-free workplace
1064 program and a safety program. The plans must be actuarially
1065 sound and must state the savings anticipated to result from such
1066 drug-testing and safety programs.

1067 (2) An insurer offering a rate plan approved under this
1068 section shall notify the employer at the time of a written offer

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1069 of insurance and at the time of each renewal of the policy of
1070 the availability of the premium discount where a drug-free
1071 workplace plan is used by the employer pursuant to s. 440.102
1072 and related rules. The commission shall adopt rules to implement
1073 this section.

1074 Section 39. Subsection (7) of section 440.16, Florida
1075 Statutes, is repealed.

1076 Section 40. For purposes of s. 440.102, Florida Statutes,
1077 a physician shall not serve as a medical review officer when a
1078 specimen submitted for a drug test is:

1079 (1) Collected by such physician or by an person or entity
1080 who employs, is employed by, contracts with, or otherwise
1081 provides a financial benefit to such physician; or

1082 (2) Submitted by an employee or job applicant who is a
1083 recipient of any medical service from such physician or from any
1084 person or entity who employs, is employed by, contracts with or
1085 otherwise provides a financial benefit to such physician.

1087 ===== T I T L E A M E N D M E N T =====

1088 On page 1, line 8,
1089 remove: all of said line

1090
1091 and insert:
1092 as corporate officers; amending s. 624.447, F.S., relating to
1093 certificate of insurance for contractors; prohibiting
1094 withholding of payment under certain conditions; amending s.
1095 626.2815, F.S.; deleting certain minimum continuing education
1096 requirements; amending s. 626.015, F.S.; defining the term

HOUSE AMENDMENT

Bill No. CS/SB 2268

Amendment No. (for drafter's use only)

1097 "personal lines agent"; amending s. 626.022, F.S.; providing
1098 for application; amending s. 626.241, F.S.; limiting the scope
1099 of personal lines agent examinations; amending s. 626.311, F.S.;
1100 limiting the types of business that may be transacted by
1101 personal lines agents; amending s. 626.727, F.S.; providing that
1102 certain provisions apply to personal lines agents; amending s.
1103 626.732, F.S.; revising certain education and experience
1104 requirements for personal lines agents; amending s. 626.747,
1105 F.S.; requiring branch agencies to have certain licensed agents
1106 at each location; amending s. 627.0915, F.S., relating to drug-
1107 free workplace discounts; providing for notice by insurers to
1108 employers of the availability of premium discounts where certain
1109 drug-free workplace programs are used; amending s. 627.351,
1110 F.S.; providing that certain employees of the Citizens' Property
1111 Insurance Corporation need not be licensed as agents; providing
1112 that the act does not require the Department of Financial
1113 Services to begin issuing certain licenses by the effective date
1114 of the act, under specified conditions; amending s. 626.321,
1115 F.S.; limiting the types of business that may be transacted by
1116 personal lines agents; amending s. 628.709, F.S.; revising
1117 membership criteria for mutual insurance holding companies
1118 relating to policyholders of subsidiary insurance companies;
1119 amending s. 631.021, F.S.; authorizing certain domiciliary
1120 courts to exercise exclusive jurisdiction over certain persons
1121 under certain circumstances; specifying the Circuit Court of
1122 Leon County as having exclusive jurisdiction over certain
1123 proceedings and claims; amending s. 631.041, F.S.; entitling the
1124 estates of certain injured insurers to actual damages;

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HOUSE AMENDMENT

Bill No. CS/SB 2268

Amendment No. (for drafter's use only)

1125 | authorizing a receivership court to impose additional sanctions;
1126 | amending s. 631.0515, F.S.; subjecting certain managing general
1127 | agents or holding companies to court jurisdiction under certain
1128 | circumstances; amending s. 631.141, F.S.; specifying certain
1129 | expenses as administrative and recoverable by a receiver in
1130 | certain proceedings; amending s. 631.205, F.S.; specifying that
1131 | entry of certain orders does not constitute anticipatory breach
1132 | of certain contracts or serve as grounds for certain adverse
1133 | contract actions by a reinsurer; creating s. 631.206, F.S.;
1134 | voiding certain contractual arbitration provisions by insurers
1135 | in receivership; specifying a replacement arbitration provision;
1136 | amending s. 631.261, F.S.; voiding certain transfers or liens
1137 | made by certain persons prior to certain delinquency
1138 | proceedings; specifying a criterion for making certain
1139 | transfers; amending ss. 631.262 and 631.263, F.S.; specifying a
1140 | criterion for making certain transfers; amending ss. 631.54 and
1141 | 631.904, F.S.; revising the definition of covered claim;
1142 | excluding certain claims rejected by another state's guaranty
1143 | fund under certain circumstances; providing an exception;
1144 | denying member insurers any right to indemnification or
1145 | contribution sought through third parties; creating s. 634.1815,
1146 | F.S.; providing conditions under which a salesperson of a motor
1147 | vehicle service agreement company may rebate his or her
1148 | commission; creating s. 634.3205, F.S.; providing conditions
1149 | under which a sales representative of a home warranty
1150 | association may rebate his or her commission; amending s.
1151 | 634.406, F.S.; providing conditions under which a service
1152 | warranty association is exempt from certain premium reserve and

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Amendment No. (for drafter's use only)

1153 liability insurance requirements and may allow premiums to
1154 exceed certain limits; creating s. 634.4225, F.S.; providing
1155 conditions under which a sales representative of a service
1156 warranty association may rebate his or her commission; amending
1157 s. 624.4072, F.S.; specifying applicability of certain
1158 exemptions for minority-owned property and casualty insurers;
1159 amending s. 627.0629, F.S.; authorizing an exemption for certain
1160 insurers under certain circumstances; repealing ss. 627.066 and
1161 627.215, F.S., relating to insurance profits; amending ss.
1162 627.0651 and 628.6017, F.S., to conform; creating s.
1163 627.64872(20), F.S.; defining the term "health insurance" for
1164 purposes of this section; creating s. 17.0416, F.S.; amending s.
1165 624.428, F.S.; clarifying provisions relating to resident agent
1166 requirements for insurers issuing specified types of life
1167 insurance policies; amending s. 627.0915, F.S., relating to
1168 drug-free workplace discounts; providing for notice by insurers
1169 to employers of the availability of premium discounts where
1170 certain drug-free workplace programs are used; repealing s.
1171 440.16(7), F.S., relating to compensation for death benefits for
1172 aliens; prohibiting a physician from serving as a medical review
1173 officer for drug-free workplaces for specimens submitted for a
1174 drug test under certain circumstances; amending ss. 440.05,

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