

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 On page 16, between lines 3 and 4,
5 insert:

6 Section 15. Paragraph (a) of subsection (3) of section
7 626.2815, Florida Statutes, is amended to read:

8 626.2815 Continuing education required; application;
9 exceptions; requirements; penalties.--

10 (3)(a) Each person subject to the provisions of this
11 section must, except as set forth in paragraphs (b) and (c),
12 complete a minimum of 24 hours of continuing education courses
13 every 2 years in basic or higher-level courses prescribed by
14 this section or in other courses approved by the department.
15 Each person subject to the provisions of this section must
16 complete, as part of his or her required number of continuing

467323

Amendment No. (for drafter's use only)

17 education hours, 3 hours of continuing education, approved by
18 the department, every 2 years on the subject matter of ethics
19 ~~and a minimum of 2 hours of continuing education, approved by~~
20 ~~the department, every 2 years on the subject matter of~~
21 ~~unauthorized entities engaging in the business of insurance. The~~
22 ~~scope of the topic of unauthorized entities shall include the~~
23 ~~Florida Nonprofit Multiple Employer Welfare Arrangement Act and~~
24 ~~the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001~~
25 ~~et seq., as it relates to the provision of health insurance by~~
26 ~~employers to their employees and the regulation thereof.~~

27 Section 16. Present subsections (15) through (17) of
28 section 626.015, Florida Statutes, are redesignated as
29 subsections (16) through (18), respectively, and a new
30 subsection (15) is added to that section to read:

31 626.015 Definitions.-- As used in this part:

32 (15) "Personal lines agent" means a general lines agent
33 who is limited to transacting business related to property and
34 casualty insurance sold to individuals and families for
35 noncommercial purposes.

36 Section 17. Subsection (3) is added to section 626.022,
37 Florida Statutes, to read:

38 626.022 Scope of part.--

39 (3) Provisions of this part that apply to general lines
40 agents and applicants also apply to personal lines agents and
41 applicants, except where otherwise provided.

42 Section 18. Subsection (8) is added to section 626.241,
43 Florida Statutes, to read:

44 626.241 Scope of examination.--

467323

Amendment No. (for drafter's use only)

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

48 Section 19. Subsection (1) of section 626.311, Florida
49 Statutes, is amended to read:

50 626.311 Scope of license.--

51 (1) Except as to personal lines agents and limited
52 licenses, the applicant for license as a general lines agent or
53 customer representative shall qualify for all property, marine,
54 casualty, and surety lines except bail bonds which require a
55 separate license under chapter 648. The license of a general
56 lines agent may also cover health insurance if health insurance
57 is included in the agent's appointment by an insurer as to which
58 the licensee is also appointed as agent for property or casualty
59 or surety insurance. The license of a customer representative
60 shall provide, in substance, that it covers all of such classes
61 of insurance that his or her appointing general lines agent or
62 agency is currently so authorized to transact under the general
63 lines agent's license and appointments. No such license shall
64 be issued limited to particular classes of insurance except for
65 bail bonds which require a separate license under chapter 648 or
66 for personal lines agents. Personal lines agents are limited to
67 transacting business related to property and casualty insurance
68 sold to individuals and families for noncommercial purposes.

69 Section 20. Section 626.727, Florida Statutes, is amended
70 to read:

71 626.727 Scope of this part.-- This part applies only to
72 general lines agents, customer representatives, service

467323

Amendment No. (for drafter's use only)

73 representatives, and managing general agents, all as defined in
74 s. 626.015. Provisions of this part which apply to general lines
75 agents and applicants also apply to personal lines agents and
76 applicants, except where otherwise provided.

77 Section 21. Subsection (1) of section 626.732, Florida
78 Statutes, is amended to read:

79 626.732 Requirement as to knowledge, experience, or
80 instruction.--

81 (1) Except as provided in subsection (3), no applicant for
82 a license as a general lines agent or personal lines agent,
83 except for a chartered property and casualty underwriter (CPCU),
84 other than as to a limited license as to baggage and motor
85 vehicle excess liability insurance, credit property insurance,
86 credit insurance, in-transit and storage personal property
87 insurance, or communications equipment property insurance or
88 communication equipment inland marine insurance, shall be
89 qualified or licensed unless within the 4 years immediately
90 preceding the date the application for license is filed with the
91 department the applicant has:

92 (a) Taught or successfully completed classroom courses in
93 insurance, 3 hours of which shall be on the subject matter of
94 ethics, satisfactory to the department at a school, college, or
95 extension division thereof, approved by the department. To
96 qualify for licensure as a personal lines agent, the applicant
97 must complete a total of 52 hours of classroom courses in
98 insurance;

99 (b) Completed a correspondence course in insurance, 3
100 hours of which shall be on the subject matter of ethics,

467323

Amendment No. (for drafter's use only)

101 satisfactory to the department and regularly offered by
102 accredited institutions of higher learning in this state and,
103 except if he or she is applying for a limited license under s.
104 626.321, for licensure as a general lines agent, has had at
105 least 6 months of responsible insurance duties as a
106 substantially full-time bona fide employee in all lines of
107 property and casualty insurance set forth in the definition of
108 general lines agent under s. 626.015 or, for licensure as a
109 personal lines agent, has completed at least 3 months in
110 responsible insurance duties as a substantially full-time
111 employee in property and casualty insurance sold to individuals
112 and families for noncommercial purposes;

113 (c) For licensure as a general lines agent, completed at
114 least 1 year in responsible insurance duties as a substantially
115 full-time bona fide employee in all lines of property and
116 casualty insurance, exclusive of aviation and wet marine and
117 transportation insurances but not exclusive of boats of less
118 than 36 feet in length or aircraft not held out for hire, as set
119 forth in the definition of a general lines agent under s.
120 626.015, without the education requirement mentioned in
121 paragraph (a) or paragraph (b) or, for licensure as a personal
122 lines agent, has completed at least 6 months in responsible
123 insurance duties as a substantially full-time employee in
124 property and casualty insurance sold to individuals and families
125 for noncommercial purposes without the education requirement in
126 paragraph (a) or paragraph(b); ~~or~~

127 (d)1. For licensure as a general lines agent, completed at
128 least 1 year of responsible insurance duties as a licensed and

467323

Amendment No. (for drafter's use only)

129 appointed customer representative or limited customer
130 representative in commercial or personal lines of property and
131 casualty insurance and 40 hours of classroom courses approved by
132 the department covering the areas of property, casualty, surety,
133 health, and marine insurance; or

134 2. For licensure as a personal lines agent, completed at
135 least 6 months of responsible duties as a licensed and appointed
136 customer representative or limited customer representative in
137 property and casualty insurance sold to individuals and families
138 for noncommercial purposes and 20 hours of classroom courses
139 approved by the department which are related to property and
140 casualty insurance sold to individuals and families for
141 noncommercial purposes;

142 (e)1.2- For licensure as a general lines agent, completed
143 at least 1 year of responsible insurance duties as a licensed
144 and appointed service representative in either commercial or
145 personal lines of property and casualty insurance and 80 hours
146 of classroom courses approved by the department covering the
147 areas of property, casualty, surety, health, and marine
148 insurance; or-

149 2. For licensure as a personal lines agent, completed at
150 least 6 months of responsible insurance duties as a licensed and
151 appointed service representative in property and casualty
152 insurance sold to individuals and families for noncommercial
153 purposes and 40 hours of classroom courses approved by the
154 department related to property and casualty insurance sold to
155 individuals and families for noncommercial purposes; or

467323

Amendment No. (for drafter's use only)

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

160 Section 22. The Department of Financial Services does not
161 have to begin issuing licenses to personal lines agents on the
162 effective date of this act if the department has not completed
163 the process of incorporating necessary procedures for issuing
164 personal lines licenses into its licensing systems.

165 Section 23. Subsection (1) of section 626.747, Florida
166 Statutes, is amended to read:

167 626.747 Branch agencies.--

168 (1) Each branch place of business established by an agent
169 or agency, firm, corporation, or association shall be in the
170 active full-time charge of a licensed general lines agent who is
171 appointed to represent one or more insurers. Any agent or
172 agency, firm, corporation, or association which has established
173 one or more branch places of business shall be required to have
174 at least one licensed general lines agent who is appointed to
175 represent one or more insurers at each location of the agency
176 including its headquarters location.

177 Section 24. Paragraph (r) is added to subsection (6) of
178 section 627.351, Florida Statutes, to read:

179 627.351 Insurance risk apportionment plans.--

180 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

181 (r) A salaried employee of the corporation who performs
182 policy administration services subsequent to the effectuation of

Amendment No. (for drafter's use only)

183 a corporation policy is not required to be licensed as an agent
184 under the provisions of s. 626.112.

185 Section 25. Paragraphs (c) and (d) of subsection (1) of
186 section 626.321, Florida Statutes, are amended to read:

187 626.321 Limited licenses.--

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

192 (c) Personal accident insurance.--License covering only
193 policies of personal accident insurance covering the risks of
194 travel, except as provided in subparagraph 2. The license may
195 be issued only:

196 1. To a full-time salaried employee of a common carrier or
197 a full-time salaried employee or owner of a transportation
198 ticket agency and may authorize the sale of such ticket policies
199 only in connection with the sale of transportation tickets, or
200 to the full-time salaried employee of such an agent. No such
201 policy shall be for a duration of more than 48 hours or for the
202 duration of a specified one-way trip or round trip.

203 2. To a full-time salaried employee of a business which
204 offers motor vehicles for rent or lease, or to a business entity
205 ~~office of a business~~ which offers motor vehicles for rent or
206 ~~lease if insurance sales activities authorized by the license~~
207 ~~are limited to full-time salaried employees.~~ A business office
208 licensed or a person licensed pursuant to this subparagraph may,
209 as an agent of an insurer, transact insurance that provides
210 coverage for accidental personal injury or death of the lessee

467323

Amendment No. (for drafter's use only)

211 and any passenger who is riding or driving with the covered
212 lessee in the rental motor vehicle if the lease or rental
213 agreement is for not more than 30 days, or if the lessee is not
214 provided coverage for more than 30 consecutive days per lease
215 period; however, if the lease is extended beyond 30 days, the
216 coverage may be extended one time only for a period not to
217 exceed an additional 30 days.

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

220 1. License covering only insurance of personal effects
221 except as provided in subparagraph 2. The license may be issued
222 only:

223 a. To a full-time salaried employee of a common carrier or
224 a full-time salaried employee or owner of a transportation
225 ticket agency, which person is engaged in the sale or handling
226 of transportation of baggage and personal effects of travelers,
227 and may authorize the sale of such insurance only in connection
228 with such transportation; or

229 b. To the full-time salaried employee of a licensed
230 general lines agent, ~~a full-time salaried employee of a business~~
231 ~~which offers motor vehicles for rent or lease,~~ or to a business
232 ~~office of a business entity that~~ which offers motor vehicles for
233 rent or lease if insurance sales activities authorized by the
234 license are in connection with and incidental to the rental of a
235 motor vehicle limited to full-time salaried employees. An entity
236 applying for a license under this sub-subparagraph:

237 (I) Is required to submit only one application for a
238 license under s. 626.171. The requirements of s. 626.171(5)

Amendment No. (for drafter's use only)

239 shall apply only to the officers and directors of the entity
240 submitting the application.

241 (II) Is required to obtain a license for each office,
242 branch office, or place of business making use of the entity's
243 business name by applying to the department for the license on a
244 simplified application form developed by rule of the department
245 for this purpose.

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

251
252 The purchaser of baggage insurance shall be provided written
253 information disclosing that the insured's homeowner's policy may
254 provide coverage for loss of personal effects and that the
255 purchase of such insurance is not required in connection with
256 the purchase of tickets or in connection with the lease or
257 rental of a motor vehicle.

258 2. A business entity that ~~office licensed pursuant to~~
259 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
260 ~~1. who is a full-time salaried employee of a business which~~
261 offers motor vehicles for rent or lease, may include lessees
262 under a master contract providing coverage to the lessor or may
263 transact excess motor vehicle liability insurance providing
264 coverage in excess of the standard liability limits provided by
265 the lessor in its lease to a person renting or leasing a motor
266 vehicle from the licensee's employer for liability arising in

467323

Amendment No. (for drafter's use only)

267 connection with the negligent operation of the leased or rented
268 motor vehicle, provided that the lease or rental agreement is
269 for not more than 30 days; that the lessee is not provided
270 coverage for more than 30 consecutive days per lease period,
271 and, if the lease is extended beyond 30 days, the coverage may
272 be extended one time only for a period not to exceed an
273 additional 30 days; that the lessee is given written notice that
274 his or her personal insurance policy providing coverage on an
275 owned motor vehicle may provide additional excess coverage; and
276 that the purchase of the insurance is not required in connection
277 with the lease or rental of a motor vehicle. The excess
278 liability insurance may be provided to the lessee as an
279 additional insured on a policy issued to the licensee's
280 employer.

281 3. A business entity that ~~office licensed pursuant to~~
282 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
283 ~~1. who is a full-time salaried employee of a business which~~
284 offers motor vehicles for rent or lease, may, as an agent of an
285 insurer, transact insurance that provides coverage for the
286 liability of the lessee to the lessor for damage to the leased
287 or rented motor vehicle if:

288 a. The lease or rental agreement is for not more than 30
289 days; or the lessee is not provided coverage for more than 30
290 consecutive days per lease period, but, if the lease is extended
291 beyond 30 days, the coverage may be extended one time only for a
292 period not to exceed an additional 30 days;

293 b. The lessee is given written notice that his or her
294 personal insurance policy that provides coverage on an owned

467323

Amendment No. (for drafter's use only)

295 motor vehicle may provide such coverage with or without a
296 deductible; and

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

299 Section 26. Section 627.0915, Florida Statutes, is amended
300 to read:

301 627.0915 Rate filings; workers' compensation, drug-free
302 workplace, and safe employers.-

303 (1) The office shall approve rating plans for workers'
304 compensation and employer's liability insurance that give
305 specific identifiable consideration in the setting of rates to
306 employers that either implement a drug-free workplace program
307 pursuant to s. 440.102 and rules adopted under such section ~~by~~
308 ~~the commission~~ or implement a safety program pursuant to
309 provisions of the rating plan or implement both a drug-free
310 workplace program and a safety program. The plans must be
311 actuarially sound and must state the savings anticipated to
312 result from such drug-testing and safety programs.

313 (2) An insurer offering a rate plan approved under this
314 section shall notify the employer at the time of the initial
315 quote for the policy and at the time of each renewal of the
316 policy of the availability of the premium discount where a drug
317 fee workplace plan is used by the employer pursuant to s.
318 440.102 and rules adopted under such section. The Financial
319 Services Commission may adopt rules to implement the provisions
320 of this subsection.

321 Section 27. Subsection (2) of section 628.709, Florida
322 Statutes, is amended to read:

467323

Amendment No. (for drafter's use only)

323 628.709 Formation of a mutual insurance holding company.--

324 (2) All of the initial shares of the capital stock of the
325 insurance company which reorganized as a subsidiary insurance
326 company shall be issued either to the mutual insurance holding
327 company, or to an intermediate holding company which is wholly
328 owned by the mutual insurance holding company. This restriction
329 does not preclude the subsequent issuance of additional shares
330 of stock by the subsidiary insurance company so long as the
331 mutual insurance holding company at all times owns directly or
332 through one or more intermediate holding companies, a majority
333 of the voting shares of the capital stock of the subsidiary
334 insurance company. The membership interests of the policyholders
335 of the subsidiary insurance company shall become membership
336 interests in the mutual insurance holding company. Policyholders
337 of the subsidiary insurance company which was formerly the
338 mutual insurer shall be members of the mutual insurance holding
339 company in accordance with the articles of incorporation and
340 bylaws of the mutual insurance holding company. At the time of
341 formation, policyholders of any other subsidiary insurance
342 company of the mutual insurance holding company shall not be
343 members of the mutual insurance holding company unless:

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

347 (b) They are policyholders of an affiliated stock
348 insurance company, provided such policyholders were members of
349 the mutual insurance company at the time the mutual insurance
350 company policies were assumed by the affiliated stock insurance

467323

Amendment No. (for drafter's use only)

351 company and the assumption occurred in connection with the
352 conversion.

353
354 Subsequent to formation, membership shall be governed by s.
355 628.727.

356 Section 28. Subsection (6) is added to section 631.021,
357 Florida Statutes, to read:

358 631.021 Jurisdiction of delinquency proceeding; venue;
359 change of venue; exclusiveness of remedy; appeal.--

360 (6) The domiciliary court acquiring jurisdiction over
361 persons subject to this chapter may exercise exclusive
362 jurisdiction to the exclusion of all other courts, except as
363 limited by the provisions of this chapter. Upon the issuance of
364 an order of conservation, rehabilitation, or liquidation, the
365 Circuit Court of Leon County shall have exclusive jurisdiction
366 with respect to assets or property of any insurer subject to
367 such proceedings and claims against said insurer's assets or
368 property.

369 Section 29. Subsection (6) is added to section 631.041,
370 Florida Statutes, to read:

371 631.041 Automatic stay; relief from stay; injunctions.--

372 (6) The estate of an insurer in rehabilitation or
373 liquidation which is injured by any willful violation of an
374 applicable stay or injunction shall be entitled to actual
375 damages, including costs and attorney's fees, and, in
376 appropriate circumstances, the receivership court may impose
377 additional sanctions.

467323

Amendment No. (for drafter's use only)

378 Section 30. Section 631.0515, Florida Statutes, is amended
379 to read:

380 631.0515 Appointment of receiver; insurance holding
381 company.--A delinquency proceeding pursuant to this chapter
382 constitutes the sole and exclusive method of dissolving,
383 liquidating, rehabilitating, reorganizing, conserving, or
384 appointing a receiver of a Florida corporation which is not
385 insolvent as defined by s. 607.01401(16); which through its
386 shareholders, board of directors, or governing body is
387 deadlocked in the management of its affairs; and which directly
388 or indirectly owns all of the stock of a Florida domestic
389 insurer. The department may petition for an order directing it
390 to rehabilitate such corporation if the interests of
391 policyholders or the public will be harmed as a result of the
392 deadlock. The department shall use due diligence to resolve the
393 deadlock. Whether or not the department petitions for an order,
394 the circuit court shall not have jurisdiction pursuant to s.
395 607.271, s. 607.274, or s. 607.277 to dissolve, liquidate, or
396 appoint receivers with respect to, a Florida corporation which
397 directly or indirectly owns all of the stock of a Florida
398 domestic insurer and which is not insolvent as defined by s.
399 607.01401(16). However, a managing general agent or holding
400 company with a controlling interest in a domestic insurer in
401 this state is subject to jurisdiction of the court under the
402 provisions of s. 631.025.

403 Section 31. Paragraph (a) of subsection (7) of section
404 631.141, Florida Statutes, is amended to read:

467323

Amendment No. (for drafter's use only)

405 631.141 Conduct of delinquency proceeding; domestic and
406 alien insurers.--

407 (7)(a) In connection with a delinquency proceeding, the
408 department may appoint one or more special agents to act for it,
409 and it may employ such counsel, clerks, and assistants as it
410 deems necessary. The compensation of the special agents,
411 counsel, clerks, or assistants and all expenses of taking
412 possession of the insurer and of conducting the proceeding shall
413 be fixed by the receiver, subject to the approval of the court,
414 and shall be paid out of the funds or assets of the insurer.
415 Such expenses are administrative expenses and are recoverable by
416 the receiver in any actions in which the receiver is authorized
417 or entitled to recover its administrative expenses. Within the
418 limits of duties imposed upon them, special agents shall possess
419 all the powers given to and, in the exercise of those powers,
420 shall be subject to all duties imposed upon the receiver with
421 respect to such proceeding.

422 Section 32. Section 631.205, Florida Statutes, is amended
423 to read:

424 631.205 Reinsurance proceeds.--All reinsurance proceeds
425 payable under a contract of reinsurance to which the insolvent
426 insurer is a party are to be paid directly to the domiciliary
427 receiver as general assets of the receivership estate unless the
428 reinsurance contract contains a clause which specifically names
429 the insolvent insurer's insured as a direct beneficiary of the
430 reinsurance contract. The entry of an order of conservation,
431 rehabilitation, or liquidation shall not be deemed an
432 anticipatory breach of any reinsurance contract, nor shall

467323

Amendment No. (for drafter's use only)

433 insolvency or notice of insolvency be grounds for retroactive
434 revocation or retroactive cancellation of any reinsurance
435 contracts by the reinsurer.

436 Section 33. Section 631.206, Florida Statutes, is created
437 to read:

438 631.206 Arbitration.--If an insurer in receivership has
439 entered into an agreement containing an arbitration provision
440 for resolution of disputes, that provision is void and shall be
441 replaced by operation of law with the following provision:

442
443 Any controversy or claim arising out of or relating to
444 this contract, or the breach thereof, shall be settled
445 by arbitration pursuant to the American Arbitration
446 Association Commercial Arbitration Rules and chapter
447 682, Florida Statutes, and judgment on the award
448 rendered by the arbitrators shall be entered by the
449 receivership court. Venue shall be in Leon County,
450 Florida. Disputes shall be submitted to a panel of
451 three arbitrators, one to be chosen by each party and
452 the third by the two so chosen. Arbitrators shall be
453 selected from a list of potential qualified
454 arbitrators with 10 years' experience involving the
455 insurance industry. If the parties do not agree upon
456 the qualifications of a mediator, each party shall
457 select its mediator from a list of potential mediators
458 approved by the receivership court.

459

467323

Amendment No. (for drafter's use only)

460 Section 34. Subsection (1) of section 631.261, Florida
461 Statutes, is amended, and subsection (4) is added to said
462 section, to read:

463 631.261 Voidable transfers.--

464 (1)(a) Any transfer of, or lien upon, the property of an
465 insurer or affiliate which is made or created within 4 months
466 prior to the commencement of any delinquency proceeding under
467 this chapter ~~which gives with the intent of giving to~~ any
468 creditor of the insurer a preference or enables ~~of enabling~~ the
469 creditor to obtain a greater percentage of her or his debt than
470 any other creditor of the same class, ~~and which is accepted by~~
471 ~~such creditor having reasonable cause to believe that such~~
472 ~~preference will occur,~~ shall be voidable.

473 (b) Any transfer of, or lien upon, the property of an
474 insurer or affiliate which is made or created between 4 months
475 and 1 year prior to the commencement of any delinquency
476 proceeding under this chapter is void if such transfer or lien
477 inured to the benefit of a director, officer, employee,
478 stockholder, member, subscriber, affiliate, managing general
479 agent, or insider or any relative of any director, officer,
480 employee, stockholder, member, subscriber, affiliate, managing
481 general agent, or insider.

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

485 Section 35. Subsection (2) of section 631.262, Florida
486 Statutes, is amended to read:

487 631.262 Transfers prior to petition.--

467323

Amendment No. (for drafter's use only)

488 (2) Transfers shall be deemed to have been made or
489 suffered, or obligations incurred, when perfected according to
490 the following criteria:

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

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

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

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

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

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

512 Section 36. Subsection (6) is added to section 631.263,
513 Florida Statutes, to read:

514 631.263 Transfers after petition.--

Amendment No. (for drafter's use only)

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

518 Section 37. Subsection (3) of section 631.54, Florida
519 Statutes, is amended to read:

520 631.54 Definitions.--As used in this part:

521 (3) "Covered claim" means an unpaid claim, including one
522 of unearned premiums, which arises out of, and is within the
523 coverage, and not in excess of, the applicable limits of an
524 insurance policy to which this part applies, issued by an
525 insurer, if such insurer becomes an insolvent insurer ~~after~~
526 ~~October 1, 1970~~, and the claimant or insured is a resident of
527 this state at the time of the insured event or the property from
528 which the claim arises is permanently located in this state.

529 "Covered claim" shall not include:

530 (a) Any amount due any reinsurer, insurer, insurance pool,
531 or underwriting association, sought directly or indirectly
532 through a third party, as subrogation, contribution,
533 indemnification, or otherwise; or

534 (b) Any claim that would otherwise be a covered claim
535 under this part that has been rejected by any other state
536 guaranty fund on the grounds that an insured's net worth is
537 greater than that allowed under that state's guaranty law.

538 Member insurers shall have no right of subrogation,
539 contribution, indemnification, or otherwise, sought directly or
540 indirectly through a third party, against the insured of any
541 insolvent member.

467323

Amendment No. (for drafter's use only)

542 Section 38. Subsection (2) of section 631.904, Florida
543 Statutes, is amended to read:

544 631.904 Definitions.--As used in this part, the term:

545 (2) "Covered claim" means an unpaid claim, including a
546 claim for return of unearned premiums, which arises out of, is
547 within the coverage of, and is not in excess of the applicable
548 limits of, an insurance policy to which this part applies, which
549 policy was issued by an insurer and which claim is made on
550 behalf of a claimant or insured who was a resident of this state
551 at the time of the injury. The term "covered claim" does not
552 include any amount sought as a return of premium under any
553 retrospective rating plan; any amount due any reinsurer,
554 insurer, insurance pool, or underwriting association, as
555 subrogation recoveries or otherwise; any claim that would
556 otherwise be a covered claim that has been rejected by any other
557 state guaranty fund on the grounds that the insured's net worth
558 is greater than that allowed under that state's guaranty fund or
559 liquidation law, except this exclusion from the definition of
560 covered claim shall not apply to employers who, prior to April
561 30, 2004, entered into an agreement with the corporation
562 preserving the employer's right to seek coverage of claims
563 rejected by another state's guaranty fund; or any return of
564 premium resulting from a policy that was not in force on the
565 date of the final order of liquidation. Member insurers have no
566 right of subrogation against the insured of any insolvent
567 insurer. This provision shall be applied retroactively to cover
568 claims of an insolvent self-insurance fund resulting from
569 accidents or losses incurred prior to January 1, 1994,

467323

Amendment No. (for drafter's use only)

570 regardless of the date the petition in circuit court was filed
571 alleging insolvency and the date the court entered an order
572 appointing a receiver.

573 Section 39. Section 634.1815, Florida Statutes, is created
574 to read:

575 634.1815 Rebating; when allowed.--

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

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

580 (b) The rebate shall be in accordance with a rebating
581 schedule filed by the salesperson with the service agreement
582 company issuing the service agreement to which the rebate
583 applies. The service agreement company shall maintain a copy of
584 all rebating schedules for a period of 3 years.

585 (c) The rebating schedule shall be uniformly applied so
586 all consumers who purchase the same service agreement through
587 the salesperson for the same coverage shall receive the same
588 percentage rebate.

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

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

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

467323

Amendment No. (for drafter's use only)

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

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

602 Section 40. Section 634.3205, Florida Statutes, is created
603 to read:

604 634.3205 Rebating; when allowed.--

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

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

609 (b) The rebate shall be in accordance with a rebating
610 schedule filed by the sales representative with the home
611 warranty association issuing the home warranty to which the
612 rebate applies. The home warranty association shall maintain a
613 copy of all rebating schedules for a period of 3 years.

614 (c) The rebating schedule shall be uniformly applied so
615 all consumers who purchase the same home warranty through the
616 sales representative for the same coverage shall receive the
617 same percentage rebate.

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

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

467323

Amendment No. (for drafter's use only)

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

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

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

632 Section 41. Subsection (8) is added to section 634.406,
633 Florida Statutes, to read:

634 634.406 Financial requirements.--

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

641 (a) The association or, if the association is a direct or
642 indirect wholly owned subsidiary of a parent corporation, its
643 parent corporation has, and maintains at all times, a minimum
644 net worth of at least \$100 million and provides the office with
645 the following:

646 1. A copy of the association's annual audited financial
647 statements or the audited consolidated financial statements of
648 the association's parent corporation, prepared by an independent
649 certified public accountant in accordance with generally
650 accepted accounting principles, which clearly demonstrate the
651 net worth of the association or its parent corporation to be
652 \$100 million and a quarterly written certification to the office

Amendment No. (for drafter's use only)

653 that such entity continues to maintain the net worth required
654 under this paragraph.

655 2. The association's, or its parent corporation's, Form
656 10K, Form 10Q, or Form 20F as filed with the United States
657 Securities and Exchange Commission or such other documents
658 required to be filed with a recognized stock exchange, which
659 shall be provided on a quarterly and annual basis within 10 days
660 after the last date each such report must be filed with the
661 Securities and Exchange Commission, the National Association of
662 Security Dealers Automated Quotation system, or other recognized
663 stock exchange.

664
665 Failure to timely file the documents required under this
666 paragraph may, at the discretion of the office, subject the
667 association to suspension or revocation of its license under
668 this part. An association or parent corporation demonstrating
669 compliance with subparagraph 1. and subparagraph 2. must
670 maintain outstanding debt obligations, if any, rated in the top
671 four rating categories by a recognized rating service.

672 (b) If the net worth of a parent corporation is used to
673 satisfy the net worth provisions of paragraph (a), the following
674 provisions must be met:

675 1. The parent corporation must guarantee all service
676 warranty obligations of the association, wherever written, on a
677 form approved in advance by the office. No cancellation,
678 termination, or modification of the guarantee shall become
679 effective unless the parent corporation provides the office
680 written notice at least 90 days before the effective date of the

467323

Amendment No. (for drafter's use only)

681 cancellation, termination, or modification and the office
682 approves the request in writing. Prior to the effective date of
683 cancellation, termination, or modification of the guarantee, the
684 association must demonstrate to the satisfaction of the office
685 compliance with all applicable provisions of this part,
686 including whether the association will meet the requirements of
687 this section by the purchase of contractual liability insurance,
688 establishing required reserves, or other method allowed under
689 this section. If the association or parent corporation does not
690 demonstrate to the satisfaction of the office compliance with
691 all applicable provisions of this part, it shall immediately
692 cease writing new and renewal business upon the effective date
693 of the cancellation, termination, or modification.

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

696 Section 42. Section 634.4225, Florida Statutes, is created
697 to read:

698 634.4225 Rebating; when allowed.--

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

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

703 (b) The rebate shall be in accordance with a rebating
704 schedule filed by the sales representative with the association
705 issuing the service warranty to which the rebate applies. The
706 association shall maintain a copy of all rebating schedules for
707 a period of 3 years.

Amendment No. (for drafter's use only)

708 (c) The rebating schedule shall be uniformly applied so
709 all consumers who purchase the same service warranty through the
710 sales representative for the same coverage shall receive the
711 same percentage rebate.

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

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

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

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

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

726 Section 43. Subsection (4) is added to section 627.4133,
727 Florida Statutes, to read:

728 627.4133 Notice of cancellation, nonrenewal, or renewal
729 premium.--

730 (4) Notwithstanding the provisions of s. 440.42(3), if
731 cancellation of a policy providing coverage for workers'
732 compensation and employer's liability insurance is requested by
733 the insured, such cancellation shall be effective on the date
734 the carrier sends the notice of cancellation to the insured.

735

467323

Amendment No. (for drafter's use only)

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

737 On page 2, line(s) 3, after the semicolon:

738 insert:

739 amending s. 626.2815, F.S.; deleting certain minimum continuing
740 education requirements; amending s. 626.015, F.S.; defining the
741 term "personal lines agent"; amending s. 626.022, F.S.;
742 providing for application; amending s. 626.241, F.S.; limiting
743 the scope of personal lines agent examinations; amending s.
744 626.311, F.S.; limiting the types of business that may be
745 transacted by personal lines agents; amending s. 626.727, F.S.;
746 providing that certain provisions apply to personal lines
747 agents; amending s. 626.732, F.S.; revising certain education
748 and experience requirements for personal lines agents; amending
749 s. 626.747, F.S.; requiring branch agencies to have certain
750 licensed agents at each location; amending s. 627.351, F.S.;
751 providing that certain employees of the Citizens' Property
752 Insurance Corporation need not be licensed as agents; providing
753 that the act does not require the Department of Financial
754 Services to begin issuing certain licenses by the effective date
755 of the act, under specified conditions; amending s. 626.321,
756 F.S.; limiting the types of business that may be transacted by
757 personal lines agents; amending s. 627.0915, F.S.; providing for
758 notice by insurers to employers of the availability of premium
759 discounts where drug free workplace programs are used;
760 authorizing the Financial Services Commission to adopt rules;
761 amending s. 628.709, F.S.; revising membership criteria for
762 mutual insurance holding companies relating to policyholders of
763 subsidiary insurance companies; amending s. 631.021, F.S.;

467323

Amendment No. (for drafter's use only)

764 authorizing certain domiciliary courts to exercise exclusive
765 jurisdiction over certain persons under certain circumstances;
766 specifying the Circuit Court of Leon County as having exclusive
767 jurisdiction over certain proceedings and claims; amending s.
768 631.041, F.S.; entitling the estates of certain injured insurers
769 to actual damages; authorizing a receivership court to impose
770 additional sanctions; amending s. 631.0515, F.S.; subjecting
771 certain managing general agents or holding companies to court
772 jurisdiction under certain circumstances; amending s. 631.141,
773 F.S.; specifying certain expenses as administrative and
774 recoverable by a receiver in certain proceedings; amending s.
775 631.205, F.S.; specifying that entry of certain orders does not
776 constitute anticipatory breach of certain contracts or serve as
777 grounds for certain adverse contract actions by a reinsurer;
778 creating s. 631.206, F.S.; voiding certain contractual
779 arbitration provisions by insurers in receivership; specifying a
780 replacement arbitration provision; amending s. 631.261, F.S.;
781 voiding certain transfers or liens made by certain persons prior
782 to certain delinquency proceedings; specifying a criterion for
783 making certain transfers; amending ss. 631.262 and 631.263,
784 F.S.; specifying a criterion for making certain transfers;
785 amending ss. 631.54 and 631.904, F.S.; revising the definition
786 of covered claim; excluding certain claims rejected by another
787 state's guaranty fund under certain circumstances; providing an
788 exception; denying member insurers any right to indemnification
789 or contribution sought through third parties; creating s.
790 634.1815, F.S.; providing conditions under which a salesperson
791 of a motor vehicle service agreement company may rebate his or

467323

Amendment No. (for drafter's use only)

792 her commission; creating s. 634.3205, F.S.; providing conditions
793 under which a sales representative of a home warranty
794 association may rebate his or her commission; amending s.
795 634.406, F.S.; providing conditions under which a service
796 warranty association is exempt from certain premium reserve and
797 liability insurance requirements and may allow premiums to
798 exceed certain limits; creating s. 634.4225, F.S.; providing
799 conditions under which a sales representative of a service
800 warranty association may rebate his or her commission; amending
801 s. 627.4133, F.S.; providing for an effective date of certain
802 policy cancellations by insureds;