

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 624.425, F.S.; deleting a resident agent
4 requirement for certain property, casualty, and
5 surety insurers; amending s. 624.426, F.S.;
6 conforming provisions; amending s. 624.428,
7 F.S.; providing that an insurer must deliver
8 certain policies through a resident or
9 nonresident agent; amending s. 626.025, F.S.;
10 requiring surplus lines agents to comply with
11 consumer protection laws; deleting provisions
12 prohibiting certain actions by nonresident
13 agents, to conform; amending s. 626.741, F.S.;
14 deleting a prohibition against nonresident
15 general lines agents having offices in this
16 state; conforming provisions; amending s.
17 626.752, F.S.; conforming provisions; amending
18 s. 626.753, F.S.; conforming provisions;
19 repealing s. 626.792(3), F.S.; deleting a
20 prohibition against nonresident life insurance
21 agents having offices in this state; repealing
22 s. 626.835(3), F.S.; deleting a prohibition
23 against nonresident health insurance agents
24 having offices in this state; creating s.
25 626.9272, F.S.; providing requirements for the
26 licensure of nonresident surplus lines agents;
27 amending s. 626.929, F.S.; conforming
28 provisions; amending s. 626.933, F.S.; allowing
29 the department to authorize the Florida Surplus
30 Lines Service Office to file suit on its
31 behalf; amending s. 626.930, F.S.; conforming

1 provisions; amending s. 626.935, F.S.;

2 providing additional grounds for discipline of

3 licensees; amending s. 626.2815, F.S.; deleting

4 certain minimum continuing education

5 requirements; amending s. 626.015, F.S.;

6 defining the term "personal lines agent";

7 amending s. 626.022, F.S.; providing for

8 application; amending s. 626.241, F.S.;

9 limiting the scope of personal lines agent

10 examinations; amending s. 626.311, F.S.;

11 limiting the types of business that may be

12 transacted by personal lines agents; amending

13 s. 626.727, F.S.; providing that certain

14 provisions apply to personal lines agents;

15 amending s. 626.732, F.S.; revising certain

16 education and experience requirements for

17 personal lines agents; amending s. 626.747,

18 F.S.; requiring branch agencies to have certain

19 licensed agents at each location; amending s.

20 627.351, F.S.; providing that certain employees

21 of the Citizens' Property Insurance Corporation

22 need not be licensed as agents; providing that

23 the act does not require the Department of

24 Financial Services to begin issuing certain

25 licenses by the effective date of the act,

26 under specified conditions; amending s.

27 626.321, F.S.; limiting the types of business

28 that may be transacted by personal lines

29 agents; amending s. 627.0915, F.S.; providing

30 for notice by insurers to employers of the

31 availability of premium discounts where drug

1 free workplace programs are used; authorizing
2 the Financial Services Commission to adopt
3 rules; amending s. 628.709, F.S.; revising
4 membership criteria for mutual insurance
5 holding companies relating to policyholders of
6 subsidiary insurance companies; amending s.
7 631.021, F.S.; authorizing certain domiciliary
8 courts to exercise exclusive jurisdiction over
9 certain persons under certain circumstances;
10 specifying the Circuit Court of Leon County as
11 having exclusive jurisdiction over certain
12 proceedings and claims; amending s. 631.041,
13 F.S.; entitling the estates of certain injured
14 insurers to actual damages; authorizing a
15 receivership court to impose additional
16 sanctions; amending s. 631.0515, F.S.;
17 subjecting certain managing general agents or
18 holding companies to court jurisdiction under
19 certain circumstances; amending s. 631.141,
20 F.S.; specifying certain expenses as
21 administrative and recoverable by a receiver in
22 certain proceedings; amending s. 631.205, F.S.;
23 specifying that entry of certain orders does
24 not constitute anticipatory breach of certain
25 contracts or serve as grounds for certain
26 adverse contract actions by a reinsurer;
27 creating s. 631.206, F.S.; voiding certain
28 contractual arbitration provisions by insurers
29 in receivership; specifying a replacement
30 arbitration provision; amending s. 631.261,
31 F.S.; voiding certain transfers or liens made

1 | by certain persons prior to certain delinquency
2 | proceedings; specifying a criterion for making
3 | certain transfers; amending ss. 631.262 and
4 | 631.263, F.S.; specifying a criterion for
5 | making certain transfers; amending ss. 631.54
6 | and 631.904, F.S.; revising the definition of
7 | covered claim; excluding certain claims
8 | rejected by another state's guaranty fund under
9 | certain circumstances; providing an exception;
10 | denying member insurers any right to
11 | indemnification or contribution sought through
12 | third parties; creating s. 634.1815, F.S.;
13 | providing conditions under which a salesperson
14 | of a motor vehicle service agreement company
15 | may rebate his or her commission; creating s.
16 | 634.3205, F.S.; providing conditions under
17 | which a sales representative of a home warranty
18 | association may rebate his or her commission;
19 | amending s. 634.406, F.S.; providing conditions
20 | under which a service warranty association is
21 | exempt from certain premium reserve and
22 | liability insurance requirements and may allow
23 | premiums to exceed certain limits; creating s.
24 | 634.4225, F.S.; providing conditions under
25 | which a sales representative of a service
26 | warranty association may rebate his or her
27 | commission; amending s. 627.4133, F.S.;
28 | providing for an effective date of certain
29 | policy cancellations by insureds; amending s.
30 | 626.641, F.S.; requiring continuing education
31 | courses for reinstatement of a license,

1 | appointment, or eligibility after a second
 2 | suspension; providing duties of the Department
 3 | of Financial Services or the Office of
 4 | Insurance Regulation of the Financial Services
 5 | Commission; reenacting s. 626.935(4)(a), F.S.,
 6 | relating to the suspension, revocation, or
 7 | refusal of a surplus lines agent's license, to
 8 | incorporate the amendment to s. 626.641, F.S.,
 9 | in a reference thereto; providing an effective
 10 | date.

11

12 | Be It Enacted by the Legislature of the State of Florida:

13

14 | Section 1. Section 624.425, Florida Statutes, is
 15 | amended to read:

16 | 624.425 ~~Resident~~ Agent ~~and~~ countersignature required,
 17 | property, casualty, surety insurance.--

18 | (1) Except as stated in s. 624.426, no authorized
 19 | property, casualty, or surety insurer shall assume direct
 20 | liability as to a subject of insurance resident, located, or
 21 | to be performed in this state unless the policy or contract of
 22 | insurance is issued by or through, and is countersigned by, an
 23 | ~~a local producing agent who is a resident of this state,~~
 24 | regularly commissioned and licensed currently as an agent and
 25 | appointed as an agent for the insurer under this code. If two
 26 | or more authorized insurers issue a single policy of insurance
 27 | against legal liability for loss or damage to person or
 28 | property caused by the nuclear energy hazard, or a single
 29 | policy insuring against loss or damage to property by
 30 | radioactive contamination, whether or not also insuring
 31 | against one or more other perils proper to insure against in

1 | this state, such policy if otherwise lawful may be
2 | countersigned on behalf of all of the insurers by a licensed
3 | and appointed ~~resident~~ agent of any insurer appearing thereon.
4 | The producing ~~Such~~ agent shall receive on each policy or
5 | contract the full and usual commission allowed and paid by the
6 | insurer to its agents on business written or transacted by
7 | them for the insurer.

8 | (2) If any subject of insurance referred to in
9 | subsection (1) is insured under a policy, or contract, or
10 | certificate of renewal or continuation thereof, issued in
11 | another state and covering also property and risks outside
12 | this state, a certificate evidencing such insurance as to
13 | subjects located, resident, or to be performed in this state,
14 | shall be issued by or through and shall be countersigned by
15 | the insurer's commissioned and appointed ~~local~~ producing agent
16 | ~~resident in this state in the same manner and subject to the~~
17 | ~~same conditions as is provided in subsection (1) as to~~
18 | ~~policies and contracts; except that the compensation to be~~
19 | ~~paid to the agent may relate only to the Florida portion of~~
20 | ~~the insurance risks represented by such policy or contract.~~

21 | (3) An agent shall not sign or countersign in blank
22 | any policy to be issued outside her or his office, or
23 | countersign in blank any countersignature endorsement
24 | therefor, or certificate issued thereunder. An agent may give
25 | a written power of attorney to the issuing insurance company
26 | to countersign such documents by imprinting her or his name,
27 | or the name of the agency or other entity with which the agent
28 | may be sharing commission pursuant to s. 626.753(1)(a) and
29 | (2), thereon in lieu of manually countersigning such
30 | documents; but an agent shall not give a power of attorney to
31 | any other person to countersign any such document in her or

1 his name unless the person so authorized is directly employed
2 by the agent and by no other person, and is so employed in the
3 office of the agent.

4 (4) This section shall not be deemed to prohibit
5 insurers from using salaried licensed and appointed agents for
6 the production and servicing of business in this state and the
7 issuance and countersignature by such agents of insurance
8 policies or contracts, when required under subsection (1), and
9 without payment of commission therefor.

10 (5) This section shall not be deemed to prohibit an
11 insurer from authorizing an agent who is not regularly
12 commissioned and appointed currently as an agent of the
13 insurer from countersigning a policy or contract of insurance
14 issued pursuant to the provisions of ss. 627.311 and 627.351.
15 This section does not apply to reissuance of insurance
16 policies or endorsements thereto which are part of a mass
17 reissuance of such policies or endorsements and do not involve
18 a change of premium or payment of agent's commissions.

19 Section 2. Section 624.426, Florida Statutes, is
20 amended to read:

21 624.426 Exceptions to ~~resident agent and~~
22 countersignature law.--Section 624.425 does not apply to:

23 (1) Contracts of reinsurance.

24 (2) Policies of insurance on the rolling stock of
25 railroad companies doing a general freight and passenger
26 business.

27 (3) United States Customs surety bonds that are issued
28 by a corporate surety approved by the United States Department
29 of Treasury and that name the United States as the
30 beneficiary.

31

1 (4) Policies of insurance issued by insurers whose
2 agents represent only one company or group of companies under
3 common ownership if a company within one group is transferring
4 policies to another company within the same group and the
5 agent of record remains the same.

6 (5) Policies of insurance issued by insurers whose
7 agents represent, as to property, casualty, and surety
8 insurance, only one company or group of companies under common
9 ownership ~~and for which a Florida resident agent is the agent~~
10 ~~of record~~ and the application has been lawfully submitted to
11 the insurer.

12 Section 3. Section 624.428, Florida Statutes, is
13 amended to read:

14 624.428 Licensed agent law, life and health
15 insurances.--

16 (1) No ~~life~~ insurer shall deliver or issue for
17 delivery in this state any policy of life insurance, master
18 group life insurance contract, master credit life policy or
19 agreement, annuity contract, or contract or policy of health
20 insurance, unless the application for such policy or contract
21 is taken by, and the delivery of such policy or contract is
22 made through, a resident or nonresident ~~an~~ insurance agent of
23 the insurer duly licensed and appointed under the law of this
24 state, who shall receive the usual commission due to an agent
25 from such insurer.

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

30 (3) This section does not apply to policies of
31 insurance or annuity contracts on nonresidents which are

1 applied for outside, and delivered in, the state or to
 2 reissuance of insurance policies or endorsements thereto which
 3 are part of a mass reissuance of such policies or endorsements
 4 and do not involve a change of premium or payment of agent's
 5 commissions.

6 Section 4. Subsections (8) and (9) of section 626.025,
 7 Florida Statutes, are amended and present subsections (10)
 8 through (16) of that section are redesignated as subsections
 9 (9) through (15), respectively, to read:

10 626.025 Consumer protections.--To transact insurance,
 11 agents shall comply with consumer protection laws, including
 12 the following, as applicable:

13 (8) Requirements for licensure of resident and
 14 nonresident agents in s. 626.112, s. 626.321, s. 626.731, s.
 15 626.741, s. 626.785, s. 626.792, s. 626.831, ~~or~~ s. 626.835, or
 16 s. 626.927.

17 ~~(9) The prohibition against nonresident agents having~~
 18 ~~a place of business in the state, a pecuniary interest in an~~
 19 ~~insurance business in the state, or a financial interest in an~~
 20 ~~insurance agency in the state, under s. 626.741, s. 626.792,~~
 21 ~~or s. 626.835.~~

22 Section 5. Section 626.741, Florida Statutes, is
 23 amended to read:

24 626.741 Nonresident agents; licensing and
 25 restrictions.--

26 (1) The department may, upon written application and
 27 the payment of the fees as specified in s. 624.501, issue a
 28 license as:

29 (a) A nonresident general lines agent to an individual
 30 licensed in his or her home state as a resident agent for the
 31 same line of authority as a Florida resident general lines

1 agent and otherwise qualified therefor under the laws of this
2 state, but who is not a resident of this state, if by the laws
3 of the individual's home state, residents of this state may be
4 licensed in a similar manner as a nonresident agent of his or
5 her home state.

6 (b) A customer representative to an individual
7 otherwise qualified therefor, who is not a resident of this
8 state, but is a resident of a state sharing a common boundary
9 with this state.

10 (2) The department may enter into reciprocal
11 agreements with the appropriate official of any other state
12 waiving the written examination of any applicant resident in
13 that other state if:

14 (a) In the applicant's home state, a resident of this
15 state is privileged to procure a general lines agent's license
16 upon compliance with the conditions specified in subsection
17 (1) and without discrimination as to fees or otherwise in
18 favor of the residents of the individual's home state.

19 (b) The appropriate official of the individual's home
20 state certifies that the applicant holds a currently valid
21 license as a resident agent in his or her home state for the
22 same line of authority as a general lines agent in this state.

23 (c) The applicant satisfies the examination
24 requirement under s. 626.221, or qualifies for an exemption
25 thereunder.

26 (3) The department shall not, however, issue any
27 license and appointment to any ~~nonresident who has an office~~
28 ~~or place of business in this state, or who has any direct or~~
29 ~~indirect pecuniary interest in any insurance agent or~~
30 ~~insurance agency licensed as a resident of this state; nor to~~
31 ~~any~~ individual who does not, at the time of issuance and

1 throughout the existence of the Florida license, hold a
2 license as agent or broker issued by his or her home state;
3 nor to any individual who is employed by any insurer as a
4 service representative or who is a managing general agent in
5 any state, whether or not also licensed in another state as an
6 agent or broker. The foregoing requirement to hold a similar
7 license in the applicant's home state does not apply to
8 customer representatives unless the home state licenses
9 residents of that state in a similar manner. ~~The prohibition~~
10 ~~against having an office or place of business in this state~~
11 ~~does not apply to customer representatives who are required to~~
12 ~~conduct business solely within the confines of the office of a~~
13 ~~licensed and appointed Florida resident general lines agent in~~
14 ~~this state.~~ The authority of such nonresident license is
15 limited to the specific lines of authority granted in the
16 license issued by the agent's home state and further limited
17 to the specific lines authorized under the nonresident license
18 issued by this state. The department shall have discretion to
19 refuse to issue any license or appointment to a nonresident
20 when it has reason to believe that ~~the applicant by ruse or~~
21 ~~subterfuge is attempting to avoid the intent and prohibitions~~
22 ~~contained in this subsection or to believe that~~ any of the
23 grounds exist as for suspension, denial, or revocation of
24 license as set forth in ss. 626.611 and 626.621.

25 ~~(4) Such a nonresident shall not directly or~~
26 ~~indirectly solicit, negotiate, or effect insurance contracts~~
27 ~~in this state unless accompanied by a countersigning agent,~~
28 ~~resident in this state, on such risk.~~

29 ~~(5)(a) All insurance policies as defined in s.~~
30 ~~627.402, written under the nonresident agent's license,~~
31 ~~including those written or issued pursuant to the Surplus~~

1 ~~Lines Law, part VIII, on risks or property located in this~~
2 ~~state must be countersigned by a local agent resident of this~~
3 ~~state; and it shall be the duty and responsibility of the~~
4 ~~nonresident agent, and, if called upon to do so by the~~
5 ~~countersigning agent, of the insurer likewise, to assure that~~
6 ~~such resident local agent receives the same commission as~~
7 ~~allowed by the home state of the nonresident agent, but in no~~
8 ~~event shall the resident local agent receive, accept, or~~
9 ~~retain less than 50 percent of the usual Florida local agent's~~
10 ~~commission or 50 percent of the nonresident agent's~~
11 ~~commission, whichever is less, on policies of insurance~~
12 ~~covering property as defined in s. 624.604 and insurance~~
13 ~~covering in whole or in part real property and tangible~~
14 ~~personal property, including property floater policies. On~~
15 ~~all other policies of insurance, including insurance covering~~
16 ~~motor vehicles, plate glass, burglary, robbery, theft,~~
17 ~~larceny, boiler and machinery, workers' compensation, fidelity~~
18 ~~and surety, bodily injury liability, and property damage~~
19 ~~liability, in no event shall he or she receive, accept, or~~
20 ~~retain less than 25 percent of the usual Florida local agent's~~
21 ~~commission or 25 percent of the nonresident agent's~~
22 ~~commission, whichever is less.~~

23 ~~(b) The provisions of this subsection, with respect to~~
24 ~~resident agent countersignature commission, shall not be~~
25 ~~applicable to any contracts of insurance purchased by a person~~
26 ~~whose premiums for insurance in the preceding year of such~~
27 ~~purchase exceeded \$250,000 in the aggregate. Nothing herein~~
28 ~~is intended to preclude the negotiation and payment of a~~
29 ~~commission to the countersigning agent to compensate him or~~
30 ~~her for services performed or to be performed.~~

31

1 ~~(4)(6)~~ Any individual who holds a Florida nonresident
2 agent's license, upon becoming a resident of this state may,
3 for a period not to exceed 90 days, continue to transact
4 insurance in this state under the nonresident license and
5 appointment. Such individual must make application for
6 resident licensure and must become licensed as a resident
7 agent within 90 days of becoming a resident of this state.

8 ~~(5)(7)~~ Upon becoming a resident of this state, an
9 individual who holds a Florida nonresident agent's license is
10 no longer eligible for licensure as a nonresident agent if
11 such individual fails to make application for a resident
12 license and become licensed as a resident agent within 90
13 days. His or her license and any appointments shall be
14 canceled immediately. He or she may apply for a resident
15 license pursuant to s. 626.731.

16 ~~(6)(8)~~ Except as provided in this section and ss.
17 626.742 and 626.743, nonresident agents shall be subject to
18 the same requirements as apply to agents resident in this
19 state. However, nonresident agents are not required to
20 maintain an insurance agency in this state. If a nonresident
21 agent does maintain or have a financial interest in an
22 insurance agency in this state, the agency is subject to the
23 same requirements that apply to agencies of resident agents in
24 this state.

25 ~~(7)(9)~~ If available, the department shall verify the
26 nonresident applicant's licensing status through the Producer
27 Database maintained by the National Association of Insurance
28 Commissioners, its affiliates, or subsidiaries.

29 Section 6. Paragraph (a) of subsection (3) of section
30 626.752, Florida Statutes, is amended to read:

31 626.752 Exchange of business.--

1 (3)(a) An insurer may furnish to ~~resident Florida~~
2 general lines agents who are not appointed by the insurer its
3 forms, coverage documents, binders, applications, and other
4 incidental supplies only for the purposes set forth in this
5 section and only to the extent necessary to facilitate the
6 writing of exchange of business pursuant to this section. The
7 insurer shall assign a unique brokering agent's register
8 number to each agent not appointed with the insurer but
9 furnished with the insurer's forms, coverage documents,
10 binders, applications, and other incidental supplies.

11 Section 7. Subsections (1) and (3) of section 626.753,
12 Florida Statutes, are amended to read:

13 626.753 Sharing commissions; penalty.--

14 (1)(a) An agent may divide or share in commissions
15 only with other agents appointed and licensed to write the
16 same kind or kinds of insurance.

17 ~~(b) A resident agent and a nonresident agent, subject~~
18 ~~to the provisions of s. 626.741, may divide among themselves~~
19 ~~commissions as to kinds of insurance for which both are~~
20 ~~appointed and licensed.~~

21 (b)(c) This section shall not be construed to prevent
22 the payment or receipt of renewal commissions or other
23 deferred commissions or pensions to or by any person solely
24 because such person has ceased to hold a license to act as an
25 insurance agent, and shall not prevent the payment of renewal
26 commissions or other deferred commissions to any incorporated
27 insurance agency solely because any of its stockholders has
28 ceased to hold a license to act as an insurance agent.

29 (3) A ~~resident~~ general lines agent may share
30 commissions derived from the sale of crop hail or
31 multiple-peril crop insurance with a production credit

1 association organized under 12 U.S.C.A. ss. 2071-2077 or a
2 federal land bank association organized under U.S.C.A. ss.
3 2091-2098 if the association has specifically approved the
4 insurance activity by its employees. The amount of commission
5 to be shared shall be determined by the general lines agent
6 and the company paying the commission.

7 Section 8. Subsection (3) of section 626.792, Florida
8 Statutes, is repealed.

9 Section 9. Subsection (3) of section 626.835, Florida
10 Statutes, is repealed.

11 Section 10. Section 626.9272, Florida Statutes, is
12 created to read:

13 626.9272 Licensing of nonresident surplus lines
14 agents.--

15 (1) The department may, upon written application and
16 the payment of the fees specified in s. 624.501, issue a
17 nonresident surplus lines agent license to a nonresident
18 individual licensed in his or her home state as a resident
19 general lines and a resident surplus lines agent and otherwise
20 qualified under the laws of this state if, under the laws of
21 the individual's home state, residents of this state may be
22 licensed in a similar manner as a nonresident surplus lines
23 agent in that state.

24 (2) The department may not issue a license unless the
25 applicant satisfies the same licensing requirements under s.
26 626.927 as required of a resident surplus lines agent. The
27 department may refuse to issue such license or appointment
28 when it has reason to believe that any of the grounds exist
29 for denial, suspension, or revocation of a license as set
30 forth in ss. 626.611 and 626.621.

31

1 (3) The authority of a nonresident license is limited
2 to the specific lines of authority granted in the license
3 issued by the agent's home state and the lines authorized
4 under the nonresident license by this state.

5 (4) Any individual who holds a nonresident agent's
6 license, upon becoming a resident of this state may, for a
7 period not to exceed 90 days, operate under the nonresident
8 license and appointment, but must become licensed as a
9 resident agent within that time to continue transacting
10 business in this state after the 90-day period.

11 (5) Except as provided in this section, nonresident
12 surplus lines agents are subject to the requirements that
13 apply to resident surplus lines agents in this state,
14 including ss. 626.913-626.937.

15 (6) If available, the department shall verify a
16 nonresident applicant's licensing status through the producer
17 database maintained by the National Association of Insurance
18 Commissioners, its affiliates, or subsidiaries.

19 Section 11. Subsection (1) of section 626.929, Florida
20 Statutes, is amended to read:

21 626.929 Origination, acceptance, placement of surplus
22 lines business.--

23 (1) A ~~resident~~ general lines agent while licensed and
24 appointed as a surplus lines agent under this part may
25 originate surplus lines business and may accept surplus lines
26 business from any other originating Florida-licensed general
27 lines agent appointed and licensed as to the kinds of
28 insurance involved and may compensate such agent therefor.

29 Section 12. Subsection (1) of section 626.930, Florida
30 Statutes, is amended to read:

31 626.930 Records of surplus lines agent.--

1 (1) Each surplus lines agent shall keep in his or her
2 office in this state, or in the agent's state of residence for
3 a nonresident who does not have an office in this state, a
4 full and true record for a period of 5 years of each surplus
5 lines contract, including applications and all certificates,
6 cover notes, and other forms of confirmation of insurance
7 coverage and any substitutions thereof or endorsements thereto
8 relative to said contract procured by the agent and showing
9 such of the following items as may be applicable:

10 (a) Amount of the insurance and perils insured
11 against;

12 (b) Brief general description of property insured and
13 where located;

14 (c) Gross premium charged;

15 (d) Return premium paid, if any;

16 (e) Rate of premium charged upon the several items of
17 property;

18 (f) Effective date of the contract, and the terms
19 thereof;

20 (g) Name and post office address of the insured;

21 (h) Name and home-office address of the insurer;

22 (i) Amount collected from the insured; and

23 (j) Other information as may be required by the
24 department.

25 Section 13. Section 626.933, Florida Statutes, is
26 amended to read:

27 626.933 Collection of tax and service fee.--If the tax
28 or service fee payable by a surplus lines agent under this
29 Surplus Lines Law is not so paid within the time prescribed,
30 the same shall be recoverable in a suit brought by the
31 department against the surplus lines agent and the surety or

1 sureties on the bond filed by the surplus lines agent under s.
2 626.928. The department may authorize the Florida Surplus
3 Lines Service Office to file suit on its behalf. All costs and
4 expenses incurred in a suit brought by the office which are
5 not recoverable from the agent or surety shall be borne by the
6 office.

7 Section 14. Subsection (1) of section 626.935, Florida
8 Statutes, is amended to read:

9 626.935 Suspension, revocation, or refusal of surplus
10 lines agent's license.--

11 (1) The department shall deny an application for,
12 suspend, revoke, or refuse to renew the appointment of a
13 surplus lines agent and all other licenses and appointments
14 held by the licensee under this code, upon any of the
15 following grounds:

16 (a) Removal of the licensee's office from the
17 licensee's state of residence.

18 (b) Removal of the accounts and records of his or her
19 surplus lines business from this state or the licensee's state
20 of residence during the period when such accounts and records
21 are required to be maintained under s. 626.930.

22 (c) Closure of the licensee's office for a period of
23 more than 30 consecutive days.

24 (d) Failure to make and file his or her affidavit or
25 reports when due as required by s. 626.931.

26 (e) Failure to pay the tax or service fee on surplus
27 lines premiums, as provided for in this Surplus Lines Law.

28 (f) Failure to maintain the bond as required by s.
29 626.928.

30

31

1 (g) Suspension, revocation, or refusal to renew or
 2 continue the license or appointment as a general lines agent,
 3 service representative, or managing general agent.

4 (h) Lack of qualifications as for an original surplus
 5 lines agent's license.

6 (i) Violation of this Surplus Lines Law.

7 (j) For any other applicable cause for which the
 8 license of a general lines agent could be suspended, revoked,
 9 or refused under s. 626.611 or s. 616.621.

10 Section 15. Paragraph (a) of subsection (3) of section
 11 626.2815, Florida Statutes, is amended to read:

12 626.2815 Continuing education required; application;
 13 exceptions; requirements; penalties.--

14 (3)(a) Each person subject to the provisions of this
 15 section must, except as set forth in paragraphs (b) and (c),
 16 complete a minimum of 24 hours of continuing education courses
 17 every 2 years in basic or higher-level courses prescribed by
 18 this section or in other courses approved by the department.
 19 Each person subject to the provisions of this section must
 20 complete, as part of his or her required number of continuing
 21 education hours, 3 hours of continuing education, approved by
 22 the department, every 2 years on the subject matter of ethics
 23 ~~and a minimum of 2 hours of continuing education, approved by~~
 24 ~~the department, every 2 years on the subject matter of~~
 25 ~~unauthorized entities engaging in the business of insurance.~~
 26 ~~The scope of the topic of unauthorized entities shall include~~
 27 ~~the Florida Nonprofit Multiple Employer Welfare Arrangement~~
 28 ~~Act and the Employee Retirement Income Security Act, 29 U.S.C.~~
 29 ~~ss. 1001 et seq., as it relates to the provision of health~~
 30 ~~insurance by employers to their employees and the regulation~~
 31 ~~thereof.~~

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

5 626.015 Definitions.--As used in this part:

6 (15) "Personal lines agent" means a general lines
 7 agent who is limited to transacting business related to
 8 property and casualty insurance sold to individuals and
 9 families for noncommercial purposes.

10 Section 17. Subsection (3) is added to section
 11 626.022, Florida Statutes, to read:

12 626.022 Scope of part.--

13 (3) Provisions of this part that apply to general
 14 lines agents and applicants also apply to personal lines
 15 agents and applicants, except where otherwise provided.

16 Section 18. Subsection (8) is added to section
 17 626.241, Florida Statutes, to read:

18 626.241 Scope of examination.--

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

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

24 626.311 Scope of license.--

25 (1) Except as to personal lines agents and limited
 26 licenses, ~~the applicant for license as~~ a general lines agent
 27 or customer representative shall qualify for all property,
 28 marine, casualty, and surety lines except bail bonds which
 29 require a separate license under chapter 648. The license of
 30 a general lines agent may also cover health insurance if
 31 health insurance is included in the agent's appointment by an

1 insurer as to which the licensee is also appointed as agent
2 for property or casualty or surety insurance. The license of
3 a customer representative shall provide, in substance, that it
4 covers all of such classes of insurance that his or her
5 appointing general lines agent or agency is currently so
6 authorized to transact under the general lines agent's license
7 and appointments. No such license shall be issued limited to
8 particular classes of insurance except for bail bonds which
9 require a separate license under chapter 648 or for personal
10 lines agents. Personal lines agents are limited to transacting
11 business related to property and casualty insurance sold to
12 individuals and families for noncommercial purposes.

13 Section 20. Section 626.727, Florida Statutes, is
14 amended to read:

15 626.727 Scope of this part.--This part applies only to
16 general lines agents, customer representatives, service
17 representatives, and managing general agents, all as defined
18 in s. 626.015. Provisions of this part which apply to general
19 lines agents and applicants also apply to personal lines
20 agents and applicants, except where otherwise provided.

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

23 626.732 Requirement as to knowledge, experience, or
24 instruction.--

25 (1) Except as provided in subsection (3), no applicant
26 for a license as a general lines agent or personal lines
27 agent, except for a chartered property and casualty
28 underwriter (CPCU), other than as to a limited license as to
29 baggage and motor vehicle excess liability insurance, credit
30 property insurance, credit insurance, in-transit and storage
31 personal property insurance, or communications equipment

1 | property insurance or communication equipment inland marine
2 | insurance, shall be qualified or licensed unless within the 4
3 | years immediately preceding the date the application for
4 | license is filed with the department the applicant has:

5 | (a) Taught or successfully completed classroom courses
6 | in insurance, 3 hours of which shall be on the subject matter
7 | of ethics, satisfactory to the department at a school,
8 | college, or extension division thereof, approved by the
9 | department. To qualify for licensure as a personal lines
10 | agent, the applicant must complete a total of 52 hours of
11 | classroom courses in insurance;

12 | (b) Completed a correspondence course in insurance, 3
13 | hours of which shall be on the subject matter of ethics,
14 | satisfactory to the department and regularly offered by
15 | accredited institutions of higher learning in this state and,
16 | except if he or she is applying for a limited license under s.
17 | 626.321, for licensure as a general lines agent, has had at
18 | least 6 months of responsible insurance duties as a
19 | substantially full-time bona fide employee in all lines of
20 | property and casualty insurance set forth in the definition of
21 | general lines agent under s. 626.015 or, for licensure as a
22 | personal lines agent, has completed at least 3 months in
23 | responsible insurance duties as a substantially full-time
24 | employee in property and casualty insurance sold to
25 | individuals and families for noncommercial purposes;

26 | (c) For licensure as a general lines agent, completed
27 | at least 1 year in responsible insurance duties as a
28 | substantially full-time bona fide employee in all lines of
29 | property and casualty insurance, exclusive of aviation and wet
30 | marine and transportation insurances but not exclusive of
31 | boats of less than 36 feet in length or aircraft not held out

1 for hire, as set forth in the definition of a general lines
 2 agent under s. 626.015, without the education requirement
 3 mentioned in paragraph (a) or paragraph (b) or, for licensure
 4 as a personal lines agent, has completed at least 6 months in
 5 responsible insurance duties as a substantially full-time
 6 employee in property and casualty insurance sold to
 7 individuals and families for noncommercial purposes without
 8 the education requirement in paragraph (a) or paragraph(b); or

9 (d)1. For licensure as a general lines agent,
 10 completed at least 1 year of responsible insurance duties as a
 11 licensed and appointed customer representative or limited
 12 customer representative in commercial or personal lines of
 13 property and casualty insurance and 40 hours of classroom
 14 courses approved by the department covering the areas of
 15 property, casualty, surety, health, and marine insurance; or

16 2. For licensure as a personal lines agent, completed
 17 at least 6 months of responsible duties as a licensed and
 18 appointed customer representative or limited customer
 19 representative in property and casualty insurance sold to
 20 individuals and families for noncommercial purposes and 20
 21 hours of classroom courses approved by the department which
 22 are related to property and casualty insurance sold to
 23 individuals and families for noncommercial purposes;

24 ~~(e)1.2-~~ For licensure as a general lines agent,
 25 completed at least 1 year of responsible insurance duties as a
 26 licensed and appointed service representative in either
 27 commercial or personal lines of property and casualty
 28 insurance and 80 hours of classroom courses approved by the
 29 department covering the areas of property, casualty, surety,
 30 health, and marine insurance; ~~or-~~

31

1 2. For licensure as a personal lines agent, completed
2 at least 6 months of responsible insurance duties as a
3 licensed and appointed service representative in property and
4 casualty insurance sold to individuals and families for
5 noncommercial purposes and 40 hours of classroom courses
6 approved by the department related to property and casualty
7 insurance sold to individuals and families for noncommercial
8 purposes; or

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

14 Section 22. The Department of Financial Services does
15 not have to begin issuing licenses to personal lines agents on
16 the effective date of this act if the department has not
17 completed the process of incorporating necessary procedures
18 for issuing personal lines licenses into its licensing
19 systems.

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

22 626.747 Branch agencies.--

23 (1) Each branch place of business established by an
24 agent or agency, firm, corporation, or association shall be in
25 the active full-time charge of a licensed general lines agent
26 who is appointed to represent one or more insurers. Any agent
27 or agency, firm, corporation, or association which has
28 established one or more branch places of business shall be
29 required to have at least one licensed general lines agent who
30 is appointed to represent one or more insurers at each
31 location of the agency including its headquarters location.

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

3 627.351 Insurance risk apportionment plans.--

4 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

5 (r) A salaried employee of the corporation who
6 performs policy administration services subsequent to the
7 effectuation of a corporation policy is not required to be
8 licensed as an agent under the provisions of s. 626.112.

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

11 626.321 Limited licenses.--

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

17 (c) Personal accident insurance.--License covering
18 only policies of personal accident insurance covering the
19 risks of travel, except as provided in subparagraph 2. The
20 license may be issued only:

21 1. To a full-time salaried employee of a common
22 carrier or a full-time salaried employee or owner of a
23 transportation ticket agency and may authorize the sale of
24 such ticket policies only in connection with the sale of
25 transportation tickets, or to the full-time salaried employee
26 of such an agent. No such policy shall be for a duration of
27 more than 48 hours or for the duration of a specified one-way
28 trip or round trip.

29 2. To a full-time salaried employee of a business
30 which offers motor vehicles for rent or lease, or to a
31 business entity ~~office of a business~~ which offers motor

1 vehicles for rent or lease ~~if insurance sales activities~~
 2 ~~authorized by the license are limited to full time salaried~~
 3 ~~employees.~~ A business office licensed or a person licensed
 4 pursuant to this subparagraph may, as an agent of an insurer,
 5 transact insurance that provides coverage for accidental
 6 personal injury or death of the lessee and any passenger who
 7 is riding or driving with the covered lessee in the rental
 8 motor vehicle if the lease or rental agreement is for not more
 9 than 30 days, or if the lessee is not provided coverage for
 10 more than 30 consecutive days per lease period; however, if
 11 the lease is extended beyond 30 days, the coverage may be
 12 extended one time only for a period not to exceed an
 13 additional 30 days.

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

16 1. License covering only insurance of personal effects
 17 except as provided in subparagraph 2. The license may be
 18 issued only:

19 a. To a full-time salaried employee of a common
 20 carrier or a full-time salaried employee or owner of a
 21 transportation ticket agency, which person is engaged in the
 22 sale or handling of transportation of baggage and personal
 23 effects of travelers, and may authorize the sale of such
 24 insurance only in connection with such transportation; or

25 b. To the full-time salaried employee of a licensed
 26 general lines agent, ~~a full time salaried employee of a~~
 27 ~~business which offers motor vehicles for rent or lease,~~ or to
 28 ~~a business office of a business entity that which~~ offers motor
 29 vehicles for rent or lease if insurance sales activities
 30 authorized by the license are in connection with and
 31 incidental to the rental of a motor vehicle limited to

1 ~~full time salaried employees . An entity applying for a~~
2 license under this sub-subparagraph:

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

7 (II) Is required to obtain a license for each office,
8 branch office, or place of business making use of the entity's
9 business name by applying to the department for the license on
10 a simplified application form developed by rule of the
11 department for this purpose.

12 (III) Is required to pay the applicable fees for a
13 license as prescribed in s. 624.501, be appointed under s.
14 626.112, and pay the prescribed appointment fee under s.
15 624.501. A licensed and appointed entity shall be directly
16 responsible and accountable for all acts of the licensee's
17 employees.

18
19 The purchaser of baggage insurance shall be provided written
20 information disclosing that the insured's homeowner's policy
21 may provide coverage for loss of personal effects and that the
22 purchase of such insurance is not required in connection with
23 the purchase of tickets or in connection with the lease or
24 rental of a motor vehicle.

25 2. A business entity that ~~office licensed pursuant to~~
26 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
27 ~~1. who is a full time salaried employee of a business which~~
28 offers motor vehicles for rent or lease, may include lessees
29 under a master contract providing coverage to the lessor or
30 may transact excess motor vehicle liability insurance
31 providing coverage in excess of the standard liability limits

1 provided by the lessor in its lease to a person renting or
2 leasing a motor vehicle from the licensee's employer for
3 liability arising in connection with the negligent operation
4 of the leased or rented motor vehicle, provided that the lease
5 or rental agreement is for not more than 30 days; that the
6 lessee is not provided coverage for more than 30 consecutive
7 days per lease period, and, if the lease is extended beyond 30
8 days, the coverage may be extended one time only for a period
9 not to exceed an additional 30 days; that the lessee is given
10 written notice that his or her personal insurance policy
11 providing coverage on an owned motor vehicle may provide
12 additional excess coverage; and that the purchase of the
13 insurance is not required in connection with the lease or
14 rental of a motor vehicle. The excess liability insurance may
15 be provided to the lessee as an additional insured on a policy
16 issued to the licensee's employer.

17 3. A business entity that ~~office licensed pursuant to~~
18 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~
19 ~~1. who is a full time salaried employee of a business which~~
20 offers motor vehicles for rent or lease, may, as an agent of
21 an insurer, transact insurance that provides coverage for the
22 liability of the lessee to the lessor for damage to the leased
23 or rented motor vehicle if:

24 a. The lease or rental agreement is for not more than
25 30 days; or the lessee is not provided coverage for more than
26 30 consecutive days per lease period, but, if the lease is
27 extended beyond 30 days, the coverage may be extended one time
28 only for a period not to exceed an additional 30 days;

29 b. The lessee is given written notice that his or her
30 personal insurance policy that provides coverage on an owned
31

1 motor vehicle may provide such coverage with or without a
2 deductible; and

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

5 Section 26. Section 627.0915, Florida Statutes, is
6 amended to read:

7 627.0915 Rate filings; workers' compensation,
8 drug-free workplace, and safe employers.--

9 (1) The office shall approve rating plans for workers'
10 compensation and employer's liability insurance that give
11 specific identifiable consideration in the setting of rates to
12 employers that either implement a drug-free workplace program
13 pursuant to s. 440.102 and rules adopted under such section ~~by~~
14 ~~the commission~~ or implement a safety program pursuant to
15 provisions of the rating plan or implement both a drug-free
16 workplace program and a safety program. The plans must be
17 actuarially sound and must state the savings anticipated to
18 result from such drug-testing and safety programs.

19 (2) An insurer offering a rate plan approved under
20 this section shall notify the employer at the time of the
21 initial quote for the policy and at the time of each renewal
22 of the policy of the availability of the premium discount
23 where a drug free workplace plan is used by the employer
24 pursuant to s. 440.102 and rules adopted under such section.
25 The Financial Services Commission may adopt rules to implement
26 the provisions of this subsection.

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

29 628.709 Formation of a mutual insurance holding
30 company.--

31

1 (2) All of the initial shares of the capital stock of
2 the insurance company which reorganized as a subsidiary
3 insurance company shall be issued either to the mutual
4 insurance holding company, or to an intermediate holding
5 company which is wholly owned by the mutual insurance holding
6 company. This restriction does not preclude the subsequent
7 issuance of additional shares of stock by the subsidiary
8 insurance company so long as the mutual insurance holding
9 company at all times owns directly or through one or more
10 intermediate holding companies, a majority of the voting
11 shares of the capital stock of the subsidiary insurance
12 company. The membership interests of the policyholders of the
13 subsidiary insurance company shall become membership interests
14 in the mutual insurance holding company. Policyholders of the
15 subsidiary insurance company which was formerly the mutual
16 insurer shall be members of the mutual insurance holding
17 company in accordance with the articles of incorporation and
18 bylaws of the mutual insurance holding company. At the time of
19 formation, policyholders of any other subsidiary insurance
20 company of the mutual insurance holding company shall not be
21 members of the mutual insurance holding company unless:

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

25 (b) They are policyholders of an affiliated stock
26 insurance company, provided such policyholders were members of
27 the mutual insurance company at the time the mutual insurance
28 company policies were assumed by the affiliated stock
29 insurance company and the assumption occurred in connection
30 with the conversion.

31

1 Subsequent to formation, membership shall be governed by s.
2 628.727.

3 Section 28. Subsection (6) is added to section
4 631.021, Florida Statutes, to read:

5 631.021 Jurisdiction of delinquency proceeding; venue;
6 change of venue; exclusiveness of remedy; appeal.--

7 (6) The domiciliary court acquiring jurisdiction over
8 persons subject to this chapter may exercise exclusive
9 jurisdiction to the exclusion of all other courts, except as
10 limited by the provisions of this chapter. Upon the issuance
11 of an order of conservation, rehabilitation, or liquidation,
12 the Circuit Court of Leon County shall have exclusive
13 jurisdiction with respect to assets or property of any insurer
14 subject to such proceedings and claims against said insurer's
15 assets or property.

16 Section 29. Subsection (6) is added to section
17 631.041, Florida Statutes, to read:

18 631.041 Automatic stay; relief from stay;
19 injunctions.--

20 (6) The estate of an insurer in rehabilitation or
21 liquidation which is injured by any willful violation of an
22 applicable stay or injunction shall be entitled to actual
23 damages, including costs and attorney's fees, and, in
24 appropriate circumstances, the receivership court may impose
25 additional sanctions.

26 Section 30. Section 631.0515, Florida Statutes, is
27 amended to read:

28 631.0515 Appointment of receiver; insurance holding
29 company.--A delinquency proceeding pursuant to this chapter
30 constitutes the sole and exclusive method of dissolving,
31 liquidating, rehabilitating, reorganizing, conserving, or

1 appointing a receiver of a Florida corporation which is not
2 insolvent as defined by s. 607.01401(16); which through its
3 shareholders, board of directors, or governing body is
4 deadlocked in the management of its affairs; and which
5 directly or indirectly owns all of the stock of a Florida
6 domestic insurer. The department may petition for an order
7 directing it to rehabilitate such corporation if the interests
8 of policyholders or the public will be harmed as a result of
9 the deadlock. The department shall use due diligence to
10 resolve the deadlock. Whether or not the department petitions
11 for an order, the circuit court shall not have jurisdiction
12 pursuant to s. 607.271, s. 607.274, or s. 607.277 to dissolve,
13 liquidate, or appoint receivers with respect to, a Florida
14 corporation which directly or indirectly owns all of the stock
15 of a Florida domestic insurer and which is not insolvent as
16 defined by s. 607.01401(16). However, a managing general agent
17 or holding company with a controlling interest in a domestic
18 insurer in this state is subject to jurisdiction of the court
19 under the provisions of s. 631.025.

20 Section 31. Paragraph (a) of subsection (7) of section
21 631.141, Florida Statutes, is amended to read:

22 631.141 Conduct of delinquency proceeding; domestic
23 and alien insurers.--

24 (7)(a) In connection with a delinquency proceeding,
25 the department may appoint one or more special agents to act
26 for it, and it may employ such counsel, clerks, and assistants
27 as it deems necessary. The compensation of the special agents,
28 counsel, clerks, or assistants and all expenses of taking
29 possession of the insurer and of conducting the proceeding
30 shall be fixed by the receiver, subject to the approval of the
31 court, and shall be paid out of the funds or assets of the

1 insurer. Such expenses are administrative expenses and are
2 recoverable by the receiver in any actions in which the
3 receiver is authorized or entitled to recover its
4 administrative expenses. Within the limits of duties imposed
5 upon them, special agents shall possess all the powers given
6 to and, in the exercise of those powers, shall be subject to
7 all duties imposed upon the receiver with respect to such
8 proceeding.

9 Section 32. Section 631.205, Florida Statutes, is
10 amended to read:

11 631.205 Reinsurance proceeds.--All reinsurance
12 proceeds payable under a contract of reinsurance to which the
13 insolvent insurer is a party are to be paid directly to the
14 domiciliary receiver as general assets of the receivership
15 estate unless the reinsurance contract contains a clause which
16 specifically names the insolvent insurer's insured as a direct
17 beneficiary of the reinsurance contract. The entry of an order
18 of conservation, rehabilitation, or liquidation shall not be
19 deemed an anticipatory breach of any reinsurance contract, nor
20 shall insolvency or notice of insolvency be grounds for
21 retroactive revocation or retroactive cancellation of any
22 reinsurance contracts by the reinsurer.

23 Section 33. Section 631.206, Florida Statutes, is
24 created to read:

25 631.206 Arbitration.--If an insurer in receivership
26 has entered into an agreement containing an arbitration
27 provision for resolution of disputes, that provision is void
28 and shall be replaced by operation of law with the following
29 provision:

30
31

1 Any controversy or claim arising out of or
 2 relating to this contract, or the breach
 3 thereof, shall be settled by arbitration
 4 pursuant to the American Arbitration
 5 Association Commercial Arbitration Rules and
 6 chapter 682, Florida Statutes, and judgment on
 7 the award rendered by the arbitrators shall be
 8 entered by the receivership court. Venue shall
 9 be in Leon County, Florida. Disputes shall be
 10 submitted to a panel of three arbitrators, one
 11 to be chosen by each party and the third by the
 12 two so chosen. Arbitrators shall be selected
 13 from a list of potential qualified arbitrators
 14 with 10 years' experience involving the
 15 insurance industry. If the parties do not agree
 16 upon the qualifications of a mediator, each
 17 party shall select its mediator from a list of
 18 potential mediators approved by the
 19 receivership court.

20 Section 34. Subsection (1) of section 631.261, Florida
 21 Statutes, is amended, and subsection (4) is added to said
 22 section, to read:

23 631.261 Voidable transfers.--

24 (1)(a) Any transfer of, or lien upon, the property of
 25 an insurer or affiliate which is made or created within 4
 26 months prior to the commencement of any delinquency proceeding
 27 under this chapter ~~which gives with the intent of giving to~~
 28 any creditor of the insurer a preference or enables ~~of~~
 29 ~~enabling~~ the creditor to obtain a greater percentage of her or
 30 his debt than any other creditor of the same class, ~~and which~~
 31

1 ~~is accepted by such creditor having reasonable cause to~~
2 ~~believe that such preference will occur,~~ shall be voidable.

3 (b) Any transfer of, or lien upon, the property of an
4 insurer or affiliate which is made or created between 4 months
5 and 1 year prior to the commencement of any delinquency
6 proceeding under this chapter is void if such transfer or lien
7 inured to the benefit of a director, officer, employee,
8 stockholder, member, subscriber, affiliate, managing general
9 agent, or insider or any relative of any director, officer,
10 employee, stockholder, member, subscriber, affiliate, managing
11 general agent, or insider.

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

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

17 631.262 Transfers prior to petition.--

18 (2) Transfers shall be deemed to have been made or
19 suffered, or obligations incurred, when perfected according to
20 the following criteria:

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

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

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

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

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

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

13 Section 36. Subsection (6) is added to section
 14 631.263, Florida Statutes, to read:

15 631.263 Transfers after petition.--

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

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

21 631.54 Definitions.--As used in this part:

22 (3) "Covered claim" means an unpaid claim, including
 23 one of unearned premiums, which arises out of, and is within
 24 the coverage, and not in excess of, the applicable limits of
 25 an insurance policy to which this part applies, issued by an
 26 insurer, if such insurer becomes an insolvent insurer ~~after~~
 27 ~~October 1, 1970,~~ and the claimant or insured is a resident of
 28 this state at the time of the insured event or the property
 29 from which the claim arises is permanently located in this
 30 state. "Covered claim" shall not include:

31

1 (a) Any amount due any reinsurer, insurer, insurance
2 pool, or underwriting association, sought directly or
3 indirectly through a third party, as subrogation,
4 contribution, indemnification, or otherwise; or

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

9 Member insurers shall have no right of subrogation,
10 contribution, indemnification, or otherwise, sought directly
11 or indirectly through a third party, against the insured of
12 any insolvent member.

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

15 631.904 Definitions.--As used in this part, the term:

16 (2) "Covered claim" means an unpaid claim, including a
17 claim for return of unearned premiums, which arises out of, is
18 within the coverage of, and is not in excess of the applicable
19 limits of, an insurance policy to which this part applies,
20 which policy was issued by an insurer and which claim is made
21 on behalf of a claimant or insured who was a resident of this
22 state at the time of the injury. The term "covered claim" does
23 not include any amount sought as a return of premium under any
24 retrospective rating plan; any amount due any reinsurer,
25 insurer, insurance pool, or underwriting association, as
26 subrogation recoveries or otherwise; any claim that would
27 otherwise be a covered claim that has been rejected by any
28 other state guaranty fund on the grounds that the insured's
29 net worth is greater than that allowed under that state's
30 guaranty fund or liquidation law, except this exclusion from
31 the definition of covered claim shall not apply to employers

1 who, prior to April 30, 2004, entered into an agreement with
2 the corporation preserving the employer's right to seek
3 coverage of claims rejected by another state's guaranty fund;
4 or any return of premium resulting from a policy that was not
5 in force on the date of the final order of liquidation. Member
6 insurers have no right of subrogation against the insured of
7 any insolvent insurer. This provision shall be applied
8 retroactively to cover claims of an insolvent self-insurance
9 fund resulting from accidents or losses incurred prior to
10 January 1, 1994, regardless of the date the petition in
11 circuit court was filed alleging insolvency and the date the
12 court entered an order appointing a receiver.

13 Section 39. Section 634.1815, Florida Statutes, is
14 created to read:

15 634.1815 Rebating; when allowed.--

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

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

20 (b) The rebate shall be in accordance with a rebating
21 schedule filed by the salesperson with the service agreement
22 company issuing the service agreement to which the rebate
23 applies. The service agreement company shall maintain a copy
24 of all rebating schedules for a period of 3 years.

25 (c) The rebating schedule shall be uniformly applied
26 so all consumers who purchase the same service agreement
27 through the salesperson for the same coverage shall receive
28 the same percentage rebate.

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

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

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

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

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

13 Section 40. Section 634.3205, Florida Statutes, is
14 created to read:

15 634.3205 Rebating; when allowed.--

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

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

20 (b) The rebate shall be in accordance with a rebating
21 schedule filed by the sales representative with the home
22 warranty association issuing the home warranty to which the
23 rebate applies. The home warranty association shall maintain a
24 copy of all rebating schedules for a period of 3 years.

25 (c) The rebating schedule shall be uniformly applied
26 so all consumers who purchase the same home warranty through
27 the sales representative for the same coverage shall receive
28 the same percentage rebate.

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

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

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

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

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

13 Section 41. Subsection (8) is added to section
14 634.406, Florida Statutes, to read:

15 634.406 Financial requirements.--

16 (8) An association licensed under this part and
17 holding no other license under part I or part II of this
18 chapter is not required to establish an unearned premium
19 reserve or maintain contractual liability insurance and may
20 allow its premiums to exceed the ratio to net assets
21 limitation of this section if the association complies with
22 the following:

23 (a) The association or, if the association is a direct
24 or indirect wholly owned subsidiary of a parent corporation,
25 its parent corporation has, and maintains at all times, a
26 minimum net worth of at least \$100 million and provides the
27 office with the following:

28 1. A copy of the association's annual audited
29 financial statements or the audited consolidated financial
30 statements of the association's parent corporation, prepared
31 by an independent certified public accountant in accordance

1 with generally accepted accounting principles, which clearly
2 demonstrate the net worth of the association or its parent
3 corporation to be \$100 million and a quarterly written
4 certification to the office that such entity continues to
5 maintain the net worth required under this paragraph.

6 2. The association's, or its parent corporation's,
7 Form 10K, Form 10Q, or Form 20F as filed with the United
8 States Securities and Exchange Commission or such other
9 documents required to be filed with a recognized stock
10 exchange, which shall be provided on a quarterly and annual
11 basis within 10 days after the last date each such report must
12 be filed with the Securities and Exchange Commission, the
13 National Association of Security Dealers Automated Quotation
14 system, or other recognized stock exchange.

15
16 Failure to timely file the documents required under this
17 paragraph may, at the discretion of the office, subject the
18 association to suspension or revocation of its license under
19 this part. An association or parent corporation demonstrating
20 compliance with subparagraph 1. and subparagraph 2. must
21 maintain outstanding debt obligations, if any, rated in the
22 top four rating categories by a recognized rating service.

23 (b) If the net worth of a parent corporation is used
24 to satisfy the net worth provisions of paragraph (a), the
25 following provisions must be met:

26 1. The parent corporation must guarantee all service
27 warranty obligations of the association, wherever written, on
28 a form approved in advance by the office. No cancellation,
29 termination, or modification of the guarantee shall become
30 effective unless the parent corporation provides the office
31 written notice at least 90 days before the effective date of

1 the cancellation, termination, or modification and the office
2 approves the request in writing. Prior to the effective date
3 of cancellation, termination, or modification of the
4 guarantee, the association must demonstrate to the
5 satisfaction of the office compliance with all applicable
6 provisions of this part, including whether the association
7 will meet the requirements of this section by the purchase of
8 contractual liability insurance, establishing required
9 reserves, or other method allowed under this section. If the
10 association or parent corporation does not demonstrate to the
11 satisfaction of the office compliance with all applicable
12 provisions of this part, it shall immediately cease writing
13 new and renewal business upon the effective date of the
14 cancellation, termination, or modification.

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

17 Section 42. Section 634.4225, Florida Statutes, is
18 created to read:

19 634.4225 Rebating; when allowed.--

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

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

24 (b) The rebate shall be in accordance with a rebating
25 schedule filed by the sales representative with the
26 association issuing the service warranty to which the rebate
27 applies. The association shall maintain a copy of all rebating
28 schedules for a period of 3 years.

29 (c) The rebating schedule shall be uniformly applied
30 so all consumers who purchase the same service warranty
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1 through the sales representative for the same coverage shall
2 receive the same percentage rebate.

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

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

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

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

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

17 Section 43. Subsection (4) is added to section
18 627.4133, Florida Statutes, to read:

19 627.4133 Notice of cancellation, nonrenewal, or
20 renewal premium.--

21 (4) Notwithstanding the provisions of s. 440.42(3), if
22 cancellation of a policy providing coverage for workers'
23 compensation and employer's liability insurance is requested
24 by the insured, such cancellation shall be effective on the
25 date the carrier sends the notice of cancellation to the
26 insured.

27 Section 44. Subsection (1) of section 626.641, Florida
28 Statutes, is amended to read:

29 626.641 Duration of suspension or revocation.--

30 (1) The department or office shall, in its order
31 suspending a license or appointment or in its order suspending

1 the eligibility of a person to hold or apply for such license
2 or appointment, specify the period during which the suspension
3 is to be in effect; but such period shall not exceed 2 years.
4 The license, appointment, or eligibility shall remain
5 suspended during the period so specified, subject, however, to
6 any rescission or modification of the order by the department
7 or office, or modification or reversal thereof by the court,
8 prior to expiration of the suspension period. A license,
9 appointment, or eligibility which has been suspended shall not
10 be reinstated except upon request for such reinstatement and,
11 in the case of a second suspension, completion of continuing
12 education courses prescribed and approved by the department or
13 office; but the department or office shall not grant such
14 reinstatement if it finds that the circumstance or
15 circumstances for which the license, appointment, or
16 eligibility was suspended still exist or are likely to recur.

17 Section 45. For the purpose of incorporating the
18 amendment to section 626.641, Florida Statutes, in a reference
19 thereto, paragraph (a) of subsection (4) of section 626.935,
20 Florida Statutes, is reenacted to read:

21 626.935 Suspension, revocation, or refusal of surplus
22 lines agent's license.--

23 (4) The following sections also apply, to the extent
24 so applicable, as to surplus lines agents:

25 (a) Section 626.641.

26 Section 46. This act shall take effect July 1, 2004.

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