

1 A bill to be entitled
2 An act relating to the Department of Financial
3 Services; creating s. 17.0416, F.S.;
4 authorizing the Chief Financial Officer to
5 provide certain services on a fee basis under
6 certain circumstances; requiring the Department
7 of Financial Services to deposit fees collected
8 into the General Revenue Fund; authorizing the
9 department to recover expenses by a budget
10 amendment; authorizing the department to adopt
11 rules; amending s. 17.16, F.S.; providing that
12 the office of the Chief Financial Officer may
13 have an official seal; amending s. 17.57, F.S.;
14 authorizing the Chief Financial Officer to use
15 reverse repurchase agreements in investment
16 transactions; amending s. 17.59, F.S.; revising
17 collateral safekeeping requirements; amending
18 s. 17.61, F.S.; authorizing entities created
19 under the State Constitution to invest funds;
20 amending s. 20.121, F.S.; providing that the
21 Chief Financial Officer may be referred to as
22 the "Treasurer"; providing that the Department
23 of Financial Services, rather than the Office
24 of Insurance Regulation, is responsible for
25 regulation of insurance adjusters; providing
26 that the Director of the Office of Insurance
27 Regulation may be known as the Commissioner of
28 Insurance Regulation; providing that the
29 Director of the Office of Financial Regulation
30 may be known as the Commissioner of Financial
31 Regulation; amending s. 110.1227, F.S.;

1 providing that the Director of the Office of
2 Insurance Regulation, rather than the Chief
3 Financial Officer, shall appoint an actuary to
4 the Florida Employee Long-Term-Care Plan Board
5 of Directors; amending s. 112.215, F.S.;
6 redefining the term "employee" to include any
7 state university board of trustees; providing
8 for the Government Employees' Deferred
9 Compensation Plan to be funded indirectly from
10 fees charged by investment providers to plan
11 participants; replacing the term "plan
12 provider" with the term "investment option
13 provider"; amending s. 215.95, F.S.; revising
14 the membership of the Florida Financial
15 Management Information Board; amending s.
16 215.96, F.S.; revising the membership of the
17 coordinating council to the Florida Financial
18 Management Information Board; extending the
19 date of future repeal of the law requiring the
20 board to facilitate the integration of certain
21 administrative and financial management systems
22 and establishing the Enterprise Resource
23 Planning Integration Task Force; amending s.
24 287.064, F.S.; authorizing the financing of a
25 guaranteed energy performance savings contract
26 pursuant to a master equipment financing
27 agreement; providing certain terms and
28 restrictions; amending s. 408.05, F.S.;
29 providing that the Director of the Office of
30 Insurance Regulation, rather than the Chief
31 Financial Officer, shall appoint an employee to

1 the State Comprehensive Health Information
2 System Advisory Council; amending s. 501.212,
3 F.S.; specifying persons, causes of action, or
4 activities that are exempt from part II of
5 chapter 501, F.S., the Deceptive and Unfair
6 Trade Practice Act; amending s. 516.35, F.S.;
7 correcting a reference to the agency that
8 licenses the sale of credit insurance; amending
9 s. 624.4622, F.S.; providing that a local
10 government self-insurance fund must initially
11 be organized as a commercial self-insurance
12 fund or a group self-insurance fund and, for a
13 specified period, must comply with the
14 requirements for such a fund; providing that a
15 local government self-insurance fund comply
16 with specified provisions relating to financial
17 statements; amending ss. 624.313, 624.317,
18 624.501, 626.016, 626.112, 626.161, 626.171,
19 626.181, 626.191, 626.211, 626.221, 626.231,
20 626.241, 626.251, 626.261, 626.266, 626.271,
21 626.281, 626.2817, 626.291, 626.301, 626.371,
22 626.381, 626.431, 626.461, 626.471, 626.521,
23 626.541, 626.551, 626.611, 626.621, 626.631,
24 626.641, 626.661, 626.681, 626.691, 626.692,
25 626.8582, 626.8584, 626.859, 626.863, 626.865,
26 626.866, 626.867, 626.869, 626.8695, 626.8696,
27 626.8697, 626.8698, 626.870, 626.871, 626.872,
28 626.873, 626.8732, 626.8734, 626.8736,
29 626.8738, 626.874, 626.878, F.S.; transferring
30 and renumbering s. 627.7012, F.S., as s.
31 626.879, F.S., and amending such section;

1 making conforming changes to authorize the
2 Department of Financial Services, rather than
3 the Office of Insurance Regulation, to regulate
4 insurance adjusters; amending s. 626.9543,
5 F.S.; specifying that the Department of
6 Financial Services, rather than the former
7 Department of Insurance, administers the
8 Holocaust Victims Insurance Act; amending s.
9 626.989, F.S.; correcting references to the
10 Bureau of Workers' Compensation Insurance Fraud
11 with regard to the required annual report of
12 the Department of Financial Services related to
13 workers' compensation fraud; amending s.
14 627.0628, F.S.; providing that the Director of
15 the Office of Insurance, rather than the Chief
16 Financial Officer, shall appoint an employee of
17 the office who is an actuary to the Florida
18 Commission on Hurricane Loss Projection
19 Methodology; amending s. 627.6699, F.S.;
20 providing that the Director of the Office of
21 Insurance Regulation, rather than the Chief
22 Financial Officer, shall be a member of the
23 board of the Small Employer Health Reinsurance
24 Program; providing that the transfer of the
25 regulation of adjusters from the Office of
26 Insurance Regulation to the Department of
27 Financial Services does not affect any
28 administrative or judicial action prior to or
29 pending on the effective date of the act;
30 providing that any action approved or
31 authorized by the Financial Services Commission

1 or the Office of Insurance Regulation continues
2 to be effective until the Department of
3 Financial Services otherwise prescribes;
4 providing that the rules of the Financial
5 Services Commission related to adjusters shall
6 become rules of the Department of Financial
7 Services; amending s. 626.99245, F.S.;
8 providing that the regulation of certain
9 viatical settlement agreements and providers is
10 within the exclusive jurisdiction of the Office
11 of Insurance Regulation under part X of ch.
12 626; amending s. 494.0025, F.S.; prohibiting
13 the use of the name or logo of a financial
14 institution or its affiliates or subsidiaries
15 under certain circumstances without written
16 consent; amending s. 516.07, F.S.; providing
17 that the use of the name or logo of a financial
18 institution or its affiliates or subsidiaries
19 under certain circumstances without written
20 consent is grounds for denial of license or for
21 disciplinary action; amending s. 520.995, F.S.;
22 providing that the use of the name or logo of a
23 financial institution or its affiliates or
24 subsidiaries under certain circumstances
25 without written consent is grounds for
26 disciplinary action; amending s. 626.9541,
27 F.S.; providing that the deceptive use of a
28 name is an unfair method of competition and an
29 unfair or deceptive act or practice; amending
30 s. 655.005, F.S.; revising certain definitions
31 relating to financial institutions to include

1 the term "international branch"; amending s.
2 655.0322, F.S.; revising the definition of the
3 term "financial institution" to include an
4 international branch; amending s. 655.0385,
5 F.S.; clarifying requirements for notification
6 of the appointment of an executive director or
7 equivalent by state financial institutions;
8 requiring a nonrefundable fee to accompany
9 notification; amending s. 655.045, F.S.;
10 providing an exemption from audit requirements;
11 amending s. 655.059, F.S.; providing for the
12 inspection and examination of financial
13 institution records and books pursuant to
14 subpoena; providing for reimbursement of
15 reasonable costs and fees for compliance;
16 providing for setting the reimbursement amount
17 when charges are contested; amending s.
18 655.921, F.S.; prohibiting certain out-of-state
19 financial institutions from locating branch
20 offices in the state in order to qualify for
21 certain exempt transactions; deleting
22 provisions relating to authorization of offices
23 in the state; amending s. 655.922, F.S.;
24 clarifying provisions authorizing financial
25 institutions under another state's financial
26 codes to transact business in this state;
27 expanding the names or titles under which only
28 a financial institution may transact business;
29 prohibiting the use of the name or logo of a
30 financial institution or its affiliates or
31 subsidiaries under certain circumstances

1 without written consent; requiring the
2 Financial Services Commission to adopt rules;
3 amending s. 655.94, F.S.; deleting a
4 prohibition against certain notary publics
5 being involved in opening safety deposit boxes
6 for nonpayment of rent; requiring use of
7 certified mail instead of registered mail;
8 amending. s. 658.16, F.S.; providing criteria
9 for a bank or trust company chartered as a
10 limited liability company to be considered
11 "incorporated" under the financial institutions
12 codes; providing definitions; amending s.
13 658.23, F.S.; correcting terminology; deleting
14 a requirement for a current copy of the bylaws
15 of a bank or trust company to be on file with
16 the Office of Financial Regulation; amending s.
17 658.26, F.S.; providing for state banks to
18 relocate offices upon approval; providing that
19 certain financial institutions may establish or
20 relocate an office upon written notification;
21 providing requirements for notification and a
22 fee; requiring an application for relocation of
23 a main office outside the state; exempting
24 applications from publication in the Florida
25 Administrative Weekly; modifying requirements
26 for applications for branch offices by a bank
27 ineligible for branch notification; deleting a
28 requirement that such applications be published
29 in the Florida Administrative Weekly and be
30 subject to ch. 120, F.S.; requiring a
31 relocation application to be filed with the

1 Office of Financial Regulation; providing for a
2 filing fee, investigations, and restrictions
3 relating to such applications; amending s.
4 658.33, F.S.; adding to the list of persons who
5 must meet certain qualification levels;
6 providing for a waiver of qualification
7 requirements; amending s. 658.37, F.S.;
8 prohibiting an imminently insolvent bank from
9 paying dividends; amending s. 658.48, F.S.;
10 specifying limitations on making loans and
11 extending credit by a bank declared to be
12 imminently insolvent; amending s. 658.67, F.S.;
13 providing multiple dates for the assessment of
14 the value of property acquisition as security;
15 amending s. 658.73, F.S.; delineating which
16 entities or individuals must pay a fee for a
17 certificate of good standing; amending s.
18 663.16, F.S.; revising definitions to include
19 the term "branch" and to reduce the percentage
20 of voting stock necessary for consideration as
21 control; amending s. 663.304, F.S.; deleting a
22 requirement for reservation of a proposed
23 corporate name with the Department of State;
24 amending s. 665.034, F.S.; revising a
25 percentage designating control of an
26 association; amending s. 674.406, F.S.;
27 reducing the time that banks must retain
28 receipts of items; reducing the time within
29 which one must report unauthorized signatures;
30 providing a time limitation within which to
31 assert claims against a bank for an

1 | unauthorized endorsement; repealing s. 658.68,
2 | F.S., relating to liquidity requirements for a
3 | state bank; amending s. 627.4133, F.S.;
4 | providing for an effective date of certain
5 | policy cancellations by insureds; amending s.
6 | 717.101, F.S.; providing definitions; amending
7 | ss. 717.106, 717.107, 717.109, and 717.116,
8 | F.S.; revising criteria for presuming as
9 | unclaimed certain bank deposits and funds in
10 | financial organizations, funds owing under life
11 | insurance policies, funds held by business
12 | associations, and property held in a
13 | safe-deposit box or other safekeeping
14 | repository, respectively; amending s. 717.117,
15 | F.S.; revising reporting requirements for
16 | unclaimed property; presuming certain accounts
17 | as unclaimed under certain circumstances;
18 | providing that certain intangible property is
19 | exempt from being reported as unclaimed
20 | property under certain conditions; amending s.
21 | 717.118, F.S.; providing requirements for
22 | notification of apparent owners of unclaimed
23 | property; amending s. 717.119, F.S.; revising
24 | requirements for delivery of certain unclaimed
25 | property; providing penalties for late
26 | deliveries; amending s. 717.1201, F.S.;
27 | revising certain holder payment and repayment
28 | requirements; amending s. 717.122, F.S.;
29 | revising certain public sale requirements;
30 | authorizing the Department of Financial
31 | Services to deduct certain auction fees, costs,

1 and expenses; prohibiting actions or
2 proceedings against the department for certain
3 decisions relating to auctions of unclaimed
4 property; specifying that certain sales of
5 unclaimed property are not subject to the sales
6 tax; amending s. 717.123, F.S.; increasing a
7 maximum amount of funds the department may
8 retain from certain funds received; amending s.
9 717.124, F.S.; providing additional
10 requirements for filing unclaimed property
11 claims; providing for the return or withdrawal
12 of certain claims under certain circumstances;
13 specifying a time period for department
14 determination of claims; authorizing the
15 department to deny claims under certain
16 circumstances; specifying an exclusive remedy
17 for subsequent claimants; revising requirements
18 for a power of attorney; requiring direct
19 delivery of safe-deposit boxes under certain
20 circumstances; revising payment of fees and
21 costs requirements; creating s. 717.12403,
22 F.S.; providing presumptions for certain
23 unclaimed demand, savings, or checking accounts
24 in financial institutions with more than one
25 beneficiary; creating s. 717.12404, F.S.;
26 providing requirements for claims for property
27 reported in the name of an active or dissolved
28 corporation for which the last annual report is
29 unavailable; creating s. 717.12405, F.S.;
30 providing requirements; for claims by estates;
31 amending s. 717.1241, F.S.; revising

1 requirements for remittance of property subject
2 to conflicting claims; amending s. 717.1242,
3 F.S.; clarifying legislative intent relating to
4 filing certain claims; creating s. 717.1244,
5 F.S.; providing criteria for department
6 determinations of claims; amending s. 717.126,
7 F.S.; providing a criterion for proof of
8 entitlement; specifying venue in certain
9 unclaimed property actions; creating s.
10 717.1261, F.S.; requiring a death certificate
11 in claiming entitlement to certain unclaimed
12 property; creating s. 717.1262, F.S.; requiring
13 certain court documents in claiming entitlement
14 to certain unclaimed property; amending s.
15 717.1301, F.S.; revising certain fee and
16 expense requirements for investigations or
17 examinations; providing for interest on such
18 amounts under certain circumstances; amending
19 s. 717.1315, F.S.; clarifying a record
20 retention requirement for owner
21 representatives; amending s. 717.132, F.S.;
22 specifying criteria for certain corrective
23 actions; creating s. 717.1322, F.S.; specifying
24 grounds for certain disciplinary actions;
25 providing for certain disciplinary actions;
26 providing penalties; authorizing the department
27 to adopt rules with regard to disciplinary
28 guidelines; creating s. 717.1331, F.S.;
29 providing for department actions against
30 certain lienholders under certain
31 circumstances; creating s. 717.1333, F.S.;

1 providing for admitting certain documents into
2 evidence in certain actions; amending s.
3 717.134, F.S.; authorizing the department to
4 impose and collect penalties for failing to
5 report certain information; authorizing the
6 department waive such penalties under certain
7 circumstances; creating s. 717.1341, F.S.;
8 prohibiting receipt of unentitled unclaimed
9 property; providing for liability for such
10 property under certain circumstances;
11 authorizing the department to maintain certain
12 civil or administrative actions; providing for
13 fines, costs, and attorney fees; prohibiting
14 filing claims for unentitled unclaimed
15 property; providing criminal penalties;
16 amending s. 717.135, F.S.; revising
17 requirements for agreements to recover certain
18 property; providing an agreement form; creating
19 s. 717.1351, F.S.; providing requirements for
20 acquisition of unclaimed property by certain
21 persons; providing certain contract
22 requirements; providing a contract form;
23 creating s. 717.1400, F.S.; requiring certain
24 licensed persons to register with the
25 department for certain purposes; providing
26 registration requirements; providing for denial
27 of registration under certain circumstances;
28 providing registration limitations; amending s.
29 212.02, F.S.; revising a definition to conform;
30 amending ss. 322.142 and 395.3025, F.S.;
31 providing for disclosure of certain

1 confidential information to the department
2 under certain circumstances; amending s.
3 723.103, F.S.; authorizing the court, under
4 specified conditions, to extend the right of
5 succession to surviving heirs when the decedent's
6 lineage cannot be fully documented because it
7 includes a Holocaust victim; limiting the
8 application of statutes of limitation under
9 certain circumstances; defining the term
10 "Holocaust victim"; providing an effective
11 date.

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

14
15 Section 1. Section 17.0416, Florida Statutes, is
16 created to read:

17 17.0416 Authority to provide services on a fee
18 basis.--

19 (1) The Chief Financial Officer, through the
20 Department of Financial Services, may provide accounting and
21 payroll services on a fee basis under contractual agreement
22 with eligible entities, including, but not limited to, state
23 universities, community colleges, units of local government,
24 constitutional officers, and any other person or entity having
25 received any property, funds, or moneys from the state. All
26 funds collected by the department under these contracts shall
27 be deposited into the General Revenue Fund.

28 (2) The Department of Financial Services may adopt
29 rules necessary to administer this section.

30 Section 2. Section 17.16, Florida Statutes, is amended
31 to read:

1 17.16 Seal.--The ~~seal~~ of office of the Chief Financial
2 Officer shall have an official seal by which its proceedings
3 are authenticated ~~be the same as the seal heretofore used for~~
4 ~~that purpose.~~

5 Section 3. Subsection (2) of section 17.57, Florida
6 Statutes, is amended to read:

7 17.57 Deposits and investments of state money.--

8 (2) The Chief Financial Officer shall make funds
9 available to meet the disbursement needs of the state. Funds
10 which are not needed for this purpose shall be placed in
11 qualified public depositories that will pay rates established
12 by the Chief Financial Officer at levels not less than the
13 prevailing rate for United States Treasury securities with a
14 corresponding maturity. In the event money is available for
15 interest-bearing time deposits or savings accounts as provided
16 herein and qualified public depositories are unwilling to
17 accept such money and pay thereon the rates established above,
18 then such money which qualified public depositories are
19 unwilling to accept shall be invested in:

20 (a) Direct United States Treasury obligations.

21 (b) Obligations of the Federal Farm Credit Banks.

22 (c) Obligations of the Federal Home Loan Bank and its
23 district banks.

24 (d) Obligations of the Federal Home Loan Mortgage
25 Corporation, including participation certificates.

26 (e) Obligations guaranteed by the Government National
27 Mortgage Association.

28 (f) Obligations of the Federal National Mortgage
29 Association.
30
31

1 (g) Commercial paper of prime quality of the highest
2 letter and numerical rating as provided for by at least one
3 nationally recognized rating service.

4 (h) Time drafts or bills of exchange drawn on and
5 accepted by a commercial bank, otherwise known as "bankers
6 acceptances," which are accepted by a member bank of the
7 Federal Reserve System having total deposits of not less than
8 \$400 million or which are accepted by a commercial bank which
9 is not a member of the Federal Reserve System with deposits of
10 not less than \$400 million and which is licensed by a state
11 government or the Federal Government, and whose senior debt
12 issues are rated in one of the two highest rating categories
13 by a nationally recognized rating service and which are held
14 in custody by a domestic bank which is a member of the Federal
15 Reserve System.

16 (i) Corporate obligations or corporate master notes of
17 any corporation within the United States, if the long-term
18 obligations of such corporation are rated by at least two
19 nationally recognized rating services in any one of the four
20 highest classifications. However, if such obligations are
21 rated by only one nationally recognized rating service, then
22 the obligations shall be rated in any one of the two highest
23 classifications.

24 (j) Obligations of the Student Loan Marketing
25 Association.

26 (k) Obligations of the Resolution Funding Corporation.

27 (l) Asset-backed or mortgage-backed securities of the
28 highest credit quality.

29 (m) Any obligations not previously listed which are
30 guaranteed as to principal and interest by the full faith and
31 credit of the United States Government or are obligations of

1 United States agencies or instrumentalities which are rated in
2 the highest category by a nationally recognized rating
3 service.

4 (n) Commingled no-load investment funds or no-load
5 mutual funds in which all securities held by the funds are
6 authorized in this subsection.

7 (o) Money market mutual funds as defined and regulated
8 by the Securities and Exchange Commission.

9 (p) Obligations of state and local governments rated
10 in any of the four highest classifications by at least two
11 nationally recognized rating services. However, if such
12 obligations are rated by only one nationally recognized rating
13 service, then the obligations shall be rated in any one of the
14 two highest classifications.

15 (q) Derivatives of investment instruments authorized
16 in paragraphs (a)-(m).

17 (r) Covered put and call options on investment
18 instruments authorized in this subsection for the purpose of
19 hedging transactions by investment managers to mitigate risk
20 or to facilitate portfolio management.

21 (s) Negotiable certificates of deposit issued by
22 financial institutions whose long-term debt is rated in one of
23 the three highest categories by at least two nationally
24 recognized rating services, the investment in which shall not
25 be prohibited by any provision of chapter 280.

26 (t) Foreign bonds denominated in United States dollars
27 and registered with the Securities and Exchange Commission for
28 sale in the United States, if the long-term obligations of
29 such issuers are rated by at least two nationally recognized
30 rating services in any one of the four highest
31 classifications. However, if such obligations are rated by

1 only one nationally recognized rating service, the obligations
2 shall be rated in any one of the two highest classifications.

3 (u) Convertible debt obligations of any corporation
4 domiciled within the United States, if the convertible debt
5 issue is rated by at least two nationally recognized rating
6 services in any one of the four highest classifications.
7 However, if such obligations are rated by only one nationally
8 recognized rating service, then the obligations shall be rated
9 in any one of the two highest classifications.

10 (v) Securities not otherwise described in this
11 subsection. However, not more than 3 percent of the funds
12 under the control of the Chief Financial Officer shall be
13 invested in securities described in this paragraph.

14
15 These investments may be in varying maturities and may be in
16 book-entry form. Investments made pursuant to this subsection
17 may be under repurchase agreement or reverse repurchase
18 agreement. The Chief Financial Officer may hire registered
19 investment advisers and other consultants to assist in
20 investment management and to pay fees directly from investment
21 earnings. Investment securities, proprietary investment
22 services related to contracts, performance evaluation
23 services, investment-related equipment or software used
24 directly to assist investment trading or investment accounting
25 operations including bond calculators, telerates, Bloombergs,
26 special program calculators, intercom systems, and software
27 used in accounting, communications, and trading, and advisory
28 and consulting contracts made under this section are exempt
29 from the provisions of chapter 287.

30 Section 4. Section 17.59, Florida Statutes, is amended
31 to read:

1 17.59 Safekeeping services.--

2 (1) The Chief Financial Officer shall administer a
3 collateral management service for all ~~may accept for~~
4 ~~safekeeping purposes, deposits of cash, securities, and other~~
5 ~~documents or articles of value from any state agencies agency~~
6 as defined in s. 216.011, or any county, city, or political
7 subdivision thereof, or other public authority that requires
8 by statute, rule, or contract the deposit or pledge of
9 collateral.

10 (2) Eligible collateral listed in s. 17.57 may be
11 deposited or pledged using the following collateral
12 arrangements as approved by the Chief Financial Officer:

13 (a) Collateral deposited and held by a custodian of
14 the Chief Financial Officer.

15 (b) Collateral pledged to the Chief Financial Officer.

16 (c) Securities and articles of value deposited and
17 held by the Chief Financial Officer.

18 (d) Cash deposited in the Treasury Cash Deposit Trust
19 Fund and the Public Deposit Security Trust Fund.

20 (e) Cash deposited with the Chief Financial Officer as
21 escrow agent.

22 (3) The Chief Financial Officer may adopt rules for
23 the proper management and maintenance of the collateral
24 management service.

25 ~~(4)~~(2) The Chief Financial Officer may, in his or her
26 discretion, establish a fee for processing, servicing, and
27 safekeeping deposits and other documents or articles of value
28 maintained by held in the Chief Financial Officer Officer's
29 ~~vaults~~ as requested by the various entities according to a
30 service-level agreement or as provided for by law. Such fee
31 shall be equivalent to the fee charged by financial

1 institutions for processing, servicing, and safekeeping the
2 same types of deposits and other documents or articles of
3 value.

4 ~~(5)(3)~~ The Chief Financial Officer shall collect in
5 advance, and persons so served shall pay to the Chief
6 Financial Officer in advance, the miscellaneous charges as
7 described in a service-level agreement. follows:

8 ~~(a) For copies of documents or records on file with~~
9 ~~the Chief Financial Officer, per page.....\$50.~~

10 ~~(b) For each certificate of the Chief Financial~~
11 ~~Officer, certified or under the Chief Financial Officer's~~
12 ~~seal, authenticating any document or other instrument...\$5.00.~~

13 ~~(6)(4)~~ All fees collected for the services described
14 in this section shall be deposited in the Treasury
15 Administrative and Investment Trust Fund.

16 Section 5. Subsection (1) of section 17.61, Florida
17 Statutes, is amended to read:

18 17.61 Chief Financial Officer; powers and duties in
19 the investment of certain funds.--

20 (1) The Chief Financial Officer shall invest all
21 general revenue funds and all the trust funds and all agency
22 funds of each state agency, and of the judicial branch, as
23 defined in s. 216.011, and may, upon request, invest funds of
24 any ~~statutorily created~~ board, association, or entity created
25 by the State Constitution or by law, except for the funds
26 required to be invested pursuant to ss. 215.44-215.53, by the
27 procedure and in the authorized securities prescribed in s.
28 17.57; for this purpose, the Chief Financial Officer may open
29 and maintain one or more demand and safekeeping accounts in
30 any bank or savings association for the investment and
31 reinvestment and the purchase, sale, and exchange of funds and

1 securities in the accounts. Funds in such accounts used solely
2 for investments and reinvestments shall be considered
3 investment funds and not funds on deposit, and such funds
4 shall be exempt from the provisions of chapter 280. In
5 addition, the securities or investments purchased or held
6 under the provisions of this section and s. 17.57 may be
7 loaned to securities dealers and banks and may be registered
8 by the Chief Financial Officer in the name of a third-party
9 nominee in order to facilitate such loans, provided the loan
10 is collateralized by cash or United States government
11 securities having a market value of at least 100 percent of
12 the market value of the securities loaned. The Chief Financial
13 Officer shall keep a separate account, designated by name and
14 number, of each fund. Individual transactions and totals of
15 all investments, or the share belonging to each fund, shall be
16 recorded in the accounts.

17 Section 6. Subsection (1) and paragraph (a) of
18 subsection (3) of section 20.121, Florida Statutes, are
19 amended to read:

20 20.121 Department of Financial Services.--There is
21 created a Department of Financial Services.

22 (1) DEPARTMENT HEAD.--The head of the Department of
23 Financial Services is the Chief Financial Officer who may also
24 be known as the Treasurer.

25 (3) FINANCIAL SERVICES COMMISSION.--Effective January
26 7, 2003, there is created within the Department of Financial
27 Services the Financial Services Commission, composed of the
28 Governor, the Attorney General, the Chief Financial Officer,
29 and the Commissioner of Agriculture, which shall for purposes
30 of this section be referred to as the commission. Commission
31 members shall serve as agency head of the Financial Services

1 Commission. The commission shall be a separate budget entity
2 and shall be exempt from the provisions of s. 20.052.
3 Commission action shall be by majority vote consisting of at
4 least three affirmative votes. The commission shall not be
5 subject to control, supervision, or direction by the
6 Department of Financial Services in any manner, including
7 purchasing, transactions involving real or personal property,
8 personnel, or budgetary matters.

9 (a) Structure.--The major structural unit of the
10 commission is the office. Each office shall be headed by a
11 director. The following offices are established:

12 1. The Office of Insurance Regulation, which shall be
13 responsible for all activities concerning insurers and other
14 risk bearing entities, including licensing, rates, policy
15 forms, market conduct, claims, ~~adjusters~~, issuance of
16 certificates of authority, solvency, viatical settlements,
17 premium financing, and administrative supervision, as provided
18 under the insurance code or chapter 636. The head of the
19 Office of Insurance Regulation is the Director of the Office
20 of Insurance Regulation, who may also be known as the
21 Commissioner of Insurance Regulation.

22 2. The Office of Financial Regulation, which shall be
23 responsible for all activities of the Financial Services
24 Commission relating to the regulation of banks, credit unions,
25 other financial institutions, finance companies, and the
26 securities industry. The head of the office is the Director
27 of the Office of Financial Regulation, who may also be known
28 as the Commissioner of Financial Regulation. The Office of
29 Financial Regulation shall include a Bureau of Financial
30 Investigations, which shall function as a criminal justice
31 agency for purposes of ss. 943.045-943.08 and shall have a

1 separate budget. The bureau may conduct investigations within
2 or outside this state as the bureau deems necessary to aid in
3 the enforcement of this section. If, during an investigation,
4 the office has reason to believe that any criminal law of this
5 state has or may have been violated, the office shall refer
6 any records tending to show such violation to state or federal
7 law enforcement or prosecutorial agencies and shall provide
8 investigative assistance to those agencies as required.

9 Section 7. Subsection (6) of section 110.1227, Florida
10 Statutes, is amended to read:

11 110.1227 Florida Employee Long-Term-Care Plan Act.--

12 (6) A Florida Employee Long-Term-Care Plan Board of
13 Directors is created, composed of nine members who shall serve
14 2-year terms, to be appointed after May 1, 1999, as follows:

15 (a) The secretary of the Department of Elderly Affairs
16 shall appoint a member who is a plan participant.

17 (b) The Director of the Office of Insurance Regulation
18 ~~Chief Financial Officer~~ shall appoint an actuary.

19 (c) The Attorney General shall appoint an attorney
20 licensed to practice law in this state.

21 (d) The Governor shall appoint three members from a
22 broad cross-section of the residents of this state.

23 (e) The Department of Management Services shall
24 appoint a member.

25 (f) The President of the Senate shall appoint a member
26 of the Senate.

27 (g) The Speaker of the House of Representatives shall
28 appoint a member of the House of Representatives.

29 Section 8. Subsection (2) of section 112.215, Florida
30 Statutes, as amended by section 8 of chapter 2003-399, Laws of
31 Florida, is amended, paragraph (e) is added to subsection (4)

1 of that section and subsection (11) of that section is
2 amended, to read:

3 112.215 Government employees; deferred compensation
4 program.--

5 (2) For the purposes of this section, the term
6 "employee" means any person, whether appointed, elected, or
7 under contract, providing services for the state; any state
8 agency or county or other political subdivision of the state;
9 any municipality; any state university board of trustees; or
10 any constitutional county officer under s. 1(d), Art. VIII of
11 the State Constitution for which compensation or statutory
12 fees are paid.

13 (4)

14 (e) The administrative costs of the deferred
15 compensation plan must be wholly or partially self-funded.
16 Fees for such self-funding of the plan shall be paid by
17 investment providers and may be recouped from their respective
18 plan participants. Such fees shall be deposited in the
19 Deferred Compensation Trust Fund.

20 (11) With respect to any funds held pursuant to a
21 deferred compensation plan, any investment option plan
22 provider that which is a bank or savings association and that
23 ~~which~~ provides time deposit accounts and certificates of
24 deposit as an investment product to the plan participants may,
25 with the approval of the State Board of Administration for
26 providers in the state plan, or with the approval of the
27 appropriate official or body designated under subsection (5)
28 for a plan of a county, municipality, other political
29 subdivision, or constitutional county officer, be exempt from
30 the provisions of chapter 280 requiring it to be a qualified
31 public depository, provided:

1 (a) The bank or savings association shall, to the
2 extent that the time deposit accounts or certificates of
3 deposit are not insured by the Federal Deposit Insurance
4 Corporation, deposit or issue collateral with the Chief
5 Financial Officer for all state funds held by it under a
6 deferred compensation plan, or with such other appropriate
7 official for all public funds held by it under a deferred
8 compensation plan of a county, municipality, other political
9 subdivision, or constitutional county officer, in an amount
10 which equals at least 150 percent of all uninsured deferred
11 compensation funds then held.

12 (b) Said collateral shall be of the kind permitted by
13 s. 280.13 and shall be pledged in the manner provided for by
14 the applicable provisions of chapter 280.

15
16 The Chief Financial Officer shall have all the applicable
17 powers provided in ss. 280.04, 280.05, and 280.08 relating to
18 the sale or other disposition of the pledged collateral.

19 Section 9. Subsection (1) of section 215.95, Florida
20 Statutes, is amended to read:

21 215.95 Financial Management Information Board.--

22 (1) There is created, as part of the Administration
23 Commission, the Financial Management Information Board. The
24 board shall be composed of the Governor, the Chief Financial
25 Officer, the Commissioner of Agriculture, and the Attorney
26 General. The Governor shall be chair of the board. The
27 Governor or the Chief Financial Officer may call a meeting of
28 the board at any time the need arises.

29 Section 10. Subsections (2) and (4) of section 215.96,
30 Florida Statutes, are amended to read:

31

1 215.96 Coordinating council and design and
2 coordination staff.--

3 (2) The coordinating council shall consist of the
4 Chief Financial Officer; the Commissioner of Agriculture; the
5 secretary of the Department of Management Services; the
6 Attorney General; and the Director of Planning and Budgeting,
7 Executive Office of the Governor, or their designees. The
8 Chief Financial Officer, or his or her designee, shall be
9 chair of the coordinating council, and the design and
10 coordination staff shall provide administrative and clerical
11 support to the council and the board. The design and
12 coordination staff shall maintain the minutes of each meeting
13 and shall make such minutes available to any interested
14 person. The Auditor General, the State Courts Administrator,
15 an executive officer of the Florida Association of State
16 Agency Administrative Services Directors, and an executive
17 officer of the Florida Association of State Budget Officers,
18 or their designees, shall serve without voting rights as ex
19 officio members on the coordinating council. The chair may
20 call meetings of the coordinating council as often as
21 necessary to transact business; however, the coordinating
22 council shall meet at least once a year. Action of the
23 coordinating council shall be by motion, duly made, seconded
24 and passed by a majority of the coordinating council voting in
25 the affirmative for approval of items that are to be
26 recommended for approval to the Financial Management
27 Information Board.

28 (4) The Financial Management Information Board,
29 through the coordinating council, shall provide the necessary
30 planning, implementation, and integration policies,
31 coordination procedures, and reporting processes to facilitate

1 the successful and efficient integration of the central
2 administrative and financial management information systems,
3 including the Florida Accounting Information Resource system
4 (FLAIR), Cash Management System (CMS), and FLAIR/CMS
5 replacement project, the payroll system in the Department of
6 Financial Services, the Legislative Appropriations
7 System/Planning and Budgeting Subsystem (LAS/PBS), the State
8 Purchasing System (SPURS) and MyFlorida Marketplace project,
9 the Cooperative Personnel Employment Subsystem (COPES) and the
10 PeopleFirst Outsourcing project, and the State Unified Tax
11 system (SUNTAX).

12 (a) To fulfill this role, the coordinating council
13 shall establish an Enterprise Resource Planning Integration
14 Task Force, which shall consist of the coordinating council
15 members plus the Chief Information Officer in the State
16 Technology Office and the Executive Director or designee in
17 the Department of Revenue, who shall serve with voting rights
18 on the task force. The nonvoting ex officio members of the
19 coordinating council shall be nonvoting members of the task
20 force.

21 (b) The task force shall be established by August 1,
22 2003, and shall remain in existence until the integration
23 goals have been achieved among the FLAIR/CMS Replacement
24 project, SPURS and MyFlorida Marketplace project, COPES and
25 PeopleFirst project, payroll system, LAS/PBS, and SUNTAX
26 system, or until June 30, 2005, whichever is later. The task
27 force shall hold its initial meeting no later than September
28 1, 2003, and shall meet at the call of the chair or at least
29 once every 60 days. In its initial meeting, task force members
30 shall:

31

1 1. Adopt a task force charter that identifies major
2 objectives, activities, milestones and deliverables,
3 significant assumptions, and constraints on the task force
4 functions and major stakeholder groups interested in the
5 outcome of the task force.

6 2. Consider and adopt processes by which information
7 will be collected and business process and technical
8 integration issues will be raised for analysis and
9 recommendation by the task force.

10 3. Elect a member to serve as vice chair. Any vacancy
11 in the vice chair position shall be filled by similar election
12 within 30 days after the date the vacancy is effective.

13 (c) The coordinating council shall provide
14 administrative and technical support to the task force as is
15 reasonably necessary for the task force to effectively and
16 timely carry out its duties and responsibilities. The cost of
17 providing such support may be paid from funds appropriated for
18 the operation of the council or the FLAIR/CMS Replacement
19 project. The task force also may contract for services to
20 obtain specific expertise to analyze, facilitate, and
21 formulate recommendations to address process and technical
22 integration problems that need to be resolved.

23 (d) Using information and input from project teams and
24 stakeholders responsible for the FLAIR/CMS Replacement
25 project, SPURS and MyFlorida Marketplace project, COPES and
26 PeopleFirst project, payroll system, LAS/PBS, and SUNTAX
27 system, the responsibilities of the task force shall include,
28 but not be limited to:

29 1. Identifying and documenting central administrative
30 and financial management policies, procedures, and processes
31

1 that need to be integrated and recommending steps for
2 implementation.

3 2. Collecting information from the subsystem owners
4 and project teams and developing and publishing a consolidated
5 list of enterprise resource planning functional and technical
6 integration requirements.

7 3. Publishing integration plans and timelines based on
8 information collected from task force members.

9 4. Forming committees, workgroups, and teams as
10 provided in subsection (3).

11 5. Developing recommendations for the Financial
12 Management Information Board which clearly describe any
13 business or technical problems that need to be addressed, the
14 options for resolving the problem, and the recommended
15 actions.

16 6. Developing and implementing plans for reporting
17 status of integration efforts.

18 (e) The task force shall provide recommendations to
19 the Financial Management Information Board for review and
20 approval regarding the technical, procedural, policy, and
21 process requirements and changes that are needed to
22 successfully integrate, implement, and realize the benefits of
23 the enterprise resource planning initiatives associated with
24 the FLAIR/CMS Replacement project, SPURS and MyFlorida
25 Marketplace project, COPEs and PeopleFirst project, payroll
26 system, LAS/PBS, and SUNTAX system. The first of these reports
27 should be provided no later than October 3, 2003.

28 (f) The task force shall monitor, review, and evaluate
29 the progress of the FLAIR/CMS Replacement project, SPURS and
30 MyFlorida Marketplace project, COPEs and PeopleFirst project,
31 payroll system, LAS/PBS, and SUNTAX system, in implementing

1 the process and technical integration requirements and changes
2 approved by the Financial Management Information Board and in
3 achieving the necessary integration among the central
4 administrative and financial management information systems
5 represented on the task force. The task force shall prepare
6 and submit quarterly reports to the Executive Office of the
7 Governor, the chairs of the Senate Appropriations Committee
8 and the House Appropriations Committee, and the Financial
9 Management Information Board. Each quarterly report shall
10 identify and describe the technical, procedural, policy, and
11 process requirements and changes proposed and adopted by the
12 board and shall describe the status of the implementation of
13 these integration efforts, identify any problems, issues, or
14 risks that require executive-level action, and report actual
15 costs related to the Enterprise Resource Planning Integration
16 Task Force.

17 (g) By January 15, 2004, and annually thereafter,
18 until it is disbanded, the Enterprise Resource Planning
19 Integration Task Force shall report to the Financial
20 Management Information Board, the Speaker of the House of
21 Representatives, and the President of the Senate the results
22 of the task force's monitoring, review, and evaluation of
23 enterprise resource planning integration activities and
24 requirements, and any recommendations for statutory changes to
25 be considered by the Legislature.

26 (h) This subsection expires July 1, 2008 ~~July 1, 2004~~.

27 Section 11. Subsection (10) is added to section
28 287.064, Florida Statutes, to read:

29 287.064 Consolidated financing of deferred-payment
30 purchases.--

31

1 (10) Costs incurred pursuant to a guaranteed energy
 2 performance savings contract, including the cost of energy
 3 conservation measures, each as defined in s. 489.145, may be
 4 financed pursuant to a master equipment financing agreement;
 5 however, the costs of training, operation, and maintenance may
 6 not be financed. The period of time for repayment of the funds
 7 drawn pursuant to the master equipment financing agreement
 8 under this subsection may exceed 5 years but may not exceed 10
 9 years.

10 Section 12. Paragraph (a) of subsection (8) of section
 11 408.05, Florida Statutes, is amended to read:

12 408.05 State Center for Health Statistics.--

13 (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
 14 ADVISORY COUNCIL.--

15 (a) There is established in the agency the State
 16 Comprehensive Health Information System Advisory Council to
 17 assist the center in reviewing the comprehensive health
 18 information system and to recommend improvements for such
 19 system. The council shall consist of the following members:

20 1. An employee of the Executive Office of the
 21 Governor, to be appointed by the Governor.

22 2. An employee of the Office of Insurance Regulation
 23 ~~Department of Financial Services~~, to be appointed by the
 24 director of the office ~~Chief Financial Officer~~.

25 3. An employee of the Department of Education, to be
 26 appointed by the Commissioner of Education.

27 4. Ten persons, to be appointed by the Secretary of
 28 Health Care Administration, representing other state and local
 29 agencies, state universities, the Florida Association of
 30 Business/Health Coalitions, local health councils,
 31

1 professional health-care-related associations, consumers, and
2 purchasers.

3 Section 13. Subsection (4) of section 501.212, Florida
4 Statutes, is amended and subsection (7) is added to that
5 section, to read:

6 501.212 Application.--This part does not apply to:

7 (4) Any person or activity regulated under laws
8 administered by:

9 ~~(a) The Department of Financial Services or the Office~~
10 ~~of Insurance Regulation of the Financial Services Commission;~~
11 ~~or~~

12 (b) Banks and savings and loan associations regulated
13 by the Office of Financial Regulation of the Financial
14 Services Commission; or

15 (c) Banks or savings and loan associations regulated
16 by federal agencies; or

17 (d) Any person or activity regulated under the laws
18 administered by the former Department of Insurance which are
19 now administered by the Department of Financial Services.

20 (7)(a) Causes of action pertaining to commercial real
21 property located in this state if the parties to the action
22 executed a written lease or contract that expressly provides
23 for the process of resolution of any dispute and the award of
24 damages, attorney's fees, and costs, if any; or

25 (b) Causes of action concerning failure to maintain
26 real property if the Florida Statutes:

27 1. Require the owner to comply with applicable
28 building, housing, and health codes;

29 2. Require the owner to maintain buildings and
30 improvements in common areas in a good state of repair and
31

1 maintenance and maintain the common areas in a good state of
2 appearance, safety, and cleanliness; and

3 3. Provide a cause of action for failure to maintain
4 the real property and provide legal or equitable remedies,
5 including the award of attorney's fees.

6
7 However, this subsection does not affect any action or remedy
8 concerning residential tenancies covered under part II of
9 chapter 83, nor does it prohibit the enforcing authority from
10 maintaining exclusive jurisdiction to bring any cause of
11 action authorized under part II of chapter 501.

12 Section 14. Subsection (1) of section 516.35, Florida
13 Statutes, is amended to read:

14 516.35 Credit insurance must comply with credit
15 insurance act.--

16 (1) Tangible property offered as security may be
17 reasonably insured against loss for a reasonable term,
18 considering the circumstances of the loan. If such insurance
19 is sold at standard rates through a person duly licensed by
20 the Department of Financial Services ~~Office of Insurance~~
21 ~~Regulation of the Financial Services Commission~~ and if the
22 policy is payable to the borrower or any member of her or his
23 family, it shall not be deemed to be a collateral sale,
24 purchase, or agreement even though a customary mortgagee
25 clause is attached or the licensee is a coassured.

26 Section 15. Subsection (2) of section 624.313, Florida
27 Statutes, is amended to read:

28 624.313 Publications.--

29 (2)~~(a)~~ The department may prepare and have printed and
30 published in pamphlet or book form the following:

31

1 ~~(a)1-~~ As needed, questions and answers for the use of
2 persons applying for an examination for licensing as agents
3 for property, casualty, surety, health, and miscellaneous
4 insurers.

5 ~~(b)2-~~ As needed, questions and answers for the use of
6 persons applying for an examination for licensing as agents
7 for life and health insurers.

8 ~~(c)(b) The office may prepare and have printed and~~
9 ~~published in pamphlet or book form,~~ As needed, questions and
10 answers for the use of persons applying for an examination for
11 licensing as adjusters.

12 Section 16. Subsection (1) and paragraph (a) of
13 subsection (2) of section 624.317, Florida Statutes, are
14 amended to read:

15 624.317 Investigation of agents, adjusters,
16 administrators, service companies, and others.--If it has
17 reason to believe that any person has violated or is violating
18 any provision of this code, or upon the written complaint
19 signed by any interested person indicating that any such
20 violation may exist:

21 (1) The department shall conduct such investigation as
22 it deems necessary of the accounts, records, documents, and
23 transactions pertaining to or affecting the insurance affairs
24 of any general agent, surplus line agent, adjuster, managing
25 general agent, insurance agent, customer representative,
26 service representative, or other person subject to its
27 jurisdiction, subject to the requirements of s. 626.601.

28 (2) The office shall conduct such investigation as it
29 deems necessary of the accounts, records, documents, and
30 transactions pertaining to or affecting the insurance affairs
31 of any:

1 (a) ~~Adjuster~~, Administrator, service company, or other
2 person subject to its jurisdiction.

3 Section 17. Subsections (3) and (4) are added to
4 section 624.4622, Florida Statutes, to read:

5 624.4622 Local government self-insurance funds.--

6 (3) Notwithstanding subsection (2), a local government
7 self-insurance fund created under this section after October
8 1, 2004, shall initially be subject to the requirements of a
9 commercial fund under s. 624.4621 and, for the first 5 years
10 of its existence, shall be subject to all the requirements
11 applied to commercial self-insurance funds or to group
12 self-insurance funds, respectively.

13 (4)(a) A local government self-insurance fund formed
14 after January 1, 2005, shall, for its first 5 fiscal years,
15 file with the office full and true statements of its financial
16 condition, transactions, and affairs. An annual statement
17 covering the preceding fiscal year shall be filed within 60
18 days after the end of the fund's fiscal year and quarterly
19 statements shall be filed within 45 days after each such date.
20 The office may, for good cause, grant an extension of time for
21 filing an annual or quarterly statement. The statements shall
22 contain information generally included in insurers' financial
23 statements prepared in accordance with generally accepted
24 insurance accounting principles and practices and in a form
25 generally used by insurers for financial statements, sworn to
26 by at least two executive officers of the self-insurance fund.
27 The form for financial statements shall be the form currently
28 approved by the National Association of Insurance
29 Commissioners for use by property and casualty insurers.

30 (b) Each annual statement shall contain a statement of
31 opinion on loss and loss adjustment expense reserves made by a

1 member of the American Academy of Actuaries. Workpapers in
2 support of the statement of opinion must be provided to the
3 office upon request.

4 Section 18. Paragraph (d) of subsection (12) of
5 section 624.501, Florida Statutes, is amended to read:

6 624.501 Filing, license, appointment, and
7 miscellaneous fees.--The department, commission, or office, as
8 appropriate, shall collect in advance, and persons so served
9 shall pay to it in advance, fees, licenses, and miscellaneous
10 charges as follows:

11 (12) Adjusters:

12 (d) Fee to cover actual cost of credit report, when
13 such report must be secured by department office.

14 Section 19. Subsections (1) and (2) of section
15 626.016, Florida Statutes, are amended to read:

16 626.016 Powers and duties of department, commission,
17 and office.--

18 (1) The powers and duties of the Chief Financial
19 Officer and the department specified in this part apply only
20 with respect to insurance agents, managing general agents,
21 insurance adjusters, reinsurance intermediaries, viatical
22 settlement brokers, customer representatives, service
23 representatives, and agencies.

24 (2) The powers and duties of the commission and office
25 specified in this part apply only with respect to ~~insurance~~
26 ~~adjusters~~, service companies, administrators, and viatical
27 settlement providers and contracts.

28 Section 20. Paragraph (a) of subsection (1) of section
29 626.112, Florida Statutes, is amended to read:

30
31

1 626.112 License and appointment required; agents,
2 customer representatives, adjusters, insurance agencies,
3 service representatives, managing general agents.--

4 (1)(a) No person may be, act as, or advertise or hold
5 himself or herself out to be an insurance agent, insurance
6 adjuster, or customer representative unless he or she is
7 currently licensed by the department and appointed by an
8 appropriate appointing entity or person ~~one or more insurers.~~

9 ~~No person may be, act as, or advertise or hold himself or~~
10 ~~herself out to be an insurance adjuster unless he or she is~~
11 ~~currently licensed by the office and appointed by one or more~~
12 ~~insurers.~~

13 Section 21. Section 626.161, Florida Statutes, is
14 amended to read:

15 626.161 Licensing forms.--The department shall
16 prescribe and furnish all printed forms required in connection
17 with the application for issuance of and termination of all
18 licenses and appointments, ~~except that, with respect to~~
19 ~~adjusters, the commission shall prescribe and the office shall~~
20 ~~furnish such forms.~~

21 Section 22. Subsection (1), paragraph (f) of
22 subsection (2), and subsection (5) of section 626.171, Florida
23 Statutes, are amended to read:

24 626.171 Application for license.--

25 (1) The department ~~or office~~ shall not issue a license
26 as agent, customer representative, adjuster, insurance agency,
27 service representative, managing general agent, or reinsurance
28 intermediary to any person except upon written application
29 therefor filed with it, qualification therefor, and payment in
30 advance of all applicable fees. Any such application shall be
31 made under the oath of the applicant and be signed by the

1 applicant. Beginning November 1, 2002, the department shall
2 accept the uniform application for nonresident agent
3 licensing. The department may adopt revised versions of the
4 uniform application by rule.

5 (2) In the application, the applicant shall set forth:

6 (f) Such other or additional information as the
7 department ~~or office~~ may deem proper to enable it to determine
8 the character, experience, ability, and other qualifications
9 of the applicant to hold himself or herself out to the public
10 as an insurance representative.

11 (5) An application for a license as an agent, customer
12 representative, adjuster, insurance agency, service
13 representative, managing general agent, or reinsurance
14 intermediary must be accompanied by a set of the individual
15 applicant's fingerprints, or, if the applicant is not an
16 individual, by a set of the fingerprints of the sole
17 proprietor, majority owner, partners, officers, and directors,
18 on a form adopted by rule of the department ~~or commission~~ and
19 accompanied by the fingerprint processing fee set forth in s.
20 624.501. Fingerprints shall be used to investigate the
21 applicant's qualifications pursuant to s. 626.201. The
22 fingerprints shall be taken by a law enforcement agency or
23 other department-approved entity.

24 Section 23. Section 626.181, Florida Statutes, is
25 amended to read:

26 626.181 Number of applications for licensure
27 required.--After a license as agent, customer representative,
28 or adjuster has been issued to an individual, the same
29 individual shall not be required to take another examination
30 for a similar license, regardless, in the case of an agent, of
31

1 the number of insurers to be represented by him or her as
2 agent, unless:

3 (1) Specifically ordered by the department ~~or office~~
4 to complete a new application for license; or

5 (2) During any period of 48 months since the filing of
6 the original license application, such individual was not
7 appointed as an agent, customer representative, or adjuster,
8 unless the failure to be so appointed was due to military
9 service, in which event the period within which a new
10 application is not required may, in the discretion of the
11 department ~~or office~~, be extended to 12 months following the
12 date of discharge from military service if the military
13 service does not exceed 3 years, but in no event to extend
14 under this clause for a period of more than 6 years from the
15 date of filing of the original application for license.

16 Section 24. Section 626.191, Florida Statutes, is
17 amended to read:

18 626.191 Repeated applications.--The failure of an
19 applicant to secure a license upon an application shall not
20 preclude him or her from applying again as many times as
21 desired, but the department ~~or office~~ shall not give
22 consideration to or accept any further application by the same
23 individual for a similar license dated or filed within 30 days
24 subsequent to the date the department ~~or office~~ denied the
25 last application, except as provided in s. 626.281.

26 Section 25. Section 626.211, Florida Statutes, is
27 amended to read:

28 626.211 Approval, disapproval of application.--

29 (1) If upon the basis of a completed application for
30 license and such further inquiry or investigation as the
31 department ~~or office~~ may make concerning an applicant the

1 department ~~or office~~ is satisfied that, subject to any
2 examination required to be taken and passed by the applicant
3 for a license, the applicant is qualified for the license
4 applied for and that all pertinent fees have been paid, it
5 shall approve the application. The department ~~or office~~ shall
6 not deny, delay, or withhold approval of an application due to
7 the fact that it has not received a criminal history report
8 based on the applicant's fingerprints.

9 (2) Upon approval of an applicant for license as
10 agent, customer representative, or adjuster who is subject to
11 written examination, the department ~~or office~~ shall notify the
12 applicant when and where he or she may take the required
13 examination.

14 (3) Upon approval of an applicant for license who is
15 not subject to examination, the department ~~or office~~ shall
16 promptly issue the license.

17 (4) If upon the basis of the completed application and
18 such further inquiry or investigation the department ~~or office~~
19 deems the applicant to be lacking in any one or more of the
20 required qualifications for the license applied for, the
21 department ~~or office~~ shall disapprove the application and
22 notify the applicant, stating the grounds of disapproval.

23 Section 26. Subsection (1) and paragraphs (a), (c),
24 (d), (f), (g), and (l) of subsection (2) of section 626.221,
25 Florida Statutes, are amended to read:

26 626.221 Examination requirement; exemptions.--

27 (1) The department ~~or office~~ shall not issue any
28 license as agent, customer representative, or adjuster to any
29 individual who has not qualified for, taken, and passed to the
30 satisfaction of the department ~~or office~~ a written examination
31 of the scope prescribed in s. 626.241.

1 (2) However, no such examination shall be necessary in
2 any of the following cases:

3 (a) An applicant for renewal of appointment as an
4 agent, customer representative, or adjuster, unless the
5 department ~~or office~~ determines that an examination is
6 necessary to establish the competence or trustworthiness of
7 such applicant.

8 (c) In the discretion of the department ~~or office~~, an
9 applicant for reinstatement of license or appointment as an
10 agent, customer representative, or adjuster whose license has
11 been suspended within 2 years prior to the date of application
12 or written request for reinstatement.

13 (d) An applicant who, within 2 years prior to
14 application for license and appointment as an agent, customer
15 representative, or adjuster, was a full-time salaried employee
16 of the department ~~or office~~ and had continuously been such an
17 employee with responsible insurance duties for not less than 2
18 years and who had been a licensee within 2 years prior to
19 employment by the department ~~or office~~ with the same class of
20 license as that being applied for.

21 (f) A person who has been licensed and appointed as a
22 public adjuster or independent adjuster, or licensed and
23 appointed either as an agent or company adjuster as to all
24 property, casualty, and surety insurances, may be licensed and
25 appointed as a company adjuster as to any of such insurances,
26 or as an independent adjuster or public adjuster, without
27 additional written examination if an application for
28 appointment is filed with the department ~~office~~ within 48
29 months following the date of cancellation or expiration of the
30 prior appointment.

31

1 (g) A person who has been licensed as an adjuster for
2 motor vehicle, property and casualty, workers' compensation,
3 and health insurance may be licensed as such an adjuster
4 without additional written examination if his or her
5 application for appointment is filed with the department
6 ~~office~~ within 48 months after cancellation or expiration of
7 the prior license.

8 (1) An applicant for license as an adjuster who has
9 the designation of Accredited Claims Adjuster (ACA) from a
10 regionally accredited postsecondary institution in this state,
11 or the designation of Professional Claims Adjuster (PCA) from
12 the Professional Career Institute, whose curriculum has been
13 approved by the department ~~office~~ and whose curriculum
14 includes comprehensive analysis of basic property and casualty
15 lines of insurance and testing at least equal to that of
16 standard department ~~office~~ testing for the all-lines adjuster
17 license. The department ~~commission~~ shall adopt rules
18 establishing standards for the approval of curriculum.

19 Section 27. Section 626.231, Florida Statutes, is
20 amended to read:

21 626.231 Eligibility for examination.--No person shall
22 be permitted to take an examination for license until his or
23 her application for the license has been approved and the
24 required fees have been received by the department ~~or office~~
25 or a person designated by the department ~~or office~~ to
26 administer the examination.

27 Section 28. Subsection (1) of section 626.241, Florida
28 Statutes, is amended to read:

29 626.241 Scope of examination.--

30 (1) Each examination for a license as agent, customer
31 representative, or adjuster shall be of such scope as is

1 deemed by the department ~~or office~~ to be reasonably necessary
2 to test the applicant's ability and competence and knowledge
3 of the kinds of insurance and transactions to be handled under
4 the license applied for, of the duties and responsibilities of
5 such a licensee, and of the pertinent provisions of the laws
6 of this state.

7 Section 29. Subsections (1) and (3) of section
8 626.251, Florida Statutes, are amended to read:

9 626.251 Time and place of examination; notice.--

10 (1) The department ~~or office~~ or a person designated by
11 the department ~~or office~~ shall mail written notice of the time
12 and place of the examination to each applicant for license
13 required to take an examination who will be eligible to take
14 the examination as of the examination date. The notice shall
15 be so mailed, postage prepaid, and addressed to the applicant
16 at his or her address shown on the application for license or
17 at such other address as requested by the applicant in writing
18 filed with the department ~~or office~~ prior to the mailing of
19 the notice. Notice shall be deemed given when so mailed.

20 (3) The department ~~or office~~ shall make an examination
21 available to the applicant, to be taken as soon as reasonably
22 possible after the applicant is eligible therefor. Any
23 examination required under this part shall be available in
24 this state at a designated examination center.

25 Section 30. Subsections (1), (2), and (3) of section
26 626.261, Florida Statutes, are amended to read:

27 626.261 Conduct of examination.--

28 (1) The applicant for license shall appear in person
29 and personally take the examination for license at the time
30 and place specified by the department ~~or office~~ or by a person
31 designated by the department ~~or office~~.

1 (2) The examination shall be conducted by an employee
2 of the department ~~or office~~ or a person designated by the
3 department ~~or office~~ for that purpose.

4 (3) The questions propounded shall be as prepared by
5 the department ~~or office~~, or by a person designated by the
6 department ~~or office~~ for that purpose, consistent with the
7 applicable provisions of this code.

8 Section 31. Section 626.266, Florida Statutes, is
9 amended to read:

10 626.266 Printing of examinations or related materials
11 to preserve examination security.--A contract let for the
12 development, administration, or grading of examinations or
13 related materials by the department ~~or office~~ pursuant to the
14 various agent, customer representative, or adjuster licensing
15 and examination provisions of this code may include the
16 printing or furnishing of these examinations or related
17 materials in order to preserve security. Any such contract
18 shall be let as a contract for a contractual service pursuant
19 to s. 287.057.

20 Section 32. Subsection (1) of section 626.271, Florida
21 Statutes, is amended to read:

22 626.271 Examination fee; determination, refund.--

23 (1) Prior to being permitted to take an examination,
24 each applicant who is subject to examination shall pay to the
25 department ~~or office~~ or a person designated by the department
26 ~~or office~~ an examination fee. A separate and additional
27 examination fee shall be payable for each separate class of
28 license applied for, notwithstanding that all such
29 examinations are taken on the same date and at the same place.

30 Section 33. Section 626.281, Florida Statutes, is
31 amended to read:

1 626.281 Reexamination.--

2 (1) Any applicant for license who has either:

3 (a) Taken an examination and failed to make a passing
4 grade, or

5 (b) Failed to appear for the examination or to take or
6 complete the examination at the time and place specified in
7 the notice of the department ~~or office~~,

8
9 may take additional examinations, after filing with the
10 department ~~or office~~ an application for reexamination together
11 with applicable fees. The failure of an applicant to pass an
12 examination or the failure to appear for the examination or to
13 take or complete the examination does not preclude the
14 applicant from taking subsequent examinations.

15 (2) The department ~~or office~~ may require any
16 individual whose license as an agent, customer representative,
17 or adjuster has expired or has been suspended to pass an
18 examination prior to reinstating or relicensing the individual
19 as to any class of license. The examination fee shall be paid
20 as to each examination.

21 Section 34. Section 626.2817, Florida Statutes, is
22 amended to read:

23 626.2817 Regulation of course providers, instructors,
24 school officials, and monitor groups involved in prelicensure
25 education for insurance agents and other licensees.--

26 (1) Any course provider, instructor, school official,
27 or monitor group must be approved by and registered with the
28 department ~~or office~~ before offering prelicensure education
29 courses for insurance agents and other licensees.

30 (2) The department ~~or commission~~ shall adopt rules
31 establishing standards for the approval, registration,

1 discipline, or removal from registration of course providers,
2 instructors, school officials, and monitor groups. The
3 standards must be designed to ensure that such persons have
4 the knowledge, competence, and integrity to fulfill the
5 educational objectives of the prelicensure requirements of
6 this chapter and chapter 648 and to assure that insurance
7 agents and licensees are competent to engage in the activities
8 authorized under the license.

9 (3) The department ~~or commission~~ shall adopt rules to
10 establish a process for determining compliance with the
11 prelicensure requirements of this chapter and chapter 648. The
12 department ~~or commission~~ shall adopt rules prescribing the
13 forms necessary to administer the prelicensure requirements.

14 Section 35. Section 626.291, Florida Statutes, is
15 amended to read:

16 626.291 Denial, issuance of license.--

17 (1) Within 30 days after the applicant has completed
18 any examination required under s. 626.221, the department ~~or~~
19 ~~office~~ or its designee shall provide a score report; and, if
20 it finds that the applicant has received a passing grade, the
21 department ~~or office~~ shall within such period notify the
22 applicant and issue and transmit the license to which such
23 examination related. If it finds that the applicant did not
24 make a passing grade on the examination for a particular
25 license, the department ~~or office~~ or its designee shall within
26 this period provide notice to the applicant to that effect and
27 of its denial of the license.

28 (2) As to an applicant for a license for which no
29 examination is required, the department ~~or office~~ shall
30 promptly issue the license applied for as soon as it has
31 approved the application.

1 (3) The department ~~or office~~ shall not deny, delay, or
2 withhold issuance of a license due to the fact that it has not
3 received a criminal history report based on the applicant's
4 fingerprints.

5 Section 36. Section 626.301, Florida Statutes, is
6 amended to read:

7 626.301 Form and contents of licenses, in
8 general.--Each license issued by the department ~~or office~~
9 shall be in such form as the department ~~or commission~~ may
10 designate and contain the licensee's name, lines of authority
11 the licensee is authorized to transact, the licensee's
12 personal identification number, the date of issuance, and any
13 other information the department ~~or commission~~ deems necessary
14 to fully identify the licensee and the authority being
15 granted. The department ~~or commission~~ may by rule require
16 photographs of applicants as a part of the licensing process.

17 Section 37. Subsection (2) of section 626.371, Florida
18 Statutes, is amended to read:

19 626.371 Payment of fees, taxes for appointment period
20 without appointment.--

21 (2) If, upon application and qualification for an
22 initial or renewal appointment and such investigation as the
23 department ~~or office~~ may make, it appears to the department ~~or~~
24 ~~office~~ that an individual who was formerly licensed or is
25 currently licensed but not properly appointed to represent an
26 insurer or employer and who has been actively engaged or is
27 currently actively engaged as such an appointee, but without
28 being appointed as required, the department ~~or office~~ may, if
29 it finds that such failure to be appointed was an inadvertent
30 error on the part of the insurer or employer so represented,
31 nevertheless issue or authorize the issuance of the

1 appointment as applied for but subject to the condition that,
2 before the appointment is issued, all fees and taxes which
3 would have been due had the applicant been so appointed during
4 such current and prior periods, with applicable fees pursuant
5 to s. 624.501 for such current and prior periods of
6 appointment, shall be paid to the department ~~or office~~.

7 Section 38. Subsections (2), (3), and (4) of section
8 626.381, Florida Statutes, are amended to read:

9 626.381 Renewal, continuation, reinstatement, or
10 termination of appointment.--

11 (2) Each appointing entity shall file with the
12 department ~~or office~~ the lists, statements, and information as
13 to appointees whose appointments are being renewed or
14 terminated, accompanied by payment of the applicable renewal
15 fees and taxes as prescribed in s. 624.501, by a date set
16 forth by the department ~~or office~~ following the month during
17 which the appointments will expire.

18 (3) Renewal of an appointment which is received by the
19 department ~~or office~~ or person designated by the department to
20 administer the appointment process prior to the expiration of
21 an appointment in the licensee's birth month or license issue
22 date, whichever applies, may be renewed by the department ~~or~~
23 ~~office~~ without penalty and shall be effective as of the first
24 day of the month succeeding the month in which the appointment
25 would have expired.

26 (4) Renewal of an appointment which is received by the
27 department ~~or office~~ or person designated by the department to
28 administer the appointment process after the renewal date may
29 be accepted and effectuated by the department ~~or office~~ in its
30 discretion if the appointment, late filing, continuation, and
31 reinstatement fee accompanies the renewal request pursuant to

1 s. 624.501. Late filing fees shall be paid by the appointing
2 entity and may not be charged to the appointee.

3 Section 39. Subsection (2) of section 626.431, Florida
4 Statutes, is amended to read:

5 626.431 Effect of expiration of license and
6 appointment.--

7 (2) When a licensee's last appointment for a
8 particular class of insurance has been terminated or not
9 renewed, the department ~~or office~~ must notify the licensee
10 that his or her eligibility for appointment as such an
11 appointee will expire unless he or she is appointed prior to
12 expiration of the 48-month period referred to in subsection
13 (3).

14 Section 40. Section 626.461, Florida Statutes, is
15 amended to read:

16 626.461 Continuation of appointment of agent or other
17 representative.--Subject to renewal or continuation by the
18 appointing entity, the appointment of the agent, adjuster,
19 service representative, customer representative, or managing
20 general agent shall continue in effect until the person's
21 license is revoked or otherwise terminated, unless written
22 notice of earlier termination of the appointment is filed with
23 the department ~~or office~~ or person designated by the
24 department to administer the appointment process by either the
25 appointing entity or the appointee.

26 Section 41. Subsections (2), (3), (4), and (5) of
27 section 626.471, Florida Statutes, are amended to read:

28 626.471 Termination of appointment.--

29 (2) As soon as possible and at all events within 30
30 days after terminating the appointment of an appointee, other
31 than as to an appointment terminated by the appointing

1 entity's failure to continue or renew it, the appointing
2 entity shall file written notice thereof with the department
3 ~~or office~~, together with a statement that it has given the
4 appointee notice thereof as provided in subsection (1) and
5 shall file with the department ~~or office~~ the reasons and facts
6 involved in such termination as required under s. 626.511.

7 (3) Upon termination of the appointment of an
8 appointee, whether by failure to renew or continue the
9 appointment, the appointing entity shall:

10 (a) File with the department ~~or office~~ the information
11 required under s. 626.511.

12 (b) Subject to the exceptions provided under
13 subsection (1), continue the outstanding contracts transacted
14 by an agent until the expiration date or anniversary date when
15 the policy is a continuous policy with no expiration date.
16 This paragraph shall not be construed to prohibit the
17 cancellation of such contracts when not otherwise prohibited
18 by law.

19 (4) An appointee may terminate the appointment at any
20 time by giving written or electronic notice thereof to the
21 appointing entity, department ~~or office~~, or person designated
22 by the department to administer the appointment process. The
23 department shall immediately terminate the appointment and
24 notify the appointing entity of such termination. Such
25 termination shall be subject to the appointee's contract
26 rights, if any.

27 (5) Upon receiving notice of termination, the
28 department ~~or office~~ or person designated by the department to
29 administer the appointment process shall terminate the
30 appointment.

31

1 Section 42. Subsections (2), (3), and (5) of section
2 626.521, Florida Statutes, are amended to read:

3 626.521 Character, credit reports.--

4 (2) If requested by the department ~~or office~~, the
5 insurer, manager, general agent, general lines agent, or
6 employer, as the case may be, shall furnish to the department
7 ~~or office~~ on a form adopted and furnished by the department ~~or~~
8 ~~commission and furnished by the department or office~~, such
9 information as it ~~may~~ reasonably requires ~~require~~ relative to
10 such individual and investigation.

11 (3) As to an applicant for an adjuster's or
12 reinsurance intermediary's license who is to be self-employed,
13 the department ~~or office~~ may secure, at the cost of the
14 applicant, a full detailed credit and character report made by
15 an established and reputable independent reporting service
16 relative to the applicant.

17 (5) Information contained in credit or character
18 reports furnished to or secured by the department ~~or office~~
19 under this section is confidential and exempt from the
20 provisions of s. 119.07(1).

21 Section 43. Subsections (1) and (2) of section
22 626.541, Florida Statutes, are amended to read:

23 626.541 Firm, corporate, and business names; officers;
24 associates; notice of changes.--

25 (1) Any licensed agent or adjuster doing business
26 under a firm or corporate name or under any business name
27 other than his or her own individual name shall, within 30
28 days after the initial transaction of insurance under such
29 business name, file with the department ~~or office~~, on forms
30 adopted and furnished by the department ~~or commission and~~
31 ~~furnished by the department or office~~, a written statement of

1 the firm, corporate, or business name being so used, the
2 address of any office or offices or places of business making
3 use of such name, and the name and social security number of
4 each officer and director of the corporation and of each
5 individual associated in such firm or corporation as to the
6 insurance transactions thereof or in the use of such business
7 name.

8 (2) In the event of any change of such name, or of any
9 of the officers and directors, or of any of such addresses, or
10 in the personnel so associated, written notice of such change
11 must be filed with the department ~~or office~~ within 30 days by
12 or on behalf of those licensees terminating any such firm,
13 corporate, or business name or continuing to operate
14 thereunder.

15 Section 44. Section 626.551, Florida Statutes, is
16 amended to read:

17 626.551 Notice of change of address, name.--Every
18 licensee shall notify the department ~~or office~~ in writing
19 within 60 days after a change of name, residence address,
20 principal business street address, or mailing address. Any
21 licensed agent who has moved his or her residence from this
22 state shall have his or her license and all appointments
23 immediately terminated by the department ~~or office~~. Failure to
24 notify the department ~~or office~~ within the required time
25 period shall result in a fine not to exceed \$250 for the first
26 offense and, for subsequent offenses, a fine of not less than
27 \$500 or suspension or revocation of the license pursuant to s.
28 626.611 or s. 626.621.

29 Section 45. Section 626.611, Florida Statutes, is
30 amended to read:

31

1 626.611 Grounds for compulsory refusal, suspension, or
2 revocation of agent's, title agency's, adjuster's, customer
3 representative's, service representative's, or managing
4 general agent's license or appointment.--The department ~~or~~
5 ~~office~~ shall deny an application for, suspend, revoke, or
6 refuse to renew or continue the license or appointment of any
7 applicant, agent, title agency, adjuster, customer
8 representative, service representative, or managing general
9 agent, and it shall suspend or revoke the eligibility to hold
10 a license or appointment of any such person, if it finds that
11 as to the applicant, licensee, or appointee any one or more of
12 the following applicable grounds exist:

13 (1) Lack of one or more of the qualifications for the
14 license or appointment as specified in this code.

15 (2) Material misstatement, misrepresentation, or fraud
16 in obtaining the license or appointment or in attempting to
17 obtain the license or appointment.

18 (3) Failure to pass to the satisfaction of the
19 department ~~or office~~ any examination required under this code.

20 (4) If the license or appointment is willfully used,
21 or to be used, to circumvent any of the requirements or
22 prohibitions of this code.

23 (5) Willful misrepresentation of any insurance policy
24 or annuity contract or willful deception with regard to any
25 such policy or contract, done either in person or by any form
26 of dissemination of information or advertising.

27 (6) If, as an adjuster, or agent licensed and
28 appointed to adjust claims under this code, he or she has
29 materially misrepresented to an insured or other interested
30 party the terms and coverage of an insurance contract with
31 intent and for the purpose of effecting settlement of claim

1 for loss or damage or benefit under such contract on less
2 favorable terms than those provided in and contemplated by the
3 contract.

4 (7) Demonstrated lack of fitness or trustworthiness to
5 engage in the business of insurance.

6 (8) Demonstrated lack of reasonably adequate knowledge
7 and technical competence to engage in the transactions
8 authorized by the license or appointment.

9 (9) Fraudulent or dishonest practices in the conduct
10 of business under the license or appointment.

11 (10) Misappropriation, conversion, or unlawful
12 withholding of moneys belonging to insurers or insureds or
13 beneficiaries or to others and received in conduct of business
14 under the license or appointment.

15 (11) Unlawfully rebating, attempting to unlawfully
16 rebate, or unlawfully dividing or offering to divide his or
17 her commission with another.

18 (12) Having obtained or attempted to obtain, or having
19 used or using, a license or appointment as agent or customer
20 representative for the purpose of soliciting or handling
21 "controlled business" as defined in s. 626.730 with respect to
22 general lines agents, s. 626.784 with respect to life agents,
23 and s. 626.830 with respect to health agents.

24 (13) Willful failure to comply with, or willful
25 violation of, any proper order or rule of the department,
26 ~~commission, or office~~ or willful violation of any provision of
27 this code.

28 (14) Having been found guilty of or having pleaded
29 guilty or nolo contendere to a felony or a crime punishable by
30 imprisonment of 1 year or more under the law of the United
31 States of America or of any state thereof or under the law of

1 any other country which involves moral turpitude, without
2 regard to whether a judgment of conviction has been entered by
3 the court having jurisdiction of such cases.

4 (15) Fraudulent or dishonest practice in submitting or
5 aiding or abetting any person in the submission of an
6 application for workers' compensation coverage under chapter
7 440 containing false or misleading information as to employee
8 payroll or classification for the purpose of avoiding or
9 reducing the amount of premium due for such coverage.

10 (16) Sale of an unregistered security that was
11 required to be registered, pursuant to chapter 517.

12 Section 46. Section 626.621, Florida Statutes, is
13 amended to read:

14 626.621 Grounds for discretionary refusal, suspension,
15 or revocation of agent's, adjuster's, customer
16 representative's, service representative's, or managing
17 general agent's license or appointment.--The department ~~or~~
18 ~~office~~ may, in its discretion, deny an application for,
19 suspend, revoke, or refuse to renew or continue the license or
20 appointment of any applicant, agent, adjuster, customer
21 representative, service representative, or managing general
22 agent, and it may suspend or revoke the eligibility to hold a
23 license or appointment of any such person, if it finds that as
24 to the applicant, licensee, or appointee any one or more of
25 the following applicable grounds exist under circumstances for
26 which such denial, suspension, revocation, or refusal is not
27 mandatory under s. 626.611:

28 (1) Any cause for which issuance of the license or
29 appointment could have been refused had it then existed and
30 been known to the department ~~or office~~.

31

1 (2) Violation of any provision of this code or of any
2 other law applicable to the business of insurance in the
3 course of dealing under the license or appointment.

4 (3) Violation of any lawful order or rule of the
5 department, commission, or office.

6 (4) Failure or refusal, upon demand, to pay over to
7 any insurer he or she represents or has represented any money
8 coming into his or her hands belonging to the insurer.

9 (5) Violation of the provision against twisting, as
10 defined in s. 626.9541(1)(1).

11 (6) In the conduct of business under the license or
12 appointment, engaging in unfair methods of competition or in
13 unfair or deceptive acts or practices, as prohibited under
14 part IX of this chapter, or having otherwise shown himself or
15 herself to be a source of injury or loss to the public or
16 detrimental to the public interest.

17 (7) Willful overinsurance of any property or health
18 insurance risk.

19 (8) Having been found guilty of or having pleaded
20 guilty or nolo contendere to a felony or a crime punishable by
21 imprisonment of 1 year or more under the law of the United
22 States of America or of any state thereof or under the law of
23 any other country, without regard to whether a judgment of
24 conviction has been entered by the court having jurisdiction
25 of such cases.

26 (9) If a life agent, violation of the code of ethics.

27 (10) Cheating on an examination required for licensure
28 or violating test center or examination procedures published
29 orally, in writing, or electronically at the test site by
30 authorized representatives of the examination program
31

1 administrator. Communication of test center and examination
2 procedures must be clearly established and documented.

3 (11) Failure to inform the department ~~or office~~ in
4 writing within 30 days after pleading guilty or nolo
5 contendere to, or being convicted or found guilty of, any
6 felony or a crime punishable by imprisonment of 1 year or more
7 under the law of the United States or of any state thereof, or
8 under the law of any other country without regard to whether a
9 judgment of conviction has been entered by the court having
10 jurisdiction of the case.

11 (12) Knowingly aiding, assisting, procuring, advising,
12 or abetting any person in the violation of or to violate a
13 provision of the insurance code or any order or rule of the
14 department, commission, or office.

15 Section 47. Section 626.631, Florida Statutes, is
16 amended to read:

17 626.631 Procedure for refusal, suspension, or
18 revocation of license.--

19 (1) If any licensee is convicted by a court of a
20 violation of this code or a felony, the licenses and
21 appointments of such person shall be immediately revoked by
22 the department ~~or office~~. The licensee may subsequently
23 request a hearing pursuant to ss. 120.569 and 120.57, and the
24 department ~~or office~~ shall expedite any such requested
25 hearing. The sole issue at such hearing shall be whether the
26 revocation should be rescinded because such person was not in
27 fact convicted of a violation of this code or a felony.

28 (2) The papers, documents, reports, or evidence of the
29 department ~~or office~~ relative to a hearing for revocation or
30 suspension of a license or appointment pursuant to the
31 provisions of this chapter and chapter 120 are confidential

1 and exempt from the provisions of s. 119.07(1) until after the
2 same have been published at the hearing. However, such papers,
3 documents, reports, or items of evidence are subject to
4 discovery in a hearing for revocation or suspension of a
5 license or appointment.

6 Section 48. Subsections (1) and (2) of section
7 626.641, Florida Statutes, are amended to read:

8 626.641 Duration of suspension or revocation.--

9 (1) The department ~~or office~~ shall, in its order
10 suspending a license or appointment or in its order suspending
11 the eligibility of a person to hold or apply for such license
12 or appointment, specify the period during which the suspension
13 is to be in effect; but such period shall not exceed 2 years.
14 The license, appointment, or eligibility shall remain
15 suspended during the period so specified, subject, however, to
16 any rescission or modification of the order by the department
17 ~~or office~~, or modification or reversal thereof by the court,
18 prior to expiration of the suspension period. A license,
19 appointment, or eligibility which has been suspended shall not
20 be reinstated except upon request for such reinstatement; but
21 the department ~~or office~~ shall not grant such reinstatement if
22 it finds that the circumstance or circumstances for which the
23 license, appointment, or eligibility was suspended still exist
24 or are likely to recur.

25 (2) No person or appointee under any license or
26 appointment revoked by the department ~~or office~~, nor any
27 person whose eligibility to hold same has been revoked by the
28 department ~~or office~~, shall have the right to apply for
29 another license or appointment under this code within 2 years
30 from the effective date of such revocation or, if judicial
31 review of such revocation is sought, within 2 years from the

1 date of final court order or decree affirming the revocation.
2 The department ~~or office~~ shall not, however, grant a new
3 license or appointment or reinstate eligibility to hold such
4 license or appointment if it finds that the circumstance or
5 circumstances for which the eligibility was revoked or for
6 which the previous license or appointment was revoked still
7 exist or are likely to recur; if an individual's license as
8 agent or customer representative or eligibility to hold same
9 has been revoked upon the ground specified in s. 626.611(12),
10 the department ~~or office~~ shall refuse to grant or issue any
11 new license or appointment so applied for.

12 Section 49. Subsection (2) of section 626.661, Florida
13 Statutes, is amended to read:

14 626.661 Surrender of license.--

15 (2) This section shall not be deemed to require the
16 surrender to the department ~~or office~~ of any license unless
17 such surrender has been requested by the department ~~or office~~.

18 Section 50. Subsections (1) and (3) of section
19 626.681, Florida Statutes, are amended to read:

20 626.681 Administrative fine in lieu of or in addition
21 to suspension, revocation, or refusal of license, appointment,
22 or disapproval.--

23 (1) Except as to insurance agencies, if the department
24 ~~or office~~ finds that one or more grounds exist for the
25 suspension, revocation, or refusal to issue, renew, or
26 continue any license or appointment issued under this chapter,
27 or disapproval of a continuing education course provider,
28 instructor, school official, or monitor groups, the department
29 ~~or office~~ may, in its discretion, in lieu of or in addition to
30 such suspension or revocation, or in lieu of such refusal, or
31 disapproval, and except on a second offense or when such

1 suspension, revocation, or refusal is mandatory, impose upon
2 the licensee, appointee, course provider, instructor, school
3 official, or monitor group an administrative penalty in an
4 amount up to \$500 or, if the department ~~or office~~ has found
5 willful misconduct or willful violation on the part of the
6 licensee, appointee, course provider, instructor, school
7 official, or monitor group up to \$3,500. The administrative
8 penalty may, in the discretion of the department ~~or office~~, be
9 augmented by an amount equal to any commissions received by or
10 accruing to the credit of the licensee or appointee in
11 connection with any transaction as to which the grounds for
12 suspension, revocation, or refusal related.

13 (3) The department ~~or office~~ may allow the licensee,
14 appointee, or continuing education course provider,
15 instructor, school official, or monitor group a reasonable
16 period, not to exceed 30 days, within which to pay to the
17 department ~~or office~~ the amount of the penalty so imposed. If
18 the licensee, appointee, course provider, instructor, school
19 official, or monitor group fails to pay the penalty in its
20 entirety to the department ~~or office~~ within the period so
21 allowed, the license, appointments, approval, or status of
22 that person shall stand suspended or revoked or issuance,
23 renewal, or continuation shall be refused, as the case may be,
24 upon expiration of such period.

25 Section 51. Section 626.691, Florida Statutes, is
26 amended to read:

27 626.691 Probation.--

28 (1) If the department ~~or office~~ finds that one or more
29 grounds exist for the suspension, revocation, or refusal to
30 renew or continue any license or appointment issued under this
31 part, the department ~~or office~~ may, in its discretion, except

1 when an administrative fine is not permissible under s.
2 626.681 or when such suspension, revocation, or refusal is
3 mandatory, in lieu of or in addition to such suspension or
4 revocation, or in lieu of such refusal, or in connection with
5 any administrative monetary penalty imposed under s. 626.681,
6 place the offending licensee or appointee on probation for a
7 period, not to exceed 2 years, as specified by the department
8 ~~or office~~ in its order.

9 (2) As a condition to such probation or in connection
10 therewith, the department ~~or office~~ may specify in its order
11 reasonable terms and conditions to be fulfilled by the
12 probationer during the probation period. If during the
13 probation period the department ~~or office~~ has good cause to
14 believe that the probationer has violated a term or condition,
15 it shall suspend, revoke, or refuse to issue, renew, or
16 continue the license or appointment of the probationer, as
17 upon the original grounds referred to in subsection (1).

18 Section 52. Section 626.692, Florida Statutes, is
19 amended to read:

20 626.692 Restitution.--If any ground exists for the
21 suspension, revocation, or refusal of a license or
22 appointment, the department ~~or office~~ may, in addition to any
23 other penalty authorized under this chapter, order the
24 licensee to pay restitution to any person who has been
25 deprived of money by the licensee's misappropriation,
26 conversion, or unlawful withholding of moneys belonging to
27 insurers, insureds, beneficiaries, or others. In no instance
28 shall the amount of restitution required to be paid under this
29 section exceed the amount of money misappropriated, converted,
30 or unlawfully withheld. Nothing in this section limits or
31

1 restricts a person's right to seek other remedies as provided
2 for by law.

3 Section 53. Section 626.8582, Florida Statutes, is
4 amended to read:

5 626.8582 "Nonresident public adjuster" defined.--A
6 "nonresident public adjuster" is a person who:

7 (1) Is not a resident of this state;
8 (2) Is a currently licensed public adjuster in his or
9 her state of residence for the type or kinds of insurance for
10 which the licensee intends to adjust claims in this state or,
11 if a resident of a state that does not license public
12 adjusters, has passed the department's ~~office's~~ adjuster
13 examination as prescribed in s. 626.8732(1)(b); and

14 (3) Is a self-employed public adjuster or associated
15 with or employed by a public adjusting firm or other public
16 adjuster.

17 Section 54. Section 626.8584, Florida Statutes, is
18 amended to read:

19 626.8584 "Nonresident independent adjuster"
20 defined.--A "nonresident independent adjuster" is a person
21 who:

22 (1) Is not a resident of this state;
23 (2) Is a currently licensed independent adjuster in
24 his or her state of residence for the type or kinds of
25 insurance for which the licensee intends to adjust claims in
26 this state or, if a resident of a state that does not license
27 independent adjusters, has passed the department's ~~office's~~
28 adjuster examination as prescribed in s. 626.8734(1)(b); and

29 (3) Is a self-employed independent adjuster or
30 associated with or employed by an independent adjusting firm
31 or other independent adjuster.

1 Section 55. Section 626.859, Florida Statutes, is
2 amended to read:

3 626.859 "Catastrophe" or "emergency" adjuster
4 defined.--A "catastrophe" or "emergency" adjuster is a person
5 who is not a licensed adjuster under this part, but who has
6 been designated and certified to the department ~~office~~ by
7 insurers as qualified to adjust claims, losses, or damages
8 under policies or contracts of insurance issued by such
9 insurer, and whom the department ~~office~~ may license, in the
10 event of a catastrophe or emergency, for the purposes and
11 under the conditions which the department ~~office~~ shall fix and
12 for the period of the emergency as the department ~~office~~ shall
13 determine, to adjust claims, losses, or damages under the
14 policies of insurance issued by the insurers.

15 Section 56. Subsection (2) of section 626.863, Florida
16 Statutes, is amended to read:

17 626.863 Licensed independent adjusters required;
18 insurers' responsibility.--

19 (2) Before referring any claim or loss, the insurer
20 shall ascertain from the department ~~office~~ whether the
21 proposed independent adjuster is currently licensed and
22 appointed as such. Having once ascertained that a particular
23 person is so licensed and appointed, the insurer may assume
24 that he or she will continue to be so licensed and appointed
25 until the insurer has knowledge, or receives information from
26 the department ~~office~~, to the contrary.

27 Section 57. Section 626.865, Florida Statutes, is
28 amended to read:

29 626.865 Public adjuster's qualifications, bond.--

30 (1) The department ~~office~~ shall issue a license to an
31 applicant for a public adjuster's license upon determining

1 that the applicant has paid the applicable fees specified in
2 s. 624.501 and possesses the following qualifications:

3 (a) Is a natural person at least 18 years of age.

4 (b) Is a United States citizen or legal alien who
5 possesses work authorization from the United States
6 Immigration and Naturalization Service and a bona fide
7 resident of this state.

8 (c) Is trustworthy and has such business reputation as
9 would reasonably assure that the applicant will conduct his or
10 her business as insurance adjuster fairly and in good faith
11 and without detriment to the public.

12 (d) Has had sufficient experience, training, or
13 instruction concerning the adjusting of damages or losses
14 under insurance contracts, other than life and annuity
15 contracts, is sufficiently informed as to the terms and
16 effects of the provisions of those types of insurance
17 contracts, and possesses adequate knowledge of the laws of
18 this state relating to such contracts as to enable and qualify
19 him or her to engage in the business of insurance adjuster
20 fairly and without injury to the public or any member thereof
21 with whom the applicant may have business as a public
22 adjuster.

23 (e) Has passed any required written examination.

24 (2) At the time of application for license as a public
25 adjuster, the applicant shall file with the department ~~office~~
26 a bond executed and issued by a surety insurer authorized to
27 transact such business in this state, in the amount of
28 \$50,000, conditioned for the faithful performance of his or
29 her duties as a public adjuster under the license applied for.
30 The bond shall be in favor of the department ~~office~~ and shall
31 specifically authorize recovery by the department ~~office~~ of

1 the damages sustained in case the licensee is guilty of fraud
2 or unfair practices in connection with his or her business as
3 public adjuster. The aggregate liability of the surety for all
4 such damages shall in no event exceed the amount of the bond.
5 Such bond shall not be terminated unless at least 30 days'
6 written notice is given to the licensee and filed with the
7 department ~~office~~.

8 Section 58. Section 626.866, Florida Statutes, is
9 amended to read:

10 626.866 Independent adjuster's qualifications.--The
11 department ~~office~~ shall issue a license to an applicant for an
12 independent adjuster's license upon determining that the
13 applicable license fee specified in s. 624.501 has been paid
14 and that the applicant possesses the following qualifications:

15 (1) Is a natural person at least 18 years of age.

16 (2) Is a United States citizen or legal alien who
17 possesses work authorization from the United States
18 Immigration and Naturalization Service and a bona fide
19 resident of this state.

20 (3) Is trustworthy and has such business reputation as
21 would reasonably assure that the applicant will conduct his or
22 her business as insurance adjuster fairly and in good faith
23 and without detriment to the public.

24 (4) Has had sufficient experience, training, or
25 instruction concerning the adjusting of damage or loss under
26 insurance contracts, other than life and annuity contracts, is
27 sufficiently informed as to the terms and the effects of the
28 provisions of such types of contracts, and possesses adequate
29 knowledge of the insurance laws of this state relating to such
30 contracts as to enable and qualify him or her to engage in the
31 business of insurance adjuster fairly and without injury to

1 the public or any member thereof with whom he or she may have
2 relations as an insurance adjuster and to adjust all claims in
3 accordance with the policy or contract and the insurance laws
4 of this state.

5 (5) Has passed any required written examination.

6 Section 59. Section 626.867, Florida Statutes, is
7 amended to read:

8 626.867 Company employee adjuster's
9 qualifications.--The department ~~office~~ shall issue a license
10 to an applicant for a company employee adjuster's license upon
11 determining that the applicable license fee specified in s.
12 624.501 has been paid and that the applicant possesses the
13 following qualifications:

14 (1) Is a natural person at least 18 years of age.

15 (2) Is a United States citizen or legal alien who
16 possesses work authorization from the United States
17 Immigration and Naturalization Service and a bona fide
18 resident of this state.

19 (3) Is trustworthy and has such business reputation as
20 would reasonably assure that the applicant will conduct his or
21 her business as insurance adjuster fairly and in good faith
22 and without detriment to the public.

23 (4) Has had sufficient experience, training, or
24 instruction concerning the adjusting of damage or loss of
25 risks described in his or her application, is sufficiently
26 informed as to the terms and the effects of the provisions of
27 insurance contracts covering such risks, and possesses
28 adequate knowledge of the insurance laws of this state
29 relating to such insurance contracts as to enable and qualify
30 him or her to engage in such business as insurance adjuster
31 fairly and without injury to the public or any member thereof

1 with whom he or she may have relations as an insurance
2 adjuster and to adjust all claims in accordance with the
3 policy or contract and the insurance laws of this state.

4 (5) Has passed any required written examination.

5 Section 60. Paragraph (c) of subsection (4) of section
6 626.869, Florida Statutes, is amended to read:

7 626.869 License, adjusters.--

8 (4)

9 (c) The department ~~Financial Services Commission~~ shall
10 adopt rules necessary to implement and administer the
11 continuing education requirements of this subsection.

12 Section 61. Subsections (1), (3), (5), (6), and (7) of
13 section 626.8695, Florida Statutes, are amended to read:

14 626.8695 Primary adjuster.--

15 (1) Each person operating an adjusting firm and each
16 location of a multiple location adjusting firm must designate
17 a primary adjuster for each such firm or location and must
18 file with the department ~~office~~ the name of such primary
19 adjuster and the address of the firm or location where he or
20 she is the primary adjuster, on a form approved by the
21 department ~~commission~~. The designation of the primary adjuster
22 may be changed at the option of the adjusting firm. Any such
23 change is effective upon notification to the department
24 ~~office~~. Notice of change must be sent to the department ~~office~~
25 within 30 days after such change.

26 (3) The department ~~office~~ may suspend or revoke the
27 license of the primary adjuster if the adjusting firm employs
28 any person who has had a license denied or any person whose
29 license is currently suspended or revoked. However, if a
30 person has been denied a license for failure to pass a
31 required examination, he or she may be employed to perform

1 | clerical or administrative functions for which licensure is
2 | not required.

3 | (5) The department ~~office~~ may suspend or revoke the
4 | license of any adjuster who is employed by a person whose
5 | license is currently suspended or revoked.

6 | (6) An adjusting firm location may not conduct the
7 | business of insurance unless a primary adjuster is designated.
8 | Failure of the person operating the adjusting firm to
9 | designate a primary adjuster for the firm, or for each
10 | location, as applicable, on a form prescribed by the
11 | department ~~commission~~ within 30 days after inception of the
12 | firm or change of primary adjuster designation, constitutes
13 | grounds for requiring the adjusting firm to obtain an
14 | adjusting firm license pursuant to s. 626.8696.

15 | (7) Any adjusting firm may request, on a form
16 | prescribed by the department ~~commission~~, verification from the
17 | department ~~office~~ of any person's current licensure status.
18 | If a request is mailed to the office within 5 working days
19 | after the date an adjuster is hired, and the department ~~office~~
20 | subsequently notifies the adjusting firm that an employee's
21 | license is currently suspended, revoked, or has been denied,
22 | the license of the primary adjuster shall not be revoked or
23 | suspended if the unlicensed person is immediately dismissed
24 | from employment as an adjuster with the firm.

25 | Section 62. Paragraph (e) of subsection (1) and
26 | subsection (5) of section 626.8696, Florida Statutes, are
27 | amended to read:

28 | 626.8696 Application for adjusting firm license.--

29 | (1) The application for an adjusting firm license must
30 | include:

31 |

1 (e) Any additional information that ~~which~~ the
2 department requires ~~commission may require~~.

3 (5) An adjusting firm required to be licensed pursuant
4 to s. 626.8695 must remain so licensed for a period of 3 years
5 from the date of licensure, unless the license is suspended or
6 revoked. The department ~~office~~ may suspend or revoke the
7 adjusting firm's authority to do business for activities
8 occurring during the time the firm is licensed, regardless of
9 whether the licensing period has terminated.

10 Section 63. Subsections (1), (2), and (3) of section
11 626.8697, Florida Statutes, are amended to read:

12 626.8697 Grounds for refusal, suspension, or
13 revocation of adjusting firm license.--

14 (1) The department ~~office~~ shall deny, suspend, revoke,
15 or refuse to continue the license of any adjusting firm if it
16 finds, as to any adjusting firm or as to any majority owner,
17 partner, manager, director, officer, or other person who
18 manages or controls the firm, that any of the following
19 grounds exist:

20 (a) Lack by the firm of one or more of the
21 qualifications for the license as specified in this code.

22 (b) Material misstatement, misrepresentation, or fraud
23 in obtaining the license or in attempting to obtain the
24 license.

25 (2) The department ~~office~~ may, in its discretion,
26 deny, suspend, revoke, or refuse to continue the license of
27 any adjusting firm if it finds that any of the following
28 applicable grounds exist with respect to the firm or any
29 owner, partner, manager, director, officer, or other person
30 who is otherwise involved in the operation of the firm:
31

1 (a) Any cause for which issuance of the license could
2 have been refused had it then existed and been known to the
3 department ~~office~~.

4 (b) Violation of any provision of this code or of any
5 other law applicable to the business of insurance.

6 (c) Violation of any order or rule of the office or
7 commission.

8 (d) An owner, partner, manager, director, officer, or
9 other person who manages or controls the firm having been
10 found guilty of or having pleaded guilty or nolo contendere to
11 a felony or a crime punishable by imprisonment of 1 year or
12 more under the laws of the United States or of any state or
13 under the laws of any other country, without regard to whether
14 adjudication was made or withheld by the court.

15 (e) Failure to inform the department ~~office~~ in writing
16 within 30 days after a pleading by an owner, partner, manager,
17 director, officer, or other person managing or controlling the
18 firm of guilty or nolo contendere to, or being convicted or
19 found guilty of, any felony or a crime punishable by
20 imprisonment of 1 year or more under the laws of the United
21 States or of any state, or under the laws of any other
22 country, without regard to whether adjudication was made or
23 withheld by the court.

24 (f) Knowingly aiding, assisting, procuring, advising,
25 or abetting any person in the violation of or to violate a
26 provision of the insurance code or any order or rule of the
27 department, ~~office~~, or commission.

28 (g) Knowingly employing any individual in a managerial
29 capacity or in a capacity dealing with the public who is under
30 an order of revocation or suspension issued by the department
31 ~~office~~.

1 (h) Committing any of the following acts with such a
2 frequency as to have made the operation of the adjusting firm
3 hazardous to the insurance-buying public or other persons:

4 1. Misappropriation, conversion, or unlawful or
5 unreasonable withholding of moneys belonging to insurers or
6 insureds or beneficiaries or claimants or to others and
7 received in the conduct of business under the license.

8 2. Misrepresentation or deception with regard to the
9 business of insurance, dissemination of information, or
10 advertising.

11 3. Demonstrated lack of fitness or trustworthiness to
12 engage in the business of insurance adjusting arising out of
13 activities related to insurance adjusting or the adjusting
14 firm.

15 (i) Failure to appoint a primary adjuster.

16 (3) In lieu of discretionary refusal, suspension, or
17 revocation of an adjusting firm's license, the department
18 ~~office~~ may impose an administrative penalty of up to \$1,000
19 for each violation or ground provided under this section, not
20 to exceed an aggregate amount of \$10,000 for all violations or
21 grounds.

22 Section 64. Section 626.8698, Florida Statutes, is
23 amended to read:

24 626.8698 Disciplinary guidelines for public
25 adjusters.--The department ~~office~~ may deny, suspend, or revoke
26 the license of a public adjuster, and administer a fine not to
27 exceed \$5,000 per act, for any of the following:

28 (1) Violating any provision of this chapter or a rule
29 or order of the office or commission;

30 (2) Receiving payment or anything of value as a result
31 of an unfair or deceptive practice;

1 (3) Receiving or accepting any fee, kickback, or other
2 thing of value pursuant to any agreement or understanding,
3 oral or otherwise; entering into a split-fee arrangement with
4 another person who is not a public adjuster; or being
5 otherwise paid or accepting payment for services that have not
6 been performed;

7 (4) Violating s. 316.066 or s. 817.234;

8 (5) Soliciting or otherwise taking advantage of a
9 person who is vulnerable, emotional, or otherwise upset as the
10 result of a trauma, accident, or other similar occurrence; or

11 (6) Violating any ethical rule of the department
12 ~~commission~~.

13 Section 65. Subsections (2) and (3) of section
14 626.870, Florida Statutes, are amended to read:

15 626.870 Application for license.--

16 (2) The department ~~commission~~ shall so prepare the
17 form of the application as to elicit and require from the
18 applicant the information necessary to enable the department
19 ~~office~~ to determine whether the applicant possesses the
20 qualifications prerequisite to issuance of the license to the
21 applicant.

22 (3) The department ~~commission~~ may, in its discretion,
23 require that the application be supplemented by the
24 certificate or affidavit of such person or persons as it deems
25 necessary for its determination of the applicant's residence,
26 business reputation, and reputation for trustworthiness. The
27 department ~~commission~~ shall prescribe and ~~the office~~ may
28 furnish the forms for such certificates and affidavits.

29 Section 66. Section 626.871, Florida Statutes, is
30 amended to read:

31

1 626.871 Reappointment after military service.--The
2 department ~~office~~ may, without requiring a further written
3 examination, issue an appointment as an adjuster to a formerly
4 licensed and appointed adjuster of this state who held a
5 current adjuster's appointment at the time of entering service
6 in the Armed Forces of the United States, subject to the
7 following conditions:

8 (1) The period of military service must not have been
9 in excess of 3 years;

10 (2) The application for the appointment must be filed
11 with the department ~~office~~ and the applicable fee paid, within
12 12 months following the date of honorable discharge of the
13 applicant from the military service; and

14 (3) The new appointment will be of the same type and
15 class as that currently effective at the time the applicant
16 entered military service; but, if such type and class of
17 appointment is not being currently issued under this code, the
18 new appointment shall be of that type and class or classes
19 most closely resembling those of the former appointment.

20 Section 67. Subsections (1) and (5) of section
21 626.872, Florida Statutes, are amended to read:

22 626.872 Temporary license.--

23 (1) The department ~~office~~ may, in its discretion,
24 issue a temporary license as an independent adjuster or as a
25 company employee adjuster, subject to the following
26 conditions:

27 (a) The applicant must be an employee of an adjuster
28 currently licensed by the department ~~office~~, an employee of an
29 authorized insurer, or an employee of an established adjusting
30 firm or corporation which is supervised by a currently
31 licensed independent adjuster.

1 (b) The application must be accompanied by a
2 certificate of employment and a report as to the applicant's
3 integrity and moral character on a form prescribed by the
4 department ~~commission~~ and executed by the employer.

5 (c) The applicant must be a natural person of at least
6 18 years of age, must be a bona fide resident of this state,
7 must be trustworthy, and must have such business reputation as
8 would reasonably assure that the applicant will conduct his or
9 her business as an adjuster fairly and in good faith and
10 without detriment to the public.

11 (d) The applicant's employer is responsible for the
12 adjustment acts of any licensee under this section.

13 (e) The applicable license fee specified must be paid
14 before issuance of the temporary license.

15 (f) The temporary license shall be effective for a
16 period of 1 year, but subject to earlier termination at the
17 request of the employer, or if the licensee fails to take an
18 examination as an independent adjuster or company employee
19 adjuster within 6 months after issuance of the temporary
20 license, or if suspended or revoked by the department ~~office~~.

21 (5) The department ~~office~~ shall not issue a temporary
22 license as an independent adjuster or as a company employee
23 adjuster to any individual who has ever held such a license in
24 this state.

25 Section 68. Subsection (1) of section 626.873, Florida
26 Statutes, is amended to read:

27 626.873 Nonresident company employee adjusters.--

28 (1) The department ~~office~~ shall, upon application
29 therefor, issue a license to an applicant for a nonresident
30 adjuster's license upon determining that the applicant has
31

1 | paid the applicable license fees required under s. 624.501
2 | and:

3 | (a) Is a currently licensed insurance adjuster in his
4 | or her home state, if such state requires a license.

5 | (b) Is an employee of an insurer, or a wholly owned
6 | subsidiary of an insurer, admitted to do business in this
7 | state.

8 | (c) Has filed a certificate or letter of authorization
9 | from the insurance department of his or her home state, if
10 | such state requires an adjuster to be licensed, stating that
11 | he or she holds a current license or authorization to adjust
12 | insurance losses. Such certificate or authorization must be
13 | signed by the insurance commissioner, or his or her deputy, of
14 | the adjuster's home state and must reflect whether or not the
15 | adjuster has ever had his or her license or authorization in
16 | the adjuster's home state suspended or revoked and, if such is
17 | the case, the reason for such action.

18 | Section 69. Section 626.8732, Florida Statutes, is
19 | amended to read:

20 | 626.8732 Nonresident public adjuster's qualifications,
21 | bond.--

22 | (1) The department ~~office~~ shall, upon application
23 | therefor, issue a license to an applicant for a nonresident
24 | public adjuster's license upon determining that the applicant
25 | has paid the applicable license fees required under s. 624.501
26 | and:

27 | (a) Is a natural person at least 18 years of age.

28 | (b) Has passed to the satisfaction of the department
29 | ~~office~~ a written Florida public adjuster's examination of the
30 | scope prescribed in s. 626.241(6); however, the requirement
31 |

1 for such an examination does not apply to any of the
2 following:

3 1. An applicant who is licensed as a resident public
4 adjuster in his or her state of residence, when that state
5 requires the passing of a written examination in order to
6 obtain the license and a reciprocal agreement with the
7 appropriate official of that state has been entered into by
8 the department ~~office~~; or

9 2. An applicant who is licensed as a nonresident
10 public adjuster in a state other than his or her state of
11 residence when the state of licensure requires the passing of
12 a written examination in order to obtain the license and a
13 reciprocal agreement with the appropriate official of the
14 state of licensure has been entered into by the department
15 ~~office~~.

16 (c) Is self-employed as a public adjuster or
17 associated with or employed by a public adjusting firm or
18 other public adjuster. Applicants licensed as nonresident
19 public adjusters under this section must be appointed as such
20 in accordance with the provisions of ss. 626.112 and 626.451.
21 Appointment fees in the amount specified in s. 624.501 must be
22 paid to the department ~~office~~ in advance. The appointment of a
23 nonresident public adjuster shall continue in force until
24 suspended, revoked, or otherwise terminated, but subject to
25 biennial renewal or continuation by the licensee in accordance
26 with procedures prescribed in s. 626.381 for licensees in
27 general.

28 (d) Is trustworthy and has such business reputation as
29 would reasonably assure that he or she will conduct his or her
30 business as a nonresident public adjuster fairly and in good
31 faith and without detriment to the public.

1 (e) Has had sufficient experience, training, or
2 instruction concerning the adjusting of damages or losses
3 under insurance contracts, other than life and annuity
4 contracts; is sufficiently informed as to the terms and
5 effects of the provisions of those types of insurance
6 contracts; and possesses adequate knowledge of the laws of
7 this state relating to such contracts as to enable and qualify
8 him or her to engage in the business of insurance adjuster
9 fairly and without injury to the public or any member thereof
10 with whom he or she may have business as a public adjuster.

11 (2) The applicant shall furnish the following with his
12 or her application:

13 (a) A complete set of his or her fingerprints. The
14 applicant's fingerprints must be certified by an authorized
15 law enforcement officer. The department ~~office~~ may not
16 authorize an applicant to take the required examination or
17 issue a nonresident public adjuster's license to the applicant
18 until the department ~~office~~ has received a report from the
19 Florida Department of Law Enforcement and the Federal Bureau
20 of Investigation relative to the existence or nonexistence of
21 a criminal history report based on the applicant's
22 fingerprints.

23 (b) If currently licensed as a resident public
24 adjuster in the applicant's state of residence, a certificate
25 or letter of authorization from the licensing authority of the
26 applicant's state of residence, stating that the applicant
27 holds a current or comparable license to act as a public
28 adjuster. The certificate or letter of authorization must be
29 signed by the insurance commissioner or his or her deputy or
30 the appropriate licensing official and must disclose whether
31 the adjuster has ever had any license or eligibility to hold

1 any license declined, denied, suspended, revoked, or placed on
2 probation or whether an administrative fine or penalty has
3 been levied against the adjuster and, if so, the reason for
4 the action.

5 (c) If the applicant's state of residence does not
6 require licensure as a public adjuster and the applicant has
7 been licensed as a resident insurance adjuster, agent, broker,
8 or other insurance representative in his or her state of
9 residence or any other state within the past 3 years, a
10 certificate or letter of authorization from the licensing
11 authority stating that the applicant holds or has held a
12 license to act as such an insurance adjuster, agent, or other
13 insurance representative. The certificate or letter of
14 authorization must be signed by the insurance commissioner or
15 his or her deputy or the appropriate licensing official and
16 must disclose whether or not the adjuster, agent, or other
17 insurance representative has ever had any license or
18 eligibility to hold any license declined, denied, suspended,
19 revoked, or placed on probation or whether an administrative
20 fine or penalty has been levied against the adjuster and, if
21 so, the reason for the action.

22 (3) At the time of application for license as a
23 nonresident public adjuster, the applicant shall file with the
24 department ~~office~~ a bond executed and issued by a surety
25 insurer authorized to transact surety business in this state,
26 in the amount of \$50,000, conditioned for the faithful
27 performance of his or her duties as a nonresident public
28 adjuster under the license applied for. The bond must be in
29 favor of the department ~~office~~ and must specifically authorize
30 recovery by the department ~~office~~ of the damages sustained if
31 the licensee commits fraud or unfair practices in connection

1 with his or her business as nonresident public adjuster. The
2 aggregate liability of the surety for all the damages may not
3 exceed the amount of the bond. The bond may not be terminated
4 unless at least 30 days' written notice is given to the
5 licensee and filed with the department ~~office~~.

6 (4) The usual and customary records pertaining to
7 transactions under the license of a nonresident public
8 adjuster must be retained for at least 3 years after
9 completion of the adjustment and must be made available in
10 this state to the department ~~office~~ upon request. The failure
11 of a nonresident public adjuster to properly maintain records
12 and make them available to the department ~~office~~ upon request
13 constitutes grounds for the immediate suspension of the
14 license issued under this section.

15 (5) After licensure as a nonresident public adjuster,
16 as a condition of doing business in this state, the licensee
17 must annually on or before January 1, on a form prescribed by
18 the department ~~commission~~, submit an affidavit certifying that
19 the licensee is familiar with and understands the insurance
20 code and rules adopted thereunder and the provisions of the
21 contracts negotiated or to be negotiated. Compliance with this
22 filing requirement is a condition precedent to the issuance,
23 continuation, reinstatement, or renewal of a nonresident
24 public adjuster's appointment.

25 Section 70. Subsections (1), (3), and (4) of section
26 626.8734, Florida Statutes, are amended to read:

27 626.8734 Nonresident independent adjuster's
28 qualifications.--

29 (1) The department ~~office~~ shall, upon application
30 therefor, issue a license to an applicant for a nonresident
31 independent adjuster's license upon determining that the

1 applicant has paid the applicable license fees required under
2 s. 624.501 and:

3 (a) Is a natural person at least 18 years of age.

4 (b) Has passed to the satisfaction of the department
5 ~~office~~ a written Florida independent adjuster's examination of
6 the scope prescribed in s. 626.241(6); however, the
7 requirement for the examination does not apply to any of the
8 following:

9 1. An applicant who is licensed as a resident
10 independent adjuster in his or her state of residence when
11 that state requires the passing of a written examination in
12 order to obtain the license and a reciprocal agreement with
13 the appropriate official of that state has been entered into
14 by the department ~~office~~; or

15 2. An applicant who is licensed as a nonresident
16 independent adjuster in a state other than his or her state of
17 residence when the state of licensure requires the passing of
18 a written examination in order to obtain the license and a
19 reciprocal agreement with the appropriate official of the
20 state of licensure has been entered into by the department
21 ~~office~~.

22 (c) Is self-employed or associated with or employed by
23 an independent adjusting firm or other independent adjuster.
24 Applicants licensed as nonresident independent adjusters under
25 this section must be appointed as such in accordance with the
26 provisions of ss. 626.112 and 626.451. Appointment fees in the
27 amount specified in s. 624.501 must be paid to the department
28 ~~office~~ in advance. The appointment of a nonresident
29 independent adjuster shall continue in force until suspended,
30 revoked, or otherwise terminated, but subject to biennial
31

1 renewal or continuation by the licensee in accordance with
2 procedures prescribed in s. 626.381 for licensees in general.

3 (d) Is trustworthy and has such business reputation as
4 would reasonably assure that he or she will conduct his or her
5 business as a nonresident independent adjuster fairly and in
6 good faith and without detriment to the public.

7 (e) Has had sufficient experience, training, or
8 instruction concerning the adjusting of damages or losses
9 under insurance contracts, other than life and annuity
10 contracts; is sufficiently informed as to the terms and
11 effects of the provisions of those types of insurance
12 contracts; and possesses adequate knowledge of the laws of
13 this state relating to such contracts as to enable and qualify
14 him or her to engage in the business of insurance adjuster
15 fairly and without injury to the public or any member thereof
16 with whom he or she may have business as an independent
17 adjuster.

18 (3) The usual and customary records pertaining to
19 transactions under the license of a nonresident independent
20 adjuster must be retained for at least 3 years after
21 completion of the adjustment and must be made available in
22 this state to the department ~~office~~ upon request. The failure
23 of a nonresident independent adjuster to properly maintain
24 records and make them available to the department ~~office~~ upon
25 request constitutes grounds for the immediate suspension of
26 the license issued under this section.

27 (4) After licensure as a nonresident independent
28 adjuster, as a condition of doing business in this state, the
29 licensee must annually on or before January 1, on a form
30 prescribed by the department ~~commission~~, submit an affidavit
31 certifying that the licensee is familiar with and understands

1 the insurance laws and administrative rules of this state and
2 the provisions of the contracts negotiated or to be
3 negotiated. Compliance with this filing requirement is a
4 condition precedent to the issuance, continuation,
5 reinstatement, or renewal of a nonresident independent
6 adjuster's appointment.

7 Section 71. Subsection (4) of section 626.8736,
8 Florida Statutes, is amended to read:

9 626.8736 Nonresident independent or public adjusters;
10 service of process.--

11 (4) Upon receiving the service, the Chief Financial
12 Officer shall forthwith send one of the copies of the process,
13 by registered mail with return receipt requested, to the
14 defendant nonresident independent or public adjuster at his or
15 her last address of record with the department ~~office~~.

16 Section 72. Section 626.8738, is amended to read:

17 626.8738 Penalty for violation.--In addition to any
18 other remedy imposed pursuant to this code, any person who
19 acts as a resident or nonresident public adjuster or holds
20 himself or herself out to be a public adjuster to adjust
21 claims in this state, without being licensed by the department
22 ~~office~~ as a public adjuster and appointed as a public
23 adjuster, commits a felony of the third degree, punishable as
24 provided in s. 775.082, s. 775.083, or s. 775.084. Each act in
25 violation of this section constitutes a separate offense.

26 Section 73. Section 626.874, Florida Statutes, is
27 amended to read:

28 626.874 Catastrophe or emergency adjusters.--

29 (1) In the event of a catastrophe or emergency, the
30 department ~~office~~ may issue a license, for the purposes and
31 under the conditions which it shall fix and for the period of

1 emergency as it shall determine, to persons who are residents
2 or nonresidents of this state, who are at least 18 years of
3 age, who are United States citizens or legal aliens who
4 possess work authorization from the United States Immigration
5 and Naturalization Service, and who are not licensed adjusters
6 under this part but who have been designated and certified to
7 it as qualified to act as adjusters by independent resident
8 adjusters or by an authorized insurer or by a licensed general
9 lines agent to adjust claims, losses, or damages under
10 policies or contracts of insurance issued by such insurers.
11 The fee for the license shall be as provided in s.
12 624.501(12)(c).

13 (2) If any person not a licensed adjuster who has been
14 permitted to adjust such losses, claims, or damages under the
15 conditions and circumstances set forth in subsection (1),
16 engages in any of the misconduct described in or contemplated
17 by ss. 626.611 and 626.621, the department ~~office~~, without
18 notice and hearing, shall be authorized to issue its order
19 denying such person the privileges granted under this section;
20 and thereafter it shall be unlawful for any such person to
21 adjust any such losses, claims, or damages in this state.

22 Section 74. Section 626.878, Florida Statutes, is
23 amended to read:

24 626.878 Rules; code of ethics.--An adjuster shall
25 subscribe to the code of ethics specified in the rules of the
26 department ~~commission~~. The rules shall implement the
27 provisions of this part and specify the terms and conditions
28 of contracts, including a right to cancel, and require
29 practices necessary to ensure fair dealing, prohibit conflicts
30 of interest, and ensure preservation of the rights of the
31 claimant to participate in the adjustment of claims.

1 Section 75. Section 627.7012, Florida Statutes, is
 2 transferred, renumbered as section 626.879, Florida Statutes,
 3 and amended to read:

4 626.879~~627.7012~~ Pools of insurance adjusters.--The
 5 department ~~commission~~ may, by rule, establish a pool of
 6 qualified insurance adjusters. The rules must provide that, if
 7 a hurricane occurs or an emergency is declared, the department
 8 ~~office~~ may assign members of the pool to the affected area and
 9 that an insurer may request that a member of the pool adjust
 10 claims in the assigned area. The rules may not require that an
 11 insurer use those adjusters assigned by the department ~~office~~.

12 Section 76. Subsection (3) of section 626.9543,
 13 Florida Statutes, is amended to read:

14 626.9543 Holocaust victims.--

15 (3) DEFINITIONS.--For the purpose of this section:

16 ~~(a) "Department" means the Department of Insurance.~~

17 (a)(b) "Holocaust victim" means any person who lost
 18 his or her life or property as a result of discriminatory
 19 laws, policies, or actions targeted against discrete groups of
 20 persons between 1920 and 1945, inclusive, in Nazi Germany,
 21 areas occupied by Nazi Germany, or countries allied with Nazi
 22 Germany.

23 (b)(c) "Insurance policy" means, but is not limited
 24 to, life insurance, property insurance, or education policies.

25 (c)(d) "Legal relationship" means any parent,
 26 subsidiary, or affiliated company with an insurer doing
 27 business in this state.

28 (d)(e) "Proceeds" means the face or other payout value
 29 of policies and annuities plus reasonable interest to date of
 30 payments without diminution for wartime or immediate postwar
 31 currency devaluation.

1 Section 77. Paragraphs (c), (e), and (f) of subsection
2 (9) of section 626.989, Florida Statutes, are amended to read:

3 626.989 Investigation by department or Division of
4 Insurance Fraud; compliance; immunity; confidential
5 information; reports to division; division investigator's
6 power of arrest.--

7 (9) In recognition of the complementary roles of
8 investigating instances of workers' compensation fraud and
9 enforcing compliance with the workers' compensation coverage
10 requirements under chapter 440, the Department of Financial
11 Services shall prepare and submit a joint performance report
12 to the President of the Senate and the Speaker of the House of
13 Representatives by November 1, 2003, and then by January 1 of
14 each year. The annual report must include, but need not be
15 limited to:

16 (c) The number of investigations undertaken by the
17 Bureau of Workers' Compensation Insurance Fraud ~~office~~ which
18 were not the result of a referral from an insurer or the
19 Division of Workers' Compensation.

20 (e) The number and reasons provided by local
21 prosecutors or the statewide prosecutor for declining
22 prosecution of a case presented by the Bureau of Workers'
23 Compensation Insurance Fraud ~~office~~ by circuit.

24 (f) The total number of employees assigned to the
25 Bureau of Workers' Compensation Insurance Fraud ~~office~~ and the
26 Division of Workers' Compensation Bureau of Compliance ~~unit~~
27 delineated by location of staff assigned; and the number and
28 location of employees assigned to the Bureau of Workers'
29 Compensation Insurance Fraud ~~office~~ who were assigned to work
30 other types of fraud cases.
31

1 Section 78. Subsection (4) is added to section
2 626.99245, Florida Statutes, to read:

3 626.99245 Conflict of regulation of viaticals.--

4 (4) The offer, sale, and purchase of viatical
5 settlement contracts, and the regulation of viatical
6 settlement providers shall be within the exclusive
7 jurisdiction of the Office of Insurance Regulation under the
8 provisions of part X of chapter 626.

9 Section 79. Subsection (2) of section 627.0628,
10 Florida Statutes, is amended to read:

11 627.0628 Florida Commission on Hurricane Loss
12 Projection Methodology.--

13 (2) COMMISSION CREATED.--

14 (a) There is created the Florida Commission on
15 Hurricane Loss Projection Methodology, which is assigned to
16 the State Board of Administration. For the purposes of this
17 section, the term "commission" means the Florida Commission on
18 Hurricane Loss Projection Methodology. The commission shall be
19 administratively housed within the State Board of
20 Administration, but it shall independently exercise the powers
21 and duties specified in this section.

22 (b) The commission shall consist of the following 11
23 members:

24 1. The insurance consumer advocate.

25 2. The senior employee of the State Board of
26 Administration responsible for operations of the Florida
27 Hurricane Catastrophe Fund.

28 3. The Executive Director of the Citizens Property
29 Insurance Corporation.

30 4. The Director of the Division of Emergency
31 Management of the Department of Community Affairs.

1 5. The actuary member of the Florida Hurricane
2 Catastrophe Fund Advisory Council.

3 6. An employee of the office who is an actuary
4 responsible for property insurance rate filings and who is
5 appointed by the director of the office.

6 ~~7.6.~~ Five Six members appointed by the Chief Financial
7 Officer, as follows:

8 ~~a. An employee of the office who is an actuary~~
9 ~~responsible for property insurance rate filings.~~

10 ~~a.b.~~ An actuary who is employed full time by a
11 property and casualty insurer which was responsible for at
12 least 1 percent of the aggregate statewide direct written
13 premium for homeowner's insurance in the calendar year
14 preceding the member's appointment to the commission.

15 ~~b.e.~~ An expert in insurance finance who is a full time
16 member of the faculty of the State University System and who
17 has a background in actuarial science.

18 ~~c.d.~~ An expert in statistics who is a full time member
19 of the faculty of the State University System and who has a
20 background in insurance.

21 ~~d.e.~~ An expert in computer system design who is a full
22 time member of the faculty of the State University System.

23 ~~e.f.~~ An expert in meteorology who is a full time
24 member of the faculty of the State University System and who
25 specializes in hurricanes.

26 (c) Members designated under subparagraphs (b)1.-5.
27 shall serve on the commission as long as they maintain the
28 respective offices designated in subparagraphs (b)1.-5. The
29 member appointed by the director of the office under
30 subparagraph (b)6. shall serve on the commission until the end
31 of the term of office of the director who appointed him or

1 her, unless removed earlier by the director for cause. Members
2 appointed by the Chief Financial Officer under subparagraph
3 ~~(b)7. subparagraph (b)6.~~ shall serve on the commission until
4 the end of the term of office of the Chief Financial Officer
5 who appointed them, unless earlier removed by the Chief
6 Financial Officer for cause. Vacancies on the commission
7 shall be filled in the same manner as the original
8 appointment.

9 (d) The State Board of Administration shall annually
10 appoint one of the members of the commission to serve as
11 chair.

12 (e) Members of the commission shall serve without
13 compensation, but shall be reimbursed for per diem and travel
14 expenses pursuant to s. 112.061.

15 (f) The State Board of Administration shall, as a cost
16 of administration of the Florida Hurricane Catastrophe Fund,
17 provide for travel, expenses, and staff support for the
18 commission.

19 (g) There shall be no liability on the part of, and no
20 cause of action of any nature shall arise against, any member
21 of the commission, any member of the State Board of
22 Administration, or any employee of the State Board of
23 Administration for any action taken in the performance of
24 their duties under this section. In addition, the commission
25 may, in writing, waive any potential cause of action for
26 negligence of a consultant, contractor, or contract employee
27 engaged to assist the commission.

28 Section 80. Paragraph (b) of subsection (11) of
29 section 627.6699, Florida Statutes, is amended to read:

30 627.6699 Employee Health Care Access Act.--

31 (11) SMALL EMPLOYER HEALTH REINSURANCE PROGRAM.--

1 (b)1. The program shall operate subject to the
2 supervision and control of the board.

3 2. Effective upon this act becoming a law, the board
4 shall consist of the director of the office ~~Chief Financial~~
5 ~~Officer~~ or his or her designee, who shall serve as the
6 chairperson, and 13 additional members who are representatives
7 of carriers and insurance agents and are appointed by the
8 director of the office ~~Chief Financial Officer~~ and serve as
9 follows:

10 a. The director of the office ~~Chief Financial Officer~~
11 shall include representatives of small employer carriers
12 subject to assessment under this subsection. If two or more
13 carriers elect to be risk-assuming carriers, the membership
14 must include at least two representatives of risk-assuming
15 carriers; if one carrier is risk-assuming, one member must be
16 a representative of such carrier. At least one member must be
17 a carrier who is subject to the assessments, but is not a
18 small employer carrier. Subject to such restrictions, at
19 least five members shall be selected from individuals
20 recommended by small employer carriers pursuant to procedures
21 provided by rule of the commission. Three members shall be
22 selected from a list of health insurance carriers that issue
23 individual health insurance policies. At least two of the
24 three members selected must be reinsuring carriers. Two
25 members shall be selected from a list of insurance agents who
26 are actively engaged in the sale of health insurance.

27 b. A member appointed under this subparagraph shall
28 serve a term of 4 years and shall continue in office until the
29 member's successor takes office, except that, in order to
30 provide for staggered terms, the director of the office ~~Chief~~
31 ~~Financial Officer~~ shall designate two of the initial

1 appointees under this subparagraph to serve terms of 2 years
2 and shall designate three of the initial appointees under this
3 subparagraph to serve terms of 3 years.

4 3. The director of the office ~~Chief Financial Officer~~
5 may remove a member for cause.

6 4. Vacancies on the board shall be filled in the same
7 manner as the original appointment for the unexpired portion
8 of the term.

9 5. The director of the office ~~Chief Financial Officer~~
10 may require an entity that recommends persons for appointment
11 to submit additional lists of recommended appointees.

12 Section 81. The transfer of the regulation of
13 adjusters from the Office of Insurance Regulation to the
14 Department of Financial Services by this act shall not affect
15 the regulation of adjusters in any administrative or judicial
16 action of the Office of Insurance Regulation arising out of or
17 involving the Office of Insurance Regulation before or pending
18 on the effective date of this act, and the Department of
19 Financial Services shall be substituted as a party in interest
20 on any such pending action.

21 Section 82. Any license, form, or action that was
22 approved or authorized by the Financial Services Commission or
23 the Office of Insurance Regulation which was otherwise
24 lawfully in use before the effective date of this act may
25 continue to be used or be effective as originally authorized
26 or permitted, until the Department of Financial Services
27 otherwise prescribes.

28 Section 83. Upon the effective date of this act, the
29 rules or portions thereof of the Financial Services Commission
30 which govern the regulation of insurance adjusters shall
31 become rules or portions thereof of the Department of

1 Financial Services as is appropriate to the corresponding
2 regulatory or constitutional function and shall remain in
3 effect until specifically amended or repealed in the manner
4 provided by law.

5 Section 84. Subsection (10) is added to section
6 494.0025, Florida Statutes, to read:

7 494.0025 Prohibited practices.--It is unlawful for any
8 person:

9 (10) To use the name or logo of a financial
10 institution, as defined in s. 655.005(1), or its affiliates or
11 subsidiaries when marketing or soliciting existing or
12 prospective customers if such marketing materials are used
13 without the written consent of the financial institution and
14 in a manner that would lead a reasonable person to believe
15 that the material or solicitation originated from, was
16 endorsed by, or is related to or the responsibility of the
17 financial institution or its affiliates or subsidiaries.

18 Section 85. Paragraph (o) is added to subsection (1)
19 of section 516.07, Florida Statutes, to read:

20 516.07 Grounds for denial of license or for
21 disciplinary action.--

22 (1) The following acts are violations of this chapter
23 and constitute grounds for denial of an application for a
24 license to make consumer finance loans and grounds for any of
25 the disciplinary actions specified in subsection (2):

26 (o) Using the name or logo of a financial institution,
27 as defined in s. 655.005(1), or its affiliates or subsidiaries
28 when marketing or soliciting existing or prospective customers
29 if such marketing materials are used without the written
30 consent of the financial institution and in a manner that
31 would lead a reasonable person to believe that the material or

1 solicitation originated from, was endorsed by, or is related
2 to or the responsibility of the financial institution or its
3 affiliates or subsidiaries.

4 Section 86. Paragraph (j) is added to subsection (1)
5 of section 520.995, Florida Statutes, to read:

6 520.995 Grounds for disciplinary action.--

7 (1) The following acts are violations of this chapter
8 and constitute grounds for the disciplinary actions specified
9 in subsection (2):

10 (j) Using the name or logo of a financial institution,
11 as defined in s. 655.005(1), or its affiliates or subsidiaries
12 when marketing or soliciting existing or prospective customers
13 if such marketing materials are used without the written
14 consent of the financial institution and in a manner that
15 would lead a reasonable person to believe that the material or
16 solicitation originated from, was endorsed by, or is related
17 to or the responsibility of the financial institution or its
18 affiliates or subsidiaries.

19 Section 87. Paragraph (bb) is added to subsection (1)
20 of section 626.9541, Florida Statutes, to read:

21 626.9541 Unfair methods of competition and unfair or
22 deceptive acts or practices defined.--

23 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
24 DECEPTIVE ACTS.--The following are defined as unfair methods
25 of competition and unfair or deceptive acts or practices:

26 (bb) Deceptive use of name.--Using the name or logo of
27 a financial institution, as defined in s. 655.005(1), or its
28 affiliates or subsidiaries when marketing or soliciting
29 existing or prospective customers if such marketing materials
30 are used without the written consent of the financial
31 institution and in a manner that would lead a reasonable

1 person to believe that the material or solicitation originated
 2 from, was endorsed by, or is related to or the responsibility
 3 of the financial institution or its affiliates or
 4 subsidiaries.

5 Section 88. Paragraphs (h) and (p) of subsection (1)
 6 of section 655.005, Florida Statutes, are amended to read:

7 655.005 Definitions.--

8 (1) As used in the financial institutions codes,
 9 unless the context otherwise requires, the term:

10 (h) "Financial institution" means a state or federal
 11 association, bank, savings bank, trust company, international
 12 bank agency, international branch, representative office or
 13 international administrative office, or credit union.

14 (p) "State financial institution" means a
 15 state-chartered or state-organized association, bank,
 16 investment company, trust company, international bank agency,
 17 international branch, international representative office,
 18 international administrative office, or credit union.

19 Section 89. Subsection (1) of section 655.0322,
 20 Florida Statutes, is amended to read:

21 655.0322 Prohibited acts and practices; criminal
 22 penalties.--

23 (1) As used in this section, the term "financial
 24 institution" means a financial institution as defined in s.
 25 655.50 which includes a state trust company, state or national
 26 bank, state or federal association, state or federal savings
 27 bank, state or federal credit union, Edge Act or agreement
 28 corporation, international bank agency, international branch,
 29 representative office or administrative office or other
 30 business entity as defined by the commission by rule, whether
 31 organized under the laws of this state, the laws of another

1 state, or the laws of the United States, which institution is
2 located in this state.

3 Section 90. Section 655.0385, Florida Statutes, is
4 amended to read:

5 655.0385 Disapproval of directors and executive
6 officers.--

7 (1) Each state financial institution shall notify the
8 office of the proposed appointment of any individual to the
9 board of directors or the appointment or employment of any
10 individual as an executive officer or equivalent position at
11 least 60 days before such appointment or employment becomes
12 effective, if the state financial institution:

13 (a) Has been chartered for less than 2 years;

14 (b) Has undergone a change in control or conversion
15 within the preceding 2 years. The office may exempt a
16 financial institution from this paragraph if it operates in a
17 safe and sound manner;

18 (c) Is not in compliance with the minimum capital
19 requirements applicable to such financial institution; or

20 (d) Is otherwise operating in an unsafe and unsound
21 condition, as determined by the office, on the basis of such
22 financial institution's most recent report of condition or
23 report of examination.

24 (2) A state financial institution may not appoint any
25 individual to the board of directors, or employ any individual
26 as an executive officer or equivalent position, if the office
27 issues a notice of disapproval with respect to that person.

28 (3) The office shall issue a notice of disapproval if
29 the competence, experience, character, or integrity of the
30 individual to be appointed or employed indicates that it is
31 not in the best interests of the depositors, the members, or

1 the public to permit the individual to be employed by or
2 associated with the state financial institution.

3 (4) Beginning 1 year after opening, each notification
4 of a proposed appointment of an individual to the board of
5 directors must be accompanied by a nonrefundable fee of \$35.

6 ~~(5)(4)~~ The commission may adopt rules to implement
7 this section.

8 Section 91. Subsection (3) of section 655.045, Florida
9 Statutes, is amended to read:

10 655.045 Examinations, reports, and internal audits;
11 penalty.--

12 (3)(a) The board of directors of each state financial
13 institution or, in the case of a credit union, the supervisory
14 committee or audit committee shall perform or cause to be
15 performed, within each calendar year, an internal audit of
16 each state financial institution, subsidiary, or service
17 corporation and to file a copy of the report and findings of
18 such audit with the office on a timely basis. Such internal
19 audit must include such information as the commission by rule
20 requires for that type of institution.

21 (b) With the approval of the office, the board of
22 directors or, in the case of a credit union, the supervisory
23 committee may elect, in lieu of such periodic audits, to adopt
24 and implement an adequate continuous audit system and
25 procedure which must include full, adequate, and continuous
26 written reports to, and review by, the board of directors or,
27 in the case of a credit union, the supervisory committee,
28 together with written statements of the actions taken thereon
29 and reasons for omissions to take actions, all of which shall
30 be noted in the minutes and filed among the records of the
31 board of directors or, in the case of a credit union, the

1 supervisory committee. If at any time such continuous audit
2 system and procedure, including the reports and statements,
3 becomes inadequate, in the judgment of the office, the state
4 financial institution shall promptly make such changes as may
5 be required by the office to cause the same to accomplish the
6 purpose of this section.

7 (c) Any de novo state financial institution open less
8 than 4 months is exempt from the audit requirements of this
9 section.

10 Section 92. Subsection (1) of section 655.059, Florida
11 Statutes, is amended to read:

12 655.059 Access to books and records; confidentiality;
13 penalty for disclosure.--

14 (1) The books and records of a financial institution
15 are confidential and shall be made available for inspection
16 and examination only:

17 (a) To the office or its duly authorized
18 representative;

19 (b) To any person duly authorized to act for the
20 financial institution;

21 (c) To any federal or state instrumentality or agency
22 authorized to inspect or examine the books and records of an
23 insured financial institution;

24 (d) With respect to an international banking
25 corporation, to the home-country supervisor of the
26 corporation, provided:

27 1. The supervisor provides advance notice to the
28 office that the supervisor intends to examine the Florida
29 office of the corporation.

30
31

1 2. The supervisor confirms to the office that the
2 purpose of the examination is to ensure the safety and
3 soundness of the corporation.

4 3. The books and records pertaining to customer
5 deposit, investment, and custodial accounts are not disclosed
6 to the supervisor.

7 4. At any time during the conduct of the examination,
8 the office reserves the right to have an examiner present or
9 to participate jointly in the examination.

10
11 For purposes of this paragraph, "home-country supervisor"
12 means the governmental entity in the corporation's home
13 country with responsibility for the supervision and regulation
14 of the corporation;

15 (e) As compelled by a court of competent jurisdiction,
16 pursuant to a subpoena issued pursuant to the Florida Rules of
17 Civil or Criminal Procedure or the Federal Rules of Civil
18 Procedure, or pursuant to a subpoena issued in accordance with
19 state or federal law. Prior to the production of the books and
20 records of a financial institution, the party seeking
21 production must reimburse the financial institution for the
22 reasonable costs and fees incurred in compliance with the
23 production. If the parties disagree regarding the amount of
24 reimbursement, the party seeking the records may request the
25 court or agency having jurisdiction to set the amount of
26 reimbursement;

27 (f) As compelled by legislative subpoena as provided
28 by law, in which case the provisions of s. 655.057 apply;

29 (g) Pursuant to a subpoena, to any federal or state
30 law enforcement or prosecutorial instrumentality authorized to
31 investigate suspected criminal activity;

1 (h) As authorized by the board of directors of the
2 financial institution; or

3 (i) As provided in subsection (2).

4 Section 93. Section 655.921, Florida Statutes, is
5 amended to read:

6 655.921 Transaction of business by out-of-state
7 financial institutions; exempt transactions in the financial
8 institutions codes.--

9 (1) Nothing in the financial institutions codes shall
10 be construed to prohibit a financial institution having its
11 principal place of business outside this state and not
12 operating branches in this state from:

13 (a) Contracting in this state with any person to
14 acquire from such person a part, or the entire, interest in a
15 loan that such person proposes to make, has heretofore made,
16 or hereafter makes, together with a like interest in any
17 security instrument covering real or personal property in the
18 state proposed to be given or hereafter or heretofore given to
19 such person to secure or evidence such loan.

20 (b) Entering into mortgage servicing contracts with
21 persons authorized to transact business in this state and
22 enforcing in this state the obligations heretofore or
23 hereafter acquired by it in the transaction of business
24 outside this state or in the transaction of any business
25 authorized by this section.

26 (c) Acquiring, holding, leasing, mortgaging,
27 contracting with respect to, or otherwise protecting,
28 managing, or conveying property in this state which has
29 heretofore or may hereafter be assigned, transferred,
30 mortgaged, or conveyed to it as security for, or in whole or
31 in part in satisfaction of, a loan or loans made by it or

1 obligations acquired by it in the transaction of any business
2 authorized by this section.

3 (d) Making loans or committing to make loans to any
4 person located in this state and soliciting compensating
5 deposit balances in connection therewith.

6 (2) No such financial institution shall be deemed to
7 be transacting business in this state, or be required to
8 qualify so to do, solely by reason of the performance of any
9 of the acts or business authorized in this section. ~~This
10 section does not authorize or permit any such financial
11 institution to maintain an office within the state.~~

12 Section 94. Section 655.922, Florida Statutes, is
13 amended to read:

14 655.922 Banking business by unauthorized persons; use
15 of name.--

16 (1) No person other than a financial institution
17 authorized to do business in this state pursuant to the
18 financial institutions codes of any state or federal law
19 shall, in this state, engage in the business of soliciting or
20 receiving funds for deposit or of issuing certificates of
21 deposit or of paying checks; and no person shall establish or
22 maintain a place of business in this state for any of the
23 functions, transactions, or purposes mentioned in this
24 subsection. Any person who violates the provisions of this
25 subsection is guilty of a felony of the third degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084. This subsection does not prohibit the issuance or
28 sale by a financial institution of traveler's checks, money
29 orders, or other instruments for the transmission or payment
30 of money, by or through employees or agents of the financial
31 institution off the financial institution's premises.

1 (2) No person other than a financial institution
2 shall, in this state:

3 (a) Transact business under any name or title that
4 contains the words "bank," "banco," "banque," "banker,"
5 "banking," "trust company," "savings and loan association,"
6 "savings bank," or "credit union," or words of similar import,
7 in any context or in any manner;

8 (b) Use any name, word, sign, symbol, or device in any
9 context or in any manner; or

10 (c) Circulate or use any letterhead, billhead,
11 circular, paper, or writing of any kind or otherwise advertise
12 or represent in any manner,

13
14 which indicates or reasonably implies that the business being
15 conducted or advertised is the kind or character of business
16 transacted or conducted by a financial institution or which is
17 likely to lead any person to believe that such business is
18 that of a financial institution; however, the words "bank,"
19 "banker," "banking," "trust company," "savings and loan
20 association," "savings bank," or "credit union," or the plural
21 of any thereof, may be used by, and in the corporate or other
22 name or title of, any company which is or becomes a financial
23 institution holding company pursuant to federal law; any
24 subsidiary of any such financial institution holding company
25 which includes as a part of its name or title all or any part,
26 or abbreviations, of the name or title of the financial
27 institution holding company of which it is a subsidiary; any
28 trade organization or association, whether or not
29 incorporated, functioning for the purpose of promoting the
30 interests of financial institutions or financial institution
31 holding companies, the active members of which are financial

1 institutions or financial institution holding companies; and
2 any international development bank chartered pursuant to part
3 II of chapter 663.

4 (3) No person may use the name or logo of any
5 financial institution or an affiliate or subsidiary thereof,
6 or use a name similar to that of a financial institution or an
7 affiliate or subsidiary thereof, to market or solicit business
8 from a customer or prospective customer of such institution
9 if:

10 (a) The solicitation is done without the written
11 consent of the financial institution or its affiliate or
12 subsidiary; and

13 (b) A reasonable person would believe that the
14 materials originated from, are endorsed by, or are connected
15 with the financial institution or its affiliates or
16 subsidiaries.

17 ~~(4)(3)~~ Any court, in a proceeding brought by the
18 office, by any financial institution the principal place of
19 business of which is in this state, or by any other person
20 residing, or whose principal place of business is located, in
21 this state and whose interests are substantially affected
22 thereby, may enjoin any person from violating any of the
23 provisions of this section. For the purposes of this
24 subsection, the interests of a trade organization or
25 association are deemed to be substantially affected if the
26 interests of any of its members are so affected. In addition,
27 the office may issue and serve upon any person who violates
28 any of the provisions of this section a complaint seeking a
29 cease and desist order in accordance with the procedures and
30 in the manner prescribed by s. 655.033.

31

1 ~~(5)(4)~~ Nothing in this section shall be construed to
2 prohibit the lawful establishment or the lawful operations of
3 a financial institution and nothing in this code shall be
4 construed to prohibit any advertisement or other activity in
5 this state by any person if such prohibition would contravene
6 any applicable federal law which preempts the law of this
7 state.

8 (6) The commission shall adopt rules to administer
9 this section.

10 Section 95. Subsection (1) of section 655.94, Florida
11 Statutes, is amended to read:

12 655.94 Special remedies for nonpayment of rent.--

13 (1) If the rental due on a safe-deposit box has not
14 been paid for 3 months, the lessor may send a notice by
15 certified ~~registered~~ mail to the last known address of the
16 lessee stating that the safe-deposit box will be opened and
17 its contents stored at the expense of the lessee unless
18 payment of the rental is made within 30 days. If the rental
19 is not paid within 30 days from the mailing of the notice, the
20 box may be opened in the presence of an officer of the lessor
21 and of a notary public ~~who is not a director, officer,~~
22 ~~employee, or stockholder of the lessor.~~ The contents shall be
23 sealed in a package by a notary public who shall write on the
24 outside the name of the lessee and the date of the opening.
25 The notary public shall execute a certificate reciting the
26 name of the lessee, the date of the opening of the box, and a
27 list of its contents. The certificate shall be included in
28 the package, and a copy of the certificate shall be sent by
29 certified ~~registered~~ mail to the last known address of the
30 lessee. The package shall then be placed in the general
31 vaults of the lessor at a rental not exceeding the rental

1 | previously charged for the box. The lessor has a lien on the
2 | package and its contents to the extent of any rental due and
3 | owing plus the actual, reasonable costs of removing the
4 | contents from the safe-deposit box.

5 | Section 96. Section 658.16, Florida Statutes, is
6 | amended to read:

7 | 658.16 Creation of banking or trust corporation.--

8 | (1) When authorized by the office, as provided herein,
9 | a corporation may be formed under the laws of this state for
10 | the purpose of becoming a state bank or a state trust company
11 | and conducting a general banking or trust business.

12 | (2) A bank or trust company that is chartered as a
13 | limited liability company under the law of any state is deemed
14 | to be incorporated under the financial institutions codes if:

15 | (a) The institution is not subject to automatic
16 | termination, dissolution, or suspension upon the occurrence of
17 | an event including the death, disability, bankruptcy,
18 | expulsion, or withdrawal of an owner of the institution, other
19 | than the passage of time;

20 | (b) The exclusive authority to manage the institution
21 | is vested in a board of managers or directors that is elected
22 | or appointed by the owners which operates in substantially the
23 | same manner as, and has substantially the same rights, powers,
24 | privileges, duties, and responsibilities, as a board of
25 | directors of a bank or trust company chartered as a
26 | corporation; and

27 | (c) Neither the laws of the state of the institution's
28 | organization nor the institution's operating agreement,
29 | bylaws, or other organizational documents:

30 |
31 |

1 1. Provide that an owner of the institution is liable
2 for the debts, liabilities, or obligations of the institution
3 in excess of the amount of the owner's investment; or

4 2. Require the consent of any other owner of the
5 institution in order for an owner to transfer an ownership
6 interest in the institution, including voting rights.

7 (3) As used in the financial institutions codes, the
8 term:

9 (a) "Stockholder" or "shareholder" includes an owner
10 of any interest in a bank or trust company chartered as a
11 limited liability company, including a member or participant;

12 (b) "Director" includes a manager or director of a
13 bank or trust company chartered as a limited liability
14 company, or other person who has, with respect to such a bank
15 or trust company, authority substantially similar to that of a
16 director of a corporation;

17 (c) "Officer" includes an officer of a bank or trust
18 company chartered as a limited liability company, or other
19 person who has, with respect to such a bank or trust company,
20 authority substantially similar to that of an officer of a
21 corporation;

22 (d) "Stock," "voting stock," "voting shares," and
23 "voting securities" includes similar ownership interests in a
24 bank or trust company chartered as a limited liability
25 company, including certificates or other evidence of ownership
26 interests;

27 (e) "Articles of incorporation" or "bylaws" of a bank
28 or trust company chartered as a limited liability company
29 means the institution's articles of organization and operating
30 agreement or other organizational documentation that is
31 substantially similar to that of a corporation;

1 (f) "Par value" of any ownership interest in a bank or
2 trust company chartered as a limited liability company means
3 the amount of capital which must be invested for each unit of
4 ownership; and

5 (g) "Dividend" includes distributions of earnings to
6 the owners of a bank or trust company chartered as a limited
7 liability company.

8 Section 97. Subsection (5) of section 658.23, Florida
9 Statutes, is amended to read:

10 658.23 Submission of articles of incorporation;
11 contents; form; approval; filing; commencement of corporate
12 existence; bylaws.--

13 (5) Unless the articles of incorporation provide
14 otherwise, the board of directors shall have authority to
15 adopt or amend bylaws that do not conflict with bylaws that
16 may have been adopted by the stockholders. The bylaws shall
17 be for the governance ~~government~~ of the bank or trust company,
18 subordinate only to the articles of incorporation and the laws
19 of the United States and of this state. ~~A current copy of the~~
20 ~~bylaws shall be filed with the office at all times.~~

21 Section 98. Section 658.26, Florida Statutes, is
22 amended to read:

23 658.26 Places of transacting business; branches;
24 facilities.--

25 (1) Any bank or trust company heretofore or hereafter
26 incorporated pursuant to this chapter shall have one main
27 office, which shall be located within the state.

28 (2)(a) In addition, with the approval of the office
29 and upon such conditions as the commission or office
30 prescribes, any state bank or trust company may establish
31 branches or relocate offices within or outside the state. With

1 the approval of the office upon a determination that the
2 resulting bank or trust company will be of sound financial
3 condition, any bank or trust company incorporated pursuant to
4 this chapter may establish branches by merger with any other
5 bank or trust company.

6 (b) As provided by commission rules, a financial
7 institution operating in a safe and sound manner may establish
8 or relocate an office by filing a written notice with the
9 office at least 30 days before opening or relocating that
10 office, without filing an application or paying an application
11 fee. The notification must specify the name and location of
12 the office and effective date of the change. The relocation of
13 a main office to a location outside this state must be by
14 application only.

15 (c) Applications filed pursuant to this subsection
16 need not be published in the Florida Administrative Weekly,
17 but shall otherwise be subject to chapter 120.

18 (d)(b) An application to establish for a branch by a
19 bank that is ineligible does not meet the requirements for the
20 branch notification process shall be in writing in such form
21 as the commission prescribes and be supported by such
22 information, data, and records as the commission or office may
23 require to make findings necessary for approval. Applications
24 filed pursuant to this subsection shall not be published in
25 the Florida Administrative Weekly but shall otherwise be
26 subject to the provisions of chapter 120. Upon the filing of
27 an application and a nonrefundable filing fee for the
28 establishment of any branch permitted by paragraph (a), the
29 office shall ~~make an investigation with respect to compliance~~
30 ~~with the requirements of paragraph (a) and shall investigate~~
31

1 and consider ~~all factors relevant to such requirements,~~
2 ~~including~~ the following:

3 1. The sufficiency of capital accounts in relation to
4 the deposit liabilities of the bank, or in relation to the
5 number and valuation of fiduciary accounts of the trust
6 company, including the proposed branch, and the additional
7 fixed assets, if any, which are proposed for the branch and
8 its operations, without undue risk to the bank or its
9 depositors, or undue risk to the trust company or its
10 fiduciary accounts;

11 2. The sufficiency of earnings and earning prospects
12 of the bank or trust company to support the anticipated
13 expenses and any anticipated operating losses of the branch
14 during its formative or initial years;

15 3. The sufficiency and quality of management available
16 to operate the branch;

17 4. The name of the proposed branch to determine if it
18 reasonably identifies the branch as a branch of the main
19 office and is not likely to unduly confuse the public; and

20 5. Substantial compliance by the applicants with
21 applicable law governing their operations.

22 ~~(e)(e)~~ A state bank that is not eligible for
23 notification of a branch relocation must file an application
24 in the form required by the commission. Upon the filing of a
25 relocation application and a nonrefundable filing fee, the
26 office shall investigate to determine whether the financial
27 institution has substantially complied with applicable law
28 governing its operations. Additional investments in land,
29 buildings, leases, and leasehold improvements resulting from
30 such relocation must comply with the limitations imposed by s.
31 658.67(7)(a). A main office may not be moved outside this

1 state unless the move is expressly authorized by the financial
2 institutions codes or by federal law. A financial institution
3 that has been in operation for less than 24 months must
4 provide evidence that the criteria of s. 658.21(1) will be
5 met. ~~As provided by commission rule, a financial institution~~
6 ~~operating in a safe and sound manner may establish a branch by~~
7 ~~filing a written notice with the office at least 30 days~~
8 ~~before opening that branch. In such case, the financial~~
9 ~~institution need not file a branch application or pay a branch~~
10 ~~application fee.~~

11 ~~(3)(a) An office in this state may be relocated with~~
12 ~~prior written approval of the office. An application for~~
13 ~~relocation shall be in writing in such form as the commission~~
14 ~~prescribes and shall be supported by such information, data,~~
15 ~~and records as the commission or office may require to make~~
16 ~~findings necessary for approval.~~

17 ~~(b) Applications filed pursuant to this subsection~~
18 ~~shall not be published in the Florida Administrative Weekly~~
19 ~~but shall otherwise be subject to the provisions of chapter~~
20 ~~120. Upon the filing of a relocation application and a~~
21 ~~nonrefundable filing fee, the office shall investigate to~~
22 ~~determine substantial compliance by the financial institution~~
23 ~~with applicable law governing its operations. Additional~~
24 ~~investments in land, buildings, leases, and leasehold~~
25 ~~improvements resulting from such relocation shall comply with~~
26 ~~the limitations imposed by s. 658.67(7)(a). A main office may~~
27 ~~not be moved outside this state unless expressly authorized by~~
28 ~~the financial institutions codes or by federal law.~~

29 ~~(c) A relocation application filed by a state bank or~~
30 ~~trust company that is operating in a safe and sound manner~~
31 ~~which is not denied within 10 working days after receipt shall~~

1 ~~be deemed approved unless the office notifies the financial~~
2 ~~institution in writing that the application was not complete.~~

3 ~~(d) In addition to the application required by~~
4 ~~paragraph (a), a financial institution whose main office in~~
5 ~~this state has been in operation less than 24 months must~~
6 ~~provide evidence that the criteria of s. 658.21(1) will be~~
7 ~~met.~~

8 (f)~~(e)~~ A branch office may be closed with 30 days'
9 prior written notice to the office. The notice shall include
10 any information the commission prescribes by rule.

11 (3)~~(4)~~ With prior written notification to the office,
12 any bank may operate facilities which are not physically
13 connected to the main or branch office of the bank, provided
14 that the facilities are situated on the property of the main
15 or branch office or property contiguous thereto. Property
16 which is separated from the main or branch office of a bank by
17 only a street, and one or more walkways and alleyways are
18 determined to be, for purposes of this subsection, contiguous
19 to the property of the main or branch office.

20 (4)~~(5)~~ A bank may provide, directly or through a
21 contract with another company, off-premises armored car
22 service to its customers. Armored car services shall not be
23 considered a branch for the purposes of subsection (2).

24 (5)~~(6)~~(a) Any state bank that is a subsidiary of a
25 bank holding company may agree to receive deposits, renew time
26 deposits, close loans, service loans, and receive payments on
27 loans and other obligations, as an agent for an affiliated
28 depository institution.

29 (b) The term "close loan" does not include the making
30 of a decision to extend credit or the extension of credit.

31

1 (c) As used in this section, "receive deposits" means
2 the taking of deposits to be credited to an existing account
3 and does not include the opening or origination of new deposit
4 accounts at an affiliated institution by the agent
5 institution.

6 (d) Under this section, affiliated banks may act as
7 agents for one another regardless of whether the institutions
8 are located in the same or different states. This section
9 applies solely to affiliated depository institutions acting as
10 agents, and has no application to agency relationships
11 concerning nondepositories as agent, whether or not affiliated
12 with the depository institution.

13 (e) In addition, under this section, agent banks may
14 perform ministerial functions for the principal bank making a
15 loan. Ministerial functions include, but are not limited to,
16 such activities as providing loan applications, assembling
17 documents, providing a location for returning documents
18 necessary for making the loan, providing loan account
19 information, and receiving payments. It does not include such
20 loan functions as evaluating applications or disbursing loan
21 funds.

22 Section 99. Subsection (5) of section 658.33, Florida
23 Statutes, is amended to read:

24 658.33 Directors, number, qualifications; officers.--

25 (5) The president, ~~or~~ chief executive officer, or any
26 other person, regardless of title, who has equivalent rank or
27 leads the overall operations of a bank or trust company must
28 have had at least 1 year of direct experience as an executive
29 officer, director, or regulator of a financial institution
30 within the last 3 years. This requirement may be waived by the
31 office after considering the overall experience and expertise

1 of the proposed officer and the condition of the bank or trust
2 company, as reflected in the most recent regulatory
3 examination report and other available data.

4 Section 100. Section 658.37, Florida Statutes, is
5 amended to read:

6 658.37 Dividends and surplus.--

7 (1) The directors of any bank or trust company, after
8 charging off bad debts, depreciation, and other worthless
9 assets if any, and making provision for reasonably anticipated
10 future losses on loans and other assets, may quarterly,
11 semiannually, or annually declare a dividend of so much of the
12 aggregate of the net profits of that period combined with its
13 retained net profits of the preceding 2 years as they shall
14 judge expedient, and, with the approval of the office, any
15 bank or trust company may declare a dividend from retained net
16 profits which accrued prior to the preceding 2 years, but each
17 bank or trust company shall, before the declaration of a
18 dividend on its common stock, carry 20 percent of its net
19 profits for such preceding period as is covered by the
20 dividend to its surplus fund, until the same shall at least
21 equal the amount of its common and preferred stock then issued
22 and outstanding. No bank or trust company shall declare any
23 dividend at any time at which its net income from the current
24 year combined with the retained net income from the preceding
25 2 years is a loss or which would cause the capital accounts of
26 the bank or trust company to fall below the minimum amount
27 required by law, regulation, order, or any written agreement
28 with the office or a state or federal regulatory agency. A
29 bank or trust company may, however, split up or divide the
30 issued shares of capital stock into a greater number of shares
31 without increasing or decreasing the capital accounts of the

1 bank or trust company, and such shall not be construed to be a
2 dividend within the meaning of this section.

3 (2) A bank that has been determined to be imminently
4 insolvent may not pay a dividend.

5 Section 101. Present subsection (10) of section
6 658.48, Florida Statutes, is redesignated as subsection (11),
7 and a new subsection (10) is added to that section, to read:

8 658.48 Loans.--A state bank may make loans and
9 extensions of credit, with or without security, subject to the
10 following limitations and provisions:

11 (10) IMMINENTLY INSOLVENT BANK.--When the office has
12 determined that a state bank is imminently insolvent, the bank
13 may not make any new loans or discounts other than by
14 discounting or purchasing bills of exchange payable at sight.

15 Section 102. Paragraph (a) of subsection (9) of
16 section 658.67, Florida Statutes, is amended to read:

17 658.67 Investment powers and limitations.--A bank may
18 invest its funds, and a trust company may invest its corporate
19 funds, subject to the following definitions, restrictions, and
20 limitations:

21 (9) ACQUISITIONS OF PROPERTY AS SECURITY.--A bank or
22 trust company may acquire property of any kind to secure,
23 protect, or satisfy a loan or investment previously made in
24 good faith, and such property shall be entered on the books of
25 the bank or trust company and held and disposed of subject to
26 the following conditions and limitations:

27 (a) The book entry shall be the lesser of the balance
28 of the loan or investment plus acquisition costs and accrued
29 interest or the appraisal value or market value of the
30 property acquired which shall be determined and dated within 1
31

1 year prior to or 90 days after the date of acquisition and in
2 compliance with s. 655.60.

3 Section 103. Subsection (4) of section 658.73, Florida
4 Statutes, is amended to read:

5 658.73 Fees and assessments.--

6 (4) Any individual or entity other than a financial
7 institution chartered in this state must ~~Each state bank and~~
8 ~~state trust company shall~~ pay to the office \$25 for each
9 "certificate of good standing" certifying that a
10 state-chartered financial institution is licensed to conduct
11 business in this state under the financial institutions codes.
12 All such requests shall be in writing. The office shall waive
13 this fee when the request is by a state or federal regulatory
14 agency or law enforcement agency.

15 Section 104. Subsections (4) and (7) of section
16 663.16, Florida Statutes, are amended to read:

17 663.16 Definitions; ss. 663.17-663.181.--As used in
18 ss. 663.17-663.181, the term:

19 (4) Except where the context otherwise requires,
20 "international banking corporation" or "corporation" means any
21 international bank agency or branch operating in this state.

22 (7) "Control" means any person or group of persons
23 acting in concert, directly or indirectly, owning,
24 controlling, or holding the power to vote 25 ~~more than 50~~
25 percent or more of the voting stock of a company, or having
26 the ability in any manner to elect a majority of directors of
27 a corporation, or otherwise exercising a controlling influence
28 over the management and policies of a corporation as
29 determined by the office.

30 Section 105. Subsection (1) of section 663.304,
31 Florida Statutes, is amended to read:

1 663.304 Application for authority to organize an
2 international development bank.--

3 (1) A written application for authority to organize an
4 international development bank shall be filed with the office
5 by the proposed incorporator and shall include:

6 (a) The name, residence, and occupation of each
7 incorporator and proposed director.

8 ~~(b) The proposed corporate name and evidence of~~
9 ~~reservation of the proposed corporate name with the Department~~
10 ~~of State.~~

11 (b)(e) The total initial capital and the number of
12 shares of capital stock to be authorized.

13 (c)(d) The location, by street and post-office address
14 and county, of the principal office of the proposed
15 international development bank.

16 (d)(e) If known, the name and residence of the
17 proposed president and the proposed chief executive officer,
18 if other than the proposed president.

19 (e)(f) Such detailed financial, business, and
20 biographical information as the commission or office may
21 reasonably require for each proposed director and for the
22 proposed president and the proposed chief executive officer,
23 if other than the president.

24 Section 106. Paragraph (a) of subsection (4) of
25 section 665.034, Florida Statutes, is amended to read:

26 665.034 Acquisition of assets of or control over an
27 association.--

28 (4) For purposes of this section, a person or group of
29 persons shall be deemed to have control of an association if
30 such person or group of persons:

31

1 (a) Directly or indirectly, or acting in concert with
2 one or more persons or through one or more subsidiaries, owns,
3 controls, holds with powers to vote, or holds proxies
4 representing ~~more than~~ 25 percent or more of the voting common
5 stock of such association.

6 Section 107. Subsections (2) and (6) of section
7 674.406, Florida Statutes, are amended to read:

8 674.406 Customer's duty to discover and report
9 unauthorized signature or alteration.--

10 (2) If the items are not returned to the customer, the
11 person retaining the items shall either retain the items or,
12 if the items are destroyed, maintain the capacity to furnish
13 legible copies of the items until the expiration of 5 7 years
14 after receipt of the items. A customer may request an item
15 from the bank that paid the item, and that bank must provide
16 in a reasonable time either the item or, if the item has been
17 destroyed or is not otherwise obtainable, a legible copy of
18 the item.

19 (6) Without regard to care or lack of care of either
20 the customer or the bank, a customer who does not within 180
21 days ~~1 year~~ after the statement or items are made available to
22 the customer (subsection (1)) discover and report the
23 customer's unauthorized signature on or any alteration on the
24 item or who does not, within 1 year after that time, discover,
25 and report any unauthorized endorsement is precluded from
26 asserting against the bank the unauthorized signature or
27 alteration. If there is a preclusion under this subsection,
28 the payor bank may not recover for breach of warranty under s.
29 674.2081 with respect to the unauthorized signature or
30 alteration to which the preclusion applies.

31

1 Section 108. Section 658.68, Florida Statutes, is
2 repealed.

3 Section 109. Subsection (4) is added to section
4 627.4133, Florida Statutes, to read:

5 627.4133 Notice of cancellation, nonrenewal, or
6 renewal premium.--

7 (4) Notwithstanding the provisions of s. 440.42(3), if
8 cancellation of a policy providing coverage for workers'
9 compensation and employer's liability insurance is requested
10 by the insured, such cancellation shall be effective on the
11 date the carrier sends the notice of cancellation to the
12 insured.

13 Section 110. Subsection (15) of section 717.101,
14 Florida Statutes, is renumbered as subsection (16) and
15 amended, subsections (5) through (18) are renumbered as
16 subsections (6) through (19), respectively, present subsection
17 (19) is renumbered as subsection (21), and new subsections (5)
18 and (20) are added to that section, to read:

19 717.101 Definitions.--As used in this chapter, unless
20 the context otherwise requires:

21 (5) "Claimant" means the person on whose behalf a
22 claim is filed.

23 (16)(15) "Owner" means a depositor in the case of a
24 deposit, a beneficiary in case of a trust or ~~other than~~ a
25 deposit in trust, ~~a claimant~~, or a payee in the case of other
26 intangible property, or a person having a legal or equitable
27 interest in property subject to this chapter or his or her
28 legal representative.

29 (20) "Ultimate equitable owner" means a natural person
30 who, directly or indirectly, owns or controls an ownership
31 interest in a corporation, a foreign corporation, an alien

1 business organization, or any other form of business
2 organization, regardless of whether such natural person owns
3 or controls such ownership interest through one or more
4 natural persons or one or more proxies, powers of attorney,
5 nominees, corporations, associations, partnerships, trusts,
6 joint stock companies, or other entities or devices, or any
7 combination thereof.

8 Section 111. Subsection (1) of section 717.106,
9 Florida Statutes, are amended to read:

10 717.106 Bank deposits and funds in financial
11 organizations.--

12 (1) Any demand, savings, or matured time deposit with
13 a banking or financial organization, including deposits that
14 are automatically renewable, and any funds paid toward the
15 purchase of shares, a mutual investment certificate, or any
16 other interest in a banking or financial organization is
17 presumed unclaimed unless the owner has, within 5 years:

18 (a) Increased or decreased the amount of the deposit
19 or presented the passbook or other similar evidence of the
20 deposit for the crediting of interest;

21 (b) Communicated in writing or by telephone with the
22 banking or financial organization concerning the property;

23 (c) Otherwise indicated an interest in the property as
24 evidenced by a memorandum or other record on file with the
25 banking or financial organization;

26 (d) Owned other property to which paragraph (a),
27 paragraph (b), or paragraph (c) is applicable and if the
28 banking or financial organization communicates in writing with
29 the owner with regard to the property that would otherwise be
30 presumed unclaimed under this subsection at the address to
31

1 which communications regarding the other property regularly
2 are sent; or

3 (e) Had another relationship with the banking or
4 financial organization concerning which the owner has:

5 1. Communicated in writing with the banking or
6 financial organization; or

7 2. Otherwise indicated an interest as evidenced by a
8 memorandum or other record on file with the banking or
9 financial organization and if the banking or financial
10 organization communicates in writing with the owner with
11 regard to the property that would otherwise be unclaimed under
12 this subsection at the address to which communications
13 regarding the other relationship regularly are sent; ~~or~~

14 ~~(f) Received first class mail from the banking or~~
15 ~~financial organization or a subsidiary of such banking or~~
16 ~~financial organization, which was not returned as~~
17 ~~undeliverable, in the ordinary course of business at the~~
18 ~~address reflected in the banking or financial organization's~~
19 ~~records.~~

20 Section 112. Subsection (1) of section 717.107,
21 Florida Statutes, is amended to read:

22 717.107 Funds owing under life insurance policies.--

23 (1) Funds held or owing under any life or endowment
24 insurance policy or annuity contract which has matured or
25 terminated are presumed unclaimed if unclaimed for more than 5
26 years after the funds became due and payable as established
27 from the records of the insurance company holding or owing the
28 funds, but property described in paragraph (3)(b) is presumed
29 unclaimed if such property is not claimed for more than 2
30 years. The amount presumed unclaimed shall include any amount
31 due and payable under s. 627.4615.

1 Section 113. Section 717.109, Florida Statutes, is
2 amended to read:

3 717.109 Refunds held by business associations.--Except
4 ~~as to the extent~~ otherwise provided ~~ordered by law the court~~
5 ~~or administrative agency~~, any sum that a business association
6 has been ordered to refund by a court or administrative agency
7 which has been unclaimed by the owner for more than 1 year
8 after it became payable in accordance with the final
9 determination or order providing for the refund, regardless of
10 whether the final determination or order requires any person
11 entitled to a refund to make a claim for it, is presumed
12 unclaimed.

13 Section 114. Section 717.116, Florida Statutes, is
14 amended to read:

15 717.116 Contents of safe-deposit box or other
16 safekeeping repository.--All tangible and intangible property
17 held by a banking or financial organization in a safe-deposit
18 box or any other safekeeping repository in this state in the
19 ordinary course of the holder's business, and proceeds
20 resulting from the sale of the property permitted by law, that
21 has not been claimed by the owner for more than 3 years after
22 the lease or rental period on the box or other repository has
23 expired are presumed unclaimed.

24 Section 115. Subsections (1), (3), (4), and (7) of
25 section 717.117, Florida Statutes, are amended to read:

26 717.117 Report of unclaimed property.--

27 (1) Every person holding funds or other property,
28 tangible or intangible, presumed unclaimed and subject to
29 custody as unclaimed property under this chapter shall report
30 to the department on such forms as the department may
31 prescribe by rule. In lieu of forms, a report identifying 25

1 or more different apparent owners must be submitted by the
2 holder ~~may submit the required information~~ via electronic
3 medium as the department may prescribe by rule. The report
4 must include:

5 (a) Except for traveler's checks and money orders, the
6 name, social security number or taxpayer identification
7 number, and date of birth, if known, and last known address,
8 if any, of each person appearing from the records of the
9 holder to be the owner of any property which is presumed
10 unclaimed and which has a value of \$50 or more.

11 (b) For unclaimed funds which have a value of \$50 or
12 more held or owing under any life or endowment insurance
13 policy or annuity contract, the full name, taxpayer
14 identification number or social security number, date of
15 birth, if known, and last known address of the insured or
16 annuitant and of the beneficiary according to records of the
17 insurance company holding or owing the funds.

18 (c) For all tangible property held in a safe-deposit
19 box or other safekeeping repository, a description of the
20 property and the place where the property is held and may be
21 inspected by the department, and any amounts owing to the
22 holder. Contents of a safe-deposit box or other safekeeping
23 repository which consist of documents or writings of a private
24 nature and which have little or no apparent value shall not be
25 presumed unclaimed.

26 (d) The nature and identifying number, if any, or
27 description of the property and the amount appearing from the
28 records to be due. Items of value under \$50 each may be
29 reported in the aggregate.

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1 (e) The date the property became payable, demandable,
2 or returnable, and the date of the last transaction with the
3 apparent owner with respect to the property.

4 (f) Any person or business association or public
5 corporation ~~entity~~ holding funds presumed unclaimed and having
6 a total value of \$10 or less may file a zero balance report
7 for that reporting period. The balance brought forward to the
8 new reporting period is zero.

9 (g) Such other information as the department may
10 prescribe by rule as necessary for the administration of this
11 chapter.

12 (h) Credit balances, customer overpayments, security
13 deposits, and refunds having a value of less than \$10 shall
14 not be presumed unclaimed.

15 (3) The report must be filed before May 1 of each
16 year. Such report shall apply to the preceding calendar year.
17 ~~If such report is not filed on or before the applicable filing~~
18 ~~date, the holder shall pay to~~ The department may impose and
19 collect a penalty of \$10 per day up to a maximum of ~~for each~~
20 ~~day the report is delinquent, but such penalty shall not~~
21 exceed \$500 for the failure to timely report or the failure to
22 include in a report information required by this chapter. The
23 penalty shall be remitted to the department within 30 days
24 after the date of the notification to the holder that the
25 penalty is due and owing. As necessary for proper
26 administration of this chapter, the department may waive any
27 penalty due with appropriate justification. On written request
28 by any person required to file a report and upon a showing of
29 good cause, the department may postpone the reporting date.
30 The department must provide information contained in a report
31 filed with the department to any person requesting a copy of

1 the report or information contained in a report, to the extent
2 the information requested is not confidential, within 90 days
3 after the report has been processed and added to the unclaimed
4 property data base subsequent to a determination that the
5 report is accurate and that the reported property is the same
6 as the remitted property.

7 (4) Holders of inactive accounts having a value of \$50
8 or more shall use due diligence to locate apparent owners.

9 (a) When an owner's account becomes inactive, the
10 holder shall conduct at least one search for the apparent
11 owner using due diligence. For purposes of this section,
12 ~~except for banks, credit unions, and state or federal savings~~
13 ~~associations,~~ an account is inactive if 2 years have
14 transpired after the last owner-initiated account activity, if
15 2 years have transpired after the expiration date on the
16 instrument or contract, or if 2 years have transpired since
17 first-class mail has been returned as undeliverable. ~~With~~
18 ~~respect to banks, credit unions, and state or federal savings~~
19 ~~associations, an account is inactive if 2 years have~~
20 ~~transpired after the last owner initiated account activity and~~
21 ~~first class mail has been returned as undeliverable or 2 years~~
22 ~~after the expiration date on the instrument or contract and~~
23 ~~first class mail has been returned as undeliverable.~~

24 ~~(b)1-~~ Within 180 days after an account becomes
25 inactive, the holder shall conduct a search to locate the
26 apparent owner of the property. The holder may satisfy such
27 requirement by conducting one annual search for the owners of
28 all accounts which have become inactive during the prior year.

29 ~~(c)2-~~ Within 30 days after receiving updated address
30 information, the holder shall provide notice by telephone or
31 first-class mail to the current address notifying the apparent

1 owner that the holder is in possession of property which is
2 presumed unclaimed and may be remitted to the department. The
3 notice shall also provide the apparent owner with the address
4 or the telephone number of an office where the apparent owner
5 may claim the property or reestablish the inactive account.

6 (d) The account shall be presumed unclaimed if the
7 holder is not able to contact the apparent owner by telephone,
8 the first-class mail notice is returned to the holder as
9 undeliverable, or the apparent owner does not contact the
10 holder in response to the first-class mail notice.

11 ~~(b) The claim of the apparent owner is not barred by~~
12 ~~the statute of limitations.~~

13 (7)(a) This section does ~~shall~~ not apply to the
14 unclaimed patronage refunds as provided for by contract or
15 through bylaw provisions of entities organized under chapter
16 425.

17 (b) This section does not apply to intangible property
18 held, issued, or owing by a business association subject to
19 the jurisdiction of the United States Surface Transportation
20 Board or its successor federal agency if the apparent owner of
21 such intangible property is a business association. The holder
22 of such property does not have any obligation to report, to
23 pay, or to deliver such property to the department.

24 Section 116. Section 717.118, Florida Statutes, is
25 amended to read:

26 717.118 Notification of apparent owners ~~Notice and~~
27 ~~publication of lists~~ of unclaimed property.--

28 (1) It is specifically recognized that the state has
29 an obligation to make an effort to notify owners of unclaimed
30 property in a cost-effective manner. In order to provide all
31 the citizens of this state an effective and efficient program

1 for the recovery of unclaimed property, the department shall
2 use cost-effective means to make at least one active attempt
3 to notify owners of unclaimed property accounts valued at more
4 than \$100 with a reported address or taxpayer identification
5 number ~~the existence of unclaimed property held by the~~
6 ~~department~~. Such active attempt to notify ~~locate~~ apparent
7 owners shall include any attempt by the department to directly
8 contact the owner. Other means of notification, such as
9 publication of the names of owners in the newspaper, on
10 television, on the Internet, or through other promotional
11 efforts and items in which the department does not directly
12 attempt to contact the owner are expressly declared to be
13 passive attempts. Nothing in this subsection precludes other
14 agencies or entities of state government from notifying owners
15 of the existence of unclaimed property or attempting to notify
16 ~~locate~~ apparent owners of unclaimed property.

17 (2) ~~The following notification requirements shall~~
18 ~~apply:~~

19 (a) ~~Notifications that are published or televised may~~
20 ~~consist of the names of apparent owners of unclaimed property,~~
21 ~~and information regarding recovery of unclaimed property from~~
22 ~~the department. Such notification may be televised or~~
23 ~~published in the county in which the last known address of the~~
24 ~~apparent owner is located or, if the address is unknown, in~~
25 ~~the county in which the holder has its principal place of~~
26 ~~business. Published notifications may be in accordance with s.~~
27 ~~50.011.~~

28 (b) Notification provided directly to individual
29 apparent owners shall consist of a description of the property
30 and information regarding recovery of unclaimed property from
31 the department.

1 ~~(3) The department may publish in the notice any items~~
2 ~~of more than \$100.~~

3 ~~(3)(4)~~ This section is not applicable to sums payable
4 on traveler's checks, money orders, and other written
5 instruments presumed unclaimed under s. 717.104.

6 Section 117. Subsection (5) of section 717.119,
7 Florida Statutes, is amended to read:

8 717.119 Payment or delivery of unclaimed property.--

9 (5) All intangible and tangible property held in a
10 safe-deposit box or any other safekeeping repository reported
11 under s. 717.117 shall not be delivered to the department
12 until 120 days after the report due date. The delivery of the
13 property, through the United States mail or any other carrier,
14 shall be insured by the holder at an amount equal to the
15 estimated value of the property. Each package shall be clearly
16 marked on the outside "Deliver Unopened." A holder's
17 safe-deposit box contents shall be delivered to the department
18 in a single shipment. In lieu of a single shipment, holders
19 may provide the department with a single detailed shipping
20 schedule that includes package tracking information for all
21 packages being sent pursuant to this section.

22 (a) Holders may remit the value of cash and coins
23 found in unclaimed safe-deposit boxes to the department by
24 cashier's check or by electronic funds transfer, unless the
25 cash or coins have a value above face value. The department
26 shall identify by rule those cash and coin items having a
27 numismatic value. Cash and coin items identified as having a
28 numismatic value shall be remitted to the department in their
29 original form.

30 (b) Any firearm or ammunition found in an unclaimed
31 safe-deposit box or any other safekeeping repository shall be

1 delivered by the holder to a law enforcement agency for
2 disposal. However, the department is authorized to make a
3 reasonable attempt to ascertain the historical value to
4 collectors of any firearm that has been delivered to the
5 department. Any firearm appearing to have historical value to
6 collectors may be sold by the department pursuant to s.
7 717.122 to a person having a federal firearms license. Any
8 firearm which is not sold pursuant to s. 717.122 shall be
9 delivered by the department to a law enforcement agency in
10 this state for disposal. The department shall not be
11 administratively, civilly, or criminally liable for any
12 firearm delivered by the department to a law enforcement
13 agency in this state for disposal.

14 (c) If such property is not paid or delivered to the
15 department on or before the applicable payment or delivery
16 date, the holder shall pay to the department a penalty ~~of \$10~~
17 for each safe-deposit box shipment received late, ~~but such~~
18 ~~penalty shall not exceed \$1,000. The penalty shall be \$100 for~~
19 a safe-deposit box shipment container that is late 30 days or
20 less. Thereafter, the penalty shall be \$500 for a safe-deposit
21 box shipment container that is late for each additional
22 successive 30-day period. The penalty assessed against a
23 holder for a late safe-deposit box shipment container shall
24 not exceed \$4,000 annually. The penalty shall be remitted to
25 the department within 30 days after the date of the
26 notification to the holder that the penalty is due and owing.

27 (d) The department may waive any penalty due with
28 appropriate justification, as provided by rule.

29 ~~(e) Upon written request by any person required to~~
30 ~~deliver safe deposit box contents, the department may postpone~~
31 ~~the delivery.~~

1 Section 118. Subsection (2) of section 717.1201,
2 Florida Statutes, is amended to read:

3 717.1201 Custody by state; holder relieved from
4 liability; reimbursement of holder paying claim; reclaiming
5 for owner; defense of holder; payment of safe-deposit box or
6 repository charges.--

7 (2) Any holder who has paid money to the department
8 pursuant to this chapter may make payment to any person
9 appearing to ~~the holder to~~ be entitled to payment and, upon
10 filing ~~proof of payment and~~ proof that the payee is was
11 entitled thereto, the department shall forthwith repay
12 ~~reimburse~~ the holder ~~for the payment~~ without deduction of any
13 fee or other charges. If repayment ~~reimbursement~~ is sought for
14 a payment made on a negotiable instrument, including a
15 traveler's check or money order, the holder must be repaid
16 ~~reimbursed~~ under this subsection upon filing proof that the
17 instrument was duly presented and that the payee is ~~payment~~
18 ~~was made to a person who appeared to the holder to be~~ entitled
19 to payment. The holder shall be repaid ~~reimbursed~~ for payment
20 made under this subsection even if the payment was made to a
21 person whose claim was barred under s. 717.129(1).

22 Section 119. Subsections (1) and (3) of section
23 717.122, Florida Statutes, are amended, and subsection (5) is
24 added to that section, to read:

25 717.122 Public sale of unclaimed property.--

26 (1) Except as provided in subsection (2), the
27 department after the receipt of unclaimed property shall sell
28 it to the highest bidder at public sale on the Internet or at
29 a specified physical location wherever in the judgment of the
30 department the most favorable market for the property involved
31 exists. The department may decline the highest bid and reoffer

1 the property for sale if in the judgment of the department the
2 bid is insufficient. The department shall have the discretion
3 to withhold from sale any unclaimed property that the
4 department deems to be of benefit to the people of the state.
5 If in the judgment of the department the probable cost of sale
6 exceeds the value of the property, it need not be offered for
7 sale and may be disposed of as the department determines
8 appropriate. Any sale at a specified physical location held
9 under this section must be preceded by a single publication of
10 notice, at least 3 weeks in advance of sale, in a newspaper of
11 general circulation in the county in which the property is to
12 be sold. The department shall proportionately deduct auction
13 fees, preparation costs, and expenses from the amount posted
14 to the owner's account when safe-deposit box contents are
15 sold. No action or proceeding may be maintained against the
16 department for or on account of any decision to decline the
17 highest bid or withhold any unclaimed property from sale.

18 (3) Unless the department deems it to be in the public
19 interest to do otherwise, all securities presumed unclaimed
20 and delivered to the department may be sold upon receipt. Any
21 person making a claim pursuant to this chapter is entitled to
22 receive either the securities delivered to the department by
23 the holder, if they still remain in the hands of the
24 department, or the proceeds received from sale, ~~less any~~
25 ~~amounts deducted pursuant to subsection (2),~~ but no person has
26 any claim under this chapter against the state, the holder,
27 any transfer agent, any registrar, or any other person acting
28 for or on behalf of a holder for any appreciation in the value
29 of the property occurring after delivery by the holder to the
30 state.

31

1 (5) The sale of unclaimed tangible personal property
 2 is not subject to tax under chapter 212 when such property is
 3 sold by or on behalf of the department pursuant to this
 4 section.

5 Section 120. Subsection (1) of section 717.123,
 6 Florida Statutes, is amended to read:

7 717.123 Deposit of funds.--

8 (1) All funds received under this chapter, including
 9 the proceeds from the sale of unclaimed property under s.
 10 717.122, shall forthwith be deposited by the department in the
 11 Unclaimed Property Trust Fund. The department shall retain,
 12 from funds received under this chapter, an amount not
 13 exceeding ~~\$15.58~~ million from which the department shall make
 14 prompt payment of claims allowed by the department and shall
 15 pay the costs incurred by the department in administering and
 16 enforcing this chapter. All remaining funds received by the
 17 department under this chapter shall be deposited by the
 18 department into the State School Fund.

19 Section 121. Section 717.124, Florida Statutes, is
 20 amended to read:

21 717.124 Unclaimed property claims ~~Filing of claim with~~
 22 ~~department.~~--

23 (1) Any person, excluding another state, claiming an
 24 interest in any property paid or delivered to the department
 25 under this chapter may file with the department a claim on a
 26 form prescribed by the department and verified by the claimant
 27 or the claimant's representative. The claimant's
 28 representative must be an attorney licensed to practice law in
 29 this state, a licensed Florida-certified public accountant, or
 30 a private investigator licensed under chapter 493. The
 31 claimant's representative must be registered with the

1 department under this chapter. The claimant, or the claimant's
2 representative, shall provide the department with a legible
3 copy of a valid driver's license of the claimant at the time
4 the original claim form is filed. If the claimant has not been
5 issued a valid driver's license at the time the original claim
6 form is filed, the department shall be provided with a legible
7 copy of a photographic identification of the claimant issued
8 by the United States or a foreign nation, a state or territory
9 of the United States or foreign nation, or a political
10 subdivision or agency thereof. In lieu of photographic
11 identification, a notarized sworn statement by the claimant
12 may be provided which affirms the claimant's identity and
13 states the claimant's full name and address. Any claim filed
14 without the required identification or the sworn statement
15 with the original claim form and the original power of
16 attorney, if applicable, is void.

17 (a) Within 90 days after receipt of a claim, the
18 department may return any claim that provides for the receipt
19 of fees and costs greater than that permitted under this
20 chapter or that contains any apparent errors or omissions. The
21 department may also request that the claimant or the
22 claimant's representative provide additional information. The
23 department shall retain a copy or electronic image of the
24 claim.

25 (b) A claimant or the claimant's representative shall
26 be deemed to have withdrawn a claim if no response to the
27 department's request for additional information is received by
28 the department within 60 days after the notification of any
29 apparent errors or omissions.

30 (c) Within 90 days after receipt of the claim, or the
31 response of the claimant or the claimant's representative to

1 the department's request for additional information, whichever
2 is later, the department shall determine each claim ~~within 90~~
3 ~~days after it is filed.~~ Such determination shall contain a
4 notice of rights provided by ss. 120.569 and 120.57. The
5 90-day period shall be extended by 60 days if the department
6 has good cause to need additional time or if the unclaimed
7 property:

8 1. Is owned by a person who has been a debtor in
9 bankruptcy;

10 2. Was reported with an address outside of the United
11 States;

12 3. Is being claimed by a person outside of the United
13 States; or

14 4. Contains documents filed in support of the claim
15 that are not in the English language and have not been
16 accompanied by an English language translation.

17 (d) The department shall deny any claim under which
18 the claimant's representative has refused to authorize the
19 department to reduce the fees and costs to the maximum
20 permitted under this chapter.

21 (2) A claim for a cashier's check or a stock
22 certificate without the original instrument may require an
23 indemnity bond equal to the value of the claim to be provided
24 prior to issue of the stock or payment of the claim by the
25 department.

26 (3) The department may require an affidavit swearing
27 to the authenticity of the claim, lack of documentation, and
28 an agreement to allow the department to provide the name and
29 address of the claimant to subsequent claimants coming forward
30 with substantiated proof to claim the account. This shall
31 apply to claims equal to or less than \$250. The exclusive

1 remedy of a subsequent claimant to the property shall be
2 against the person who received the property from the
3 department.

4 (4)(a) Except as otherwise provided in this chapter,
5 if a claim is determined in favor of the claimant, the
6 department shall deliver or pay over to the claimant the
7 property or the amount the department actually received or the
8 proceeds if it has been sold by the department, together with
9 any additional amount required by s. 717.121.

10 ~~(b)(5)(a)~~ If an owner authorizes an attorney licensed
11 to practice law in this state, Florida-certified public
12 accountant, or private investigator licensed under chapter
13 493, and registered with the department under this chapter,
14 ~~investigative agency which is duly licensed to do business in~~
15 ~~this state~~ to claim the unclaimed property on the owner's
16 behalf, the department is authorized to make distribution of
17 the property or money in accordance with such power of
18 attorney. The original power of attorney must be executed by
19 the owner and must be filed with the department.

20 ~~(c)(b)~~1. Payments of approved claims for unclaimed
21 cash accounts shall be made to the owner after deducting any
22 fees and costs authorized pursuant to a written power of
23 attorney. The contents of a safe-deposit box shall be
24 delivered directly to the claimant notwithstanding any
25 agreement to the contrary.

26 2. Payments of fees and costs authorized pursuant to a
27 written power of attorney for approved ~~cash~~ claims shall be
28 made or issued forwarded to the law firm employer of the
29 designated attorney licensed to practice law in this state,
30 the public accountancy firm employer of the licensed
31 Florida-certified public accountant, or the designated

1 employing private investigative agency licensed by this state.
2 Such payments shall ~~may~~ be made by electronic funds transfer
3 and may be made on such periodic schedule as the department
4 may define by rule, provided the payment intervals do not
5 exceed 31 days. Payment made to an attorney licensed in this
6 state, a Florida-certified public accountant, or a private
7 investigator licensed under chapter 493, operating
8 individually or as a sole practitioner, shall be to the
9 attorney, certified public accountant, or private
10 investigator.

11 ~~3. Payments of approved claims for unclaimed~~
12 ~~securities and other intangible ownership interests made to an~~
13 ~~attorney, Florida certified public accountant, or private~~
14 ~~investigative agency shall be promptly deposited into a trust~~
15 ~~or escrow account which is regularly maintained by the~~
16 ~~attorney, Florida certified public accountant, or the private~~
17 ~~investigative agency in a financial institution authorized to~~
18 ~~accept such deposits and located in this state.~~

19 ~~(c) Distribution of unclaimed property by the~~
20 ~~attorney, Florida certified public accountant, or private~~
21 ~~investigative agency to the claimant shall be made within 10~~
22 ~~days following final credit of the deposit into the trust or~~
23 ~~escrow account at the financial institution, unless a party to~~
24 ~~the agreement protests in writing such distribution before it~~
25 ~~is made.~~

26 ~~(5)(6)~~ The department shall not be administratively,
27 civilly, or criminally liable for any property or funds
28 distributed pursuant to this section, provided such
29 distribution is made in good faith.

30 (6) This section does not supersede the licensing
31 requirements of chapter 493.

1 Section 122. Section 717.12403, Florida Statutes, is
2 created to read:

3 717.12403 Unclaimed demand, savings, or checking
4 account in a financial institution held in the name of more
5 than one person.--

6 (1)(a) If an unclaimed demand, savings, or checking
7 account in a financial institution is reported as an "and"
8 account in the name of two or more persons who are not
9 beneficiaries, it is presumed that each person must claim the
10 account in order for the claim to be approved by the
11 department. This presumption may be rebutted by showing that
12 entitlement to the account has been transferred to another
13 person or by clear and convincing evidence demonstrating that
14 the account should have been reported by the financial
15 institution as an "or" account.

16 (b) If an unclaimed demand, savings, or checking
17 account in a financial institution is reported as an "and"
18 account and one of the persons on the account is deceased, it
19 is presumed that the account is a survivorship account. This
20 presumption may be rebutted by showing that entitlement to the
21 account has been transferred to another person or by clear and
22 convincing evidence demonstrating that the account is not a
23 survivorship account.

24 (2) If an unclaimed demand, savings, or checking
25 account in a financial institution is reported as an "or"
26 account in the name of two or more persons who are not
27 beneficiaries, it is presumed that either person listed on the
28 account may claim the entire amount held in the account. This
29 presumption may be rebutted by showing that entitlement to the
30 account has been transferred to another person or by clear and
31 convincing evidence demonstrating that the account should have

1 been reported by the financial institution as an "and"
2 account.

3 (3) If an unclaimed demand, savings, or checking
4 account in a financial institution is reported in the name of
5 two or more persons who are not beneficiaries without
6 identifying whether the account is an "and" account or an "or"
7 account, it is presumed that the account is an "or" account.
8 This presumption may be rebutted by showing that entitlement
9 to the account has been transferred to another person or by
10 clear and convincing evidence demonstrating that the account
11 should have been reported by the financial institution as an
12 "and" account.

13 (4) The department shall be deemed to have made a
14 distribution in good faith if the department remits funds
15 consistent with this section.

16 Section 123. Section 717.12404, Florida Statutes, is
17 created to read:

18 717.12404 Claims on behalf of a business entity or
19 trust.--

20 (1) Claims on behalf of an active or dissolved
21 corporation, for which the last annual report is not available
22 from the Department of State through the Internet, must be
23 accompanied by a microfiche copy of the records on file with
24 the Department of State or, if the corporation has not made a
25 corporate filing with the Department of State, an
26 authenticated copy of the last corporate filing identifying
27 the officers and directors from the appropriate authorized
28 official of the state of incorporation. A claim on behalf of a
29 corporation must be made by an officer or director identified
30 on the last corporate filing.

31

1 (2) Claims on behalf of a dissolved corporation, a
2 business entity other than an active corporation, or a trust
3 must include a legible copy of a valid driver's license of the
4 person acting on behalf of the dissolved corporation, business
5 entity other than an active corporation, or trust. If the
6 person has not been issued a valid driver's license, the
7 department shall be provided with a legible copy of a
8 photographic identification of the person issued by the United
9 States or a foreign nation, or a political subdivision or
10 agency thereof. In lieu of photographic identification, a
11 notarized sworn statement by the person may be provided which
12 affirms the person's identity and states the person's full
13 name and address. Any claim filed without the required
14 identification or the sworn statement with the original claim
15 form and the original power of attorney, if applicable, is
16 void.

17 Section 124. Section 717.12405, Florida Statutes, is
18 created to read:

19 717.12405 Claims by estates.--An estate or any person
20 representing an estate or acting on behalf of an estate may
21 claim unclaimed property only after the heir or legatee of the
22 decedent entitled to the property has been located. Any
23 estate, or any person representing an estate or acting on
24 behalf of an estate, that receives unclaimed property before
25 the heir or legatee of the decedent entitled to the property
26 has been located, is personally liable for the unclaimed
27 property and must immediately return the full amount of the
28 unclaimed property or the value thereof to the department in
29 accordance with s. 717.1341.

30
31

1 Section 125. Subsection (1) of section 717.1241,
2 Florida Statutes, is amended, and subsection (3) is added to
3 said section, to read:

4 717.1241 Conflicting claims.--

5 (1) When ~~ownership has been established but~~
6 conflicting claims have been received by the department, the
7 property shall be remitted as follows, notwithstanding the
8 withdrawal of a claim to the:

9 (a) As between an owner and an owner's representative:

10 1. To the person submitting the first claim that is
11 complete or made complete received by the department; or

12 2. If an owner's claim and an owner's representative's
13 claim are received by the department on the same day and both
14 claims are complete, to the owner;

15 (b) As between two or more owner's representatives, to
16 the owner's representative who has submitted the first claim
17 that is complete or made complete ~~Owner if an owner's claim~~
18 ~~and an owner's representative's claim are received by the~~
19 ~~department on the same day; or~~

20 (c) As between two or more owner's representatives
21 whose claims were complete on the same day, to the owner's
22 representative who has agreed to receive the lowest fee. If
23 two or more owner's representatives whose claims were complete
24 on the same day are charging the same lowest fee, the fees
25 shall be divided equally between the owner's representatives
26 ~~Owner's representative who has the earliest dated contract~~
27 ~~with the owner if claims by two or more owner's~~
28 ~~representatives are received by the department on the same~~
29 ~~day.~~

30 (3) A claim is complete when entitlement to the
31 unclaimed property has been established.

1 Section 126. Subsection (1) of section 717.1242,
2 Florida Statutes, is amended to read:

3 717.1242 Restatement of jurisdiction of the circuit
4 court sitting in probate and the department.--

5 (1) It is and has been the intent of the Legislature
6 that, pursuant to s. 26.012(2)(b), circuit courts have
7 jurisdiction of proceedings relating to the settlement of the
8 estates of decedents and other jurisdiction usually pertaining
9 to courts of probate. It is and has been the intent of the
10 Legislature that, pursuant to s. 717.124, the department
11 determines the merits of claims for property paid or delivered
12 to the department under this chapter. Consistent with this
13 legislative intent, any estate or beneficiary, as defined in
14 s. 731.201, heir of an estate seeking to obtain property paid
15 or delivered to the department under this chapter must file a
16 claim with the department as provided in s. 717.124.

17 Section 127. Section 717.1244, Florida Statutes, is
18 created to read:

19 717.1244 Determinations of unclaimed property
20 claims.--In rendering a determination regarding the merits of
21 an unclaimed property claim, the department shall rely on the
22 applicable statutory, regulatory, common, and case law. Agency
23 statements applying the statutory, regulatory, common, and
24 case law to unclaimed property claims are not agency
25 statements subject to s. 120.56(4).

26 Section 128. Section 717.126, Florida Statutes, is
27 amended to read:

28 717.126 Administrative hearing; burden of proof; proof
29 of entitlement; venue.--

30 (1) Any person aggrieved by a decision of the
31 department may petition for a hearing as provided in ss.

1 120.569 and 120.57. In any proceeding for determination of a
2 claim to property paid or delivered to the department under
3 this chapter, the burden shall be upon the claimant to
4 establish entitlement to the property by a preponderance of
5 evidence. Having the same name as that reported to the
6 department is not sufficient, in the absence of other
7 evidence, to prove entitlement to unclaimed property.

8 (2) Unless otherwise agreed by the parties, venue
9 shall be in Tallahassee, Leon County, Florida. However, upon
10 the request of a party, the presiding officer may, in the
11 presiding officer's discretion, conduct the hearing at an
12 alternative remote video location.

13 Section 129. Section 717.1261, Florida Statutes, is
14 created to read:

15 717.1261 Death certificates.--Any person who claims
16 entitlement to unclaimed property by means of the death of one
17 or more persons shall file a copy of the death certificate of
18 the decedent or decedents that has been certified as being
19 authentic by the issuing governmental agency.

20 Section 130. Section 717.1262, Florida Statutes, is
21 created to read:

22 717.1262 Court documents.--Any person who claims
23 entitlement to unclaimed property by reason of a court
24 document shall file a certified copy of the court document
25 with the department.

26 Section 131. Subsections (1) and (6) of section
27 717.1301, Florida Statutes, are amended to read:

28 717.1301 Investigations; examinations; subpoenas.--

29 (1) The department may make investigations and
30 examinations within or outside this state of claims, reports,
31 and other records ~~within or outside this state~~ as it deems

1 necessary to administer and enforce the provisions of this
2 chapter. In such investigations and examinations the
3 department may administer oaths, examine witnesses, issue
4 subpoenas, and otherwise gather evidence. The department may
5 request any person who has not filed a report under s. 717.117
6 to file a verified report stating whether or not the person is
7 holding any unclaimed property reportable or deliverable under
8 this chapter.

9 (6) If an investigation or an examination of the
10 records of any person results in the disclosure of property
11 reportable and deliverable under this chapter, the department
12 may assess the cost of investigation or the examination
13 against the holder at the rate of \$100 per 8-hour day for each
14 ~~per~~ investigator or examiner. Such fee shall be calculated on
15 an hourly basis and shall be rounded to the nearest hour. The
16 person shall also pay the travel expense and per diem
17 subsistence allowance provided for state employees in s.
18 112.061. The person shall not be required to pay a per diem
19 fee and expenses of an examination or investigation which
20 shall consume more than 30 worker-days in any one year unless
21 such examination or investigation is due to fraudulent
22 practices of the person, in which case such person shall be
23 required to pay the entire cost regardless of time consumed.
24 The fee shall be remitted to the department within 30 days
25 after the date of the notification that the fee is due and
26 owing. Any person who fails to pay the fee within 30 days
27 after the date of the notification that the fee is due and
28 owing shall pay to the department interest at the rate of 12
29 percent per annum on such fee from the date of the
30 notification.

31

1 Section 132. Subsection (2) of section 717.1315,
2 Florida Statutes, is amended to read:

3 717.1315 Retention of records by owner's
4 representative.--

5 (2) An owner's representative, operating at two or
6 more places of business in this state, may maintain the books,
7 accounts, and records of all such offices at any one of such
8 offices, or at any other office maintained by such owner's
9 representative, upon the filing of a written notice with the
10 department designating in the written notice the office at
11 which such records are maintained.

12 ~~(3) An~~ ~~However, the~~ owner's representative shall make
13 all books, accounts, and records available at a convenient
14 location in this state upon request of the department.

15 Section 133. Subsection (2) of section 717.132,
16 Florida Statutes, is amended to read:

17 717.132 Enforcement; cease and desist orders;
18 administrative fines.--

19 (2) In addition to any other powers conferred upon it
20 to enforce and administer the provisions of this chapter, the
21 department may issue and serve upon a person an order to cease
22 and desist and to take corrective action whenever the
23 department finds that such person is violating, has violated,
24 or is about to violate any provision of this chapter, any rule
25 or order promulgated under this chapter, or any written
26 agreement entered into with the department. For purposes of
27 this subsection, the term "corrective action" includes
28 refunding excessive charges, requiring a person to return
29 unclaimed property, requiring a holder to remit unclaimed
30 property, and requiring a holder to correct a report that
31

1 contains errors or omissions. Any such order shall contain a
2 notice of rights provided by ss. 120.569 and 120.57.

3 Section 134. Section 717.1322, Florida Statutes, is
4 created to read:

5 717.1322 Administrative enforcement.--

6 (1) The following acts are violations of this chapter
7 and constitute grounds for an administrative enforcement
8 action by the department in accordance with the requirements
9 of chapter 120:

10 (a) Failure to comply with any provision of this
11 chapter, any rule or order adopted under this chapter, or any
12 written agreement entered into with the department.

13 (b) Fraud, misrepresentation, deceit, or gross
14 negligence in any matter within the scope of this chapter.

15 (c) Fraudulent misrepresentation, circumvention, or
16 concealment of any matter required to be stated or furnished
17 to an owner or apparent owner under this chapter, regardless
18 of reliance by or damage to the owner or apparent owner.

19 (d) Willful imposition of illegal or excessive charges
20 in any unclaimed property transaction.

21 (e) False, deceptive, or misleading solicitation or
22 advertising within the scope of this chapter.

23 (f) Failure to maintain, preserve, and keep available
24 for examination all books, accounts, or other documents
25 required by this chapter, by any rule or order adopted under
26 this chapter, or by any agreement entered into with the
27 department under this chapter.

28 (g) Refusal to permit inspection of books and records
29 in an investigation or examination by the department or
30 refusal to comply with a subpoena issued by the department
31 under this chapter.

1 (h) Criminal conduct in the course of a person's
2 business.

3 (i) Failure to timely pay any fine imposed or assessed
4 under this chapter or any rule adopted under this chapter.

5 (j) For compensation or gain or in the expectation of
6 compensation or gain, the filing of a claim for unclaimed
7 property owned by another unless such person is a registered
8 attorney licensed to practice law in this state, registered
9 public accountant certified in this state, or a registered
10 private investigator licensed under chapter 493. This
11 subsection does not apply to a person who has been granted a
12 durable power of attorney to convey and receive all of the
13 real and personal property of the owner, is the
14 court-appointed guardian of the owner, has been employed as an
15 attorney or qualified representative to contest the
16 department's denial of a claim, has been employed as an
17 attorney or qualified representative to contest the
18 department's denial of a claim, or has been employed as an
19 attorney to probate the estate of the owner or an heir or
20 legatee of the owner.

21 (k) Failure to authorize the release of records in the
22 possession of a third party after being requested to do so by
23 the department regarding a pending examination or
24 investigation.

25 (1) Receipt or solicitation of consideration to be
26 paid in advance of the approval of a claim under this chapter.

27 (2) Upon a finding by the department that any person
28 has committed any of the acts set forth in subsection (1), the
29 department may enter an order:

30 (a) Revoking or suspending a registration previously
31 granted under this chapter;

1 (b) Placing a registrant or an applicant for a
2 registration on probation for a period of time and subject to
3 such conditions as the department may specify;

4 (c) Placing permanent restrictions or conditions upon
5 issuance or maintenance of a registration under this chapter;

6 (d) Issuing a reprimand;

7 (e) Imposing an administrative fine not to exceed
8 \$2,000 for each such act; or

9 (f) Prohibiting any person from being a director,
10 officer, agent, employee, or ultimate equitable owner of a
11 10-percent or greater interest in an employer of a registrant.

12 (3) A registrant is subject to the disciplinary
13 actions specified in subsection (2) for violations of
14 subsection (1) by an agent or employee of the registrant's
15 employer if the registrant knew or should have known that such
16 agent or employee was violating any provision of this chapter.

17 (4)(a) The department shall adopt, by rule, and
18 periodically review the disciplinary guidelines applicable to
19 each ground for disciplinary action which may be imposed by
20 the department under this chapter.

21 (b) The disciplinary guidelines shall specify a
22 meaningful range of designated penalties based upon the
23 severity or repetition of specific offenses, or both. It is
24 the legislative intent that minor violations be distinguished
25 from more serious violations; that such guidelines consider
26 the amount of the claim involved, the complexity of locating
27 the owner, the steps taken to ensure the accuracy of the claim
28 by the person filing the claim, the acts of commission and
29 omission of the ultimate owners in establishing themselves as
30 rightful owners of the funds, the acts of commission or
31 omission of the agent or employee of an employer in the filing

1 of the claim, the actual knowledge of the agent, employee,
2 employer, or owner in the filing of the claim, the departure,
3 if any, by the agent or employee from the internal controls
4 and procedures established by the employer with regard to the
5 filing of a claim, the number of defective claims previously
6 filed by the agent, employee, employer, or owner; that such
7 guidelines provide reasonable and meaningful notice of likely
8 penalties that may be imposed for proscribed conduct; and that
9 such penalties be consistently applied by the department.

10 (c) A specific finding of mitigating or aggravating
11 circumstances shall allow the department to impose a penalty
12 other than that provided for in such guidelines. The
13 department shall adopt by rule disciplinary guidelines to
14 designate possible mitigating and aggravating circumstances
15 and the variation and range of penalties permitted for such
16 circumstances. Such mitigating and aggravating circumstances
17 shall also provide for consideration of, and be consistent
18 with, the legislative intent expressed in paragraph (b).

19 (d) In any proceeding brought under this chapter, the
20 administrative law judge, in recommending penalties in any
21 recommended order, shall follow the penalty guidelines
22 established by the department and shall state in writing any
23 mitigating or aggravating circumstances upon which the
24 recommended penalty is based.

25 (5) The department may seek any appropriate civil
26 legal remedy available to it by filing a civil action in a
27 court of competent jurisdiction against any person who has,
28 directly or through an owner's representative, wrongfully
29 submitted a claim as the ultimate owner of property and
30 improperly received funds from the department in violation of
31 this chapter.

1 Section 135. Section 717.1331, Florida Statutes, is
2 created to read:

3 717.1331 Actions against holders.--The department may
4 initiate, or cause to be initiated, an action against a holder
5 to recover unclaimed property. If the department prevails in a
6 civil or administrative action to recover unclaimed property
7 initiated by or on behalf of the department, the holder shall
8 be ordered to pay the department reasonable costs and
9 attorney's fees.

10 Section 136. Section 717.1333, Florida Statutes, is
11 created to read:

12 717.1333 Evidence; audit reports; examiner's
13 worksheets, investigative reports, other related
14 documents.--In any proceeding involving a holder under ss.
15 120.569 and 120.57 in which an auditor, examiner, or
16 investigator acting under authority of this chapter is
17 available for cross-examination, any official written report,
18 worksheet, or other related paper, or copy thereof, compiled,
19 prepared, drafted, or otherwise made or received by the
20 auditor, examiner, or investigator, after being duly
21 authenticated by the auditor, examiner, or investigator, may
22 be admitted as competent evidence upon the oath of the
23 auditor, examiner, or investigator that the report, worksheet,
24 or related paper was prepared or received as a result of an
25 audit, examination, or investigation of the books and records
26 of the person audited, examined, or investigated, or the agent
27 thereof.

28 Section 137. Subsection (5) is added to section
29 717.134, Florida Statutes, to read:

30 717.134 Penalties and interest.--
31

1 (5) The department may impose and collect a penalty of
2 \$500 per day up to a maximum of \$5,000 and 25 percent of the
3 value of property willfully not reported with all of the
4 information required by this chapter. Upon a holder's showing
5 of good cause, the department may waive the penalty or any
6 portion thereof. If the holder acted in good faith and without
7 negligence, the department shall waive the penalty provided
8 herein.

9 Section 138. Section 717.1341, Florida Statutes, is
10 created to read:

11 717.1341 Invalid claims, recovery of property,
12 interest and penalties.--

13 (1)(a) No person shall receive unclaimed property that
14 the person is not entitled to receive. Any person who
15 receives, or assists another person to receive, unclaimed
16 property that the person is not entitled to receive is
17 strictly, jointly, personally, and severally liable for the
18 unclaimed property and shall immediately return the property,
19 or the reasonable value of the property if the property has
20 been damaged or disposed of, to the department plus interest
21 at the rate set annually in accordance with s. 55.03(1).
22 Assisting another person to receive unclaimed property
23 includes executing a claim form on the person's behalf.

24 (b)1. In the case of stocks or bonds which have been
25 sold, the proceeds from the sale shall be returned to the
26 department plus any dividends or interest received thereon
27 plus an amount equal to the brokerage fee plus interest at a
28 rate set annually in accordance with s. 55.03(1) on the
29 proceeds from the sale of the stocks or bonds, the dividends
30 or interest received, and the brokerage fee.

31

1 2. In the case of stocks or bonds which have not been
2 sold, the stocks or bonds and any dividends or interest
3 received thereon shall be returned to the department, together
4 with interest on the dividends or interest received, at a rate
5 set annually in accordance with s. 55.03(1) of the value of
6 the property.

7 (2) The department may maintain a civil or
8 administrative action:

9 (a) To recover unclaimed property that was paid or
10 remitted to a person who was not entitled to the unclaimed
11 property or to offset amounts owed to the department against
12 amounts owed to an owner representative;

13 (b) Against a person who assists another person in
14 receiving, or attempting to receive, unclaimed property that
15 the person is not entitled to receive; or

16 (c) Against a person who attempts to receive unclaimed
17 property that the person is not entitled to receive.

18 (3) If the department prevails in any proceeding under
19 subsection (2), a fine not to exceed three times the value of
20 the property received or sought to be received may be imposed
21 on any person who knowingly, or with reckless disregard or
22 deliberate ignorance of the truth, violated this section. If
23 the department prevails in a civil or administrative
24 proceeding under subsection (2), the person who violated
25 subsection (1) shall be ordered to pay the department
26 reasonable costs and attorney's fees.

27 (4) No person shall knowingly file, knowingly conspire
28 to file, or knowingly assist in filing, a claim for unclaimed
29 property the person is not entitled to receive. Any person who
30 violates this subsection regarding unclaimed property of an
31 aggregate value:

1 (a) Greater than \$50,000, is guilty of a felony of the
 2 first degree, punishable as provided in s. 775.082, s.
 3 775.083, or s. 775.084;

4 (b) Greater than \$10,000 up to \$50,000, is guilty of a
 5 felony of the second degree, punishable as provided in s.
 6 775.082, s. 775.083, or s. 775.084;

7 (c) Greater than \$250 up to \$10,000, is guilty of a
 8 felony of the third degree, punishable as provided in s.
 9 775.082, s. 775.083, or s. 775.084;

10 (d) Greater than \$50 up to \$250, is guilty of a
 11 misdemeanor of the first degree, punishable as provided in s.
 12 775.082 or s. 775.083; or

13 (e) Up to \$50, is guilty of a misdemeanor of the
 14 second degree, punishable as provided in s. 775.082 or s.
 15 775.083.

16 Section 139. Section 717.135, Florida Statutes, is
 17 amended to read:

18 717.135 Agreement to recover ~~locate~~ reported property
 19 in the custody of the department.--

20 (1) All agreements between a claimant's ~~an owner's~~
 21 ~~representative and a claimant~~ ~~an owner~~ for compensation to
 22 recover or assist in the recovery of property reported to the
 23 department under s. 717.117 shall be in 11-point type or
 24 greater and either:

25 (a) Limit the fees and costs for services ~~for each~~
 26 ~~owner contract to \$25 for all contracts relating to unclaimed~~
 27 ~~property with a dollar value below \$250. For all contracts~~
 28 ~~relating to unclaimed property with a dollar value of \$250 and~~
 29 ~~above, fees shall be limited to 20 15 percent~~ per unclaimed ~~on~~
 30 property account held by the department ~~for 24 months or less~~
 31 ~~and 25 percent on property held by the department for more~~

1 ~~than 24 months~~. Fees and costs for cash accounts shall be
2 based on the value of the property at the time the agreement
3 for recovery is signed by the claimant ~~apparent owner~~. Fees
4 and costs for accounts containing securities or other
5 intangible ownership interests, which securities or interests
6 are not converted to cash, shall be based on the purchase
7 price of the security as quoted on a national exchange or
8 other market on which the property ownership interest is
9 regularly traded at the time the securities or other ownership
10 interest is remitted to the claimant ~~owner~~ or the claimant's
11 ~~owner's~~ representative. Fees and costs for tangible property
12 or safe-deposit box accounts shall be based on the value of
13 the tangible property or contents of the safe-deposit box at
14 the time the ownership interest is transferred or remitted to
15 the claimant ~~owner or the owner's representative~~; or

16 (b) Disclose, on such form as the department shall
17 prescribe by rule, that the property is held by the Bureau of
18 Unclaimed Property of the Department of Financial Services
19 pursuant to this chapter, the person or name of the entity
20 that held the property prior to the property becoming
21 unclaimed, the date of the holder's last contact with the
22 owner, if known, and the approximate value of the property,
23 and identify which of the following categories of unclaimed
24 property the owner's representative is seeking to recover, as
25 reported by the holder:

- 26 1. Cash accounts.
- 27 2. Stale dated checks.
- 28 3. Life insurance or annuity contract assets.
- 29 4. Utility deposits.
- 30 5. Securities or other interests in business
- 31 associations.

- 1 6. Wages.
- 2 7. Accounts receivable.
- 3 8. Contents of safe-deposit boxes.

4
5 Such disclosure shall be on a page signed and dated by the
6 person asserting entitlement to the unclaimed property.

7 However, paragraph (1)(a) or (b) this section shall not apply
8 if probate proceedings must be initiated on behalf of the
9 claimant for an estate that has never been probated to
10 contracts made in connection with guardianship proceedings or
11 the probate of an estate.

12 (2)(a) Agreements for recovery of cash accounts shall
13 state the value of the unclaimed property, the unclaimed
14 property account number, and the percentage dollar value of
15 the unclaimed property account to be paid to the claimant
16 ~~owner~~ and shall also state the percentage dollar value of
17 compensation to be paid to the claimant's owner's
18 representative.

19 (b) Agreements for recovery of accounts containing
20 securities, safe-deposit box accounts, other intangible or
21 tangible ownership interests, or other types of accounts,
22 except cash accounts, shall state the unclaimed property
23 account number, the number of shares of stock, if applicable,
24 the approximate value of the unclaimed property, and the
25 percentage value of compensation to be paid to the claimant's
26 ~~owner's~~ representative.

27 (c) All disclosures and agreements shall include the
28 name, address, and professional license number of the
29 claimant's owner's representative, and, if available, the
30 taxpayer identification number or social security number,
31 address, and telephone number of the claimant owner. The

1 original of all such disclosures and agreements to pay
 2 compensation shall be signed and dated by the claimant ~~owner~~
 3 of the property and shall be filed ~~by the owner's~~
 4 ~~representative~~ with the claim form.

5 (d) All agreements between a claimant's representative
 6 and a claimant, who is a natural person, trust, or a dissolved
 7 corporation, for compensation to recover or assist in the
 8 recovery of property reported to the department under s.
 9 717.117 must use the following form on 8 and 1/2 inch by 11
 10 inch paper or on 8 and 1/2 inch by 14 inch paper with all of
 11 the text on one side of the paper and with the other side of
 12 the paper left blank; except that, at the option of the owner
 13 representative, the department disclosure form may be placed
 14 on the reverse side of the agreement. The agreement must be
 15 accurately completed and executed. No other writing or
 16 information shall be printed on the agreement. The title of
 17 the agreement shall be in bold 14-point type and underlined.
 18 The rest of the agreement shall be in 10-point type or
 19 greater. All unclaimed property accounts claimed must be
 20 identified on the agreement. The agreement must state:

21 RECOVERY AGREEMENT

22 \$ _____ = APPROXIMATE DOLLAR VALUE OF UNCLAIMED PROPERTY

23 NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF
 24 APPLICABLE): _____

25 PROPERTY ACCOUNT NUMBERS: _____

26 _____ PERCENT TO BE PAID AS COMPENSATION TO THE CLAIMANT'S
 27 REPRESENTATIVE

28 \$ _____ = NET AMOUNT TO BE PAID TO CLAIMANT

29 \$ _____ = AMOUNT TO BE PAID TO CLAIMANT'S REPRESENTATIVE

30
31

1 THIS AGREEMENT is between:
 2 _____
 3 (hereinafter, CLAIMANT)
 4 and _____
 5 (hereinafter, CLAIMANT'S REPRESENTATIVE)
 6 who agree to the following:
 7 (1) As consideration for the research efforts in
 8 locating and identifying assets due to the CLAIMANT and for
 9 assistance in procuring payment of the assets to the CLAIMANT,
 10 the CLAIMANT authorizes the government to pay to the
 11 CLAIMANT'S REPRESENTATIVE a fee of either:
 12 (a) _____ percent of all assets recovered, or
 13 (b) A flat fee of \$ _____ to recover the unclaimed
 14 property account identified above.
 15
 16 NO FEES ARE TO BE PAID IN ADVANCE.
 17 (2) I have read this agreement and in consideration
 18 thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a
 19 limited power of attorney to demand, collect, recover and
 20 receive the above compensation from the government in
 21 accordance with this agreement.
 22 (3) IT IS HEREBY ACKNOWLEDGED BY ALL PARTIES TO THIS
 23 AGREEMENT THAT UNLESS THESE ASSETS ARE RECOVERED, NO FEES, NO
 24 COSTS OR CHARGES ARE DUE TO THE CLAIMANT'S REPRESENTATIVE, ITS
 25 AGENTS OR ATTORNEYS, AND THIS AGREEMENT WILL BECOME NULL AND
 26 VOID.
 27 Original Signature of CLAIMANT: _____
 28 DATE: _____
 29 CLAIMANT'S Social Security Number or FEID number: _____
 30 Make the CLAIMANT'S check payable to: _____
 31 Mail check to this address: _____

1 _____
 2 The CLAIMANT'S telephone number is:
 3 Original Signature of CLAIMANT'S REPRESENTATIVE:
 4 FEID Number of CLAIMANT'S REPRESENTATIVE:
 5 DATE:
 6 Address of CLAIMANT'S REPRESENTATIVE:
 7 _____
 8 Telephone number of CLAIMANT'S REPRESENTATIVE:
 9 Professional license number of CLAIMANT'S REPRESENTATIVE:
 10 _____

11 (e) All fees, whether expressed as a percentage or as
 12 a flat fee, are subject to the limitations and requirements of
 13 subsection (1).

14 (3) As used in this section, "claimant" means the
 15 person on whose behalf a claim is filed.

16 (4) This section does not supersede the licensing
 17 requirements of chapter 493.

18 Section 140. Section 717.1351, Florida Statutes, is
 19 created to read:

20 717.1351 Acquisition of unclaimed property.--

21 (1) A person desiring to acquire ownership or
 22 entitlement of property reported to the department under s.
 23 717.117 must be an attorney licensed to practice law in this
 24 state, a licensed Florida-certified public accountant, a
 25 private investigator licensed under chapter 493, or an
 26 employer of a licensed private investigator which employer
 27 possesses a Class "A" license under chapter 493 and must be
 28 registered with the department under this chapter.

29 (2) All contracts to acquire ownership or entitlement
 30 of unclaimed property from the person or persons entitled to
 31 _____

1 the unclaimed property must be in 10-point type or greater and
2 must:

3 (a) Have a purchase price that discounts the value of
4 the unclaimed property at the time the agreement is executed
5 by the seller at no greater than 20 percent per account held
6 by the department; or

7 (b) Disclose, on such form as the department shall
8 prescribe by rule, that the property is held by the Bureau of
9 Unclaimed Property of the Department of Financial Services
10 pursuant to this chapter, the person or name of the entity
11 that held the property prior to the property becoming
12 unclaimed, the date of the holder's last contact with the
13 owner, if known, and the approximate value of the property,
14 and identify which of the following categories of unclaimed
15 property buyer is seeking to purchase as reported by the
16 holder:

17 1. Cash accounts.

18 2. Stale dated checks.

19 3. Life insurance or annuity contract assets.

20 4. Utility deposits.

21 5. Securities or other interests in business

22 associations.

23 6. Wages.

24 7. Accounts receivable.

25 8. Contents of safe-deposit boxes.

26
27 Such disclosure shall be on a page signed and dated by the
28 seller of the unclaimed property.

29 (3) The originals of all such disclosures and
30 agreements to transfer ownership or entitlement to unclaimed
31 property shall be signed and dated by the seller and shall be

1 filed with the claim form. The claimant shall provide the
2 department with a legible copy of a valid driver's license of
3 the seller at the time the original claim form is filed. If a
4 seller has not been issued a valid driver's license at the
5 time the original claim form is filed, the department shall be
6 provided with a legible copy of a photographic identification
7 of the seller issued by the United States or a foreign nation,
8 a state or territory of the United States or foreign nation,
9 or a political subdivision or agency thereof. In lieu of
10 photographic identification, a notarized sworn statement by
11 the seller may be provided which affirms the seller's identity
12 and states the seller's full name and address. If a claim is
13 filed without the required identification or the sworn
14 statement with the original claim form and the original
15 agreement to acquire ownership or entitlement to the unclaimed
16 property, the claim is void.

17 (4) Any contract to acquire ownership or entitlement
18 of unclaimed property from the person or persons entitled to
19 the unclaimed property must provide for the purchase price to
20 be remitted to the seller or sellers within 10 days after the
21 execution of the contract by the seller or sellers. The
22 contract must specify the unclaimed property account number,
23 the value of the unclaimed property account, and the number of
24 shares of stock, if applicable. Proof of payment by check must
25 be filed with the department with the claim.

26 (5) All agreements to purchase unclaimed property from
27 an owner, who is a natural person, a trust, or a dissolved
28 corporation must use the following form on 8 and 1/2 inch by
29 11 inch paper or on 8 and 1/2 inch by 14 inch paper with all
30 of the text on one side of the paper and with the other side
31 of the paper left blank; except that, at the option of the

1 owner representative, the department disclosure form may be
 2 placed on the reverse side of the agreement. The agreement
 3 must be accurately completed and executed. No other writing or
 4 information shall be printed on the agreement. The title of
 5 the agreement shall be in bold 14-point type and underlined.
 6 The rest of the agreement shall be in 10-point type or
 7 greater. All unclaimed property accounts to be purchased must
 8 be identified on the agreement. The agreement must state:

9 PURCHASE AGREEMENT

10 \$ _____ = APPROXIMATE DOLLAR VALUE OF THE UNCLAIMED

11 PROPERTY

12 PROPERTY ACCOUNT NUMBER(S): _____

13 NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF

14 APPLICABLE): _____

15 _____ PERCENT OF UNCLAIMED PROPERTY TO BE PAID TO THE

16 BUYER

17 \$ _____ = NET AMOUNT TO BE PAID TO OWNER

18 \$ _____ = AMOUNT TO BE PAID TO BUYER

19 THIS AGREEMENT is between:

20 _____

21 (hereinafter, OWNER)

22 and _____

23 (hereinafter, BUYER)

24 who agree that the OWNER transfers to the BUYER for a purchase
 25 price of \$ _____ all rights to the above identified unclaimed
 26 property accounts.

27 Original Signature of OWNER: _____ DATE: _____

28 OWNER'S Social Security Number or FEID number: _____

29 Within 10 days after the execution of this Purchase Agreement
 30 by the Owner, Buyer shall remit the OWNER'S check payable to:
 31 _____

1 Mail check to this address:
 2 _____
 3 _____
 4 The OWNER'S telephone number is:
 5 _____
 6 Original Signature of BUYER:
 7 _____
 8 _____
 9 FEID Number of BUYER: DATE:
 10 _____
 11 Address of BUYER:
 12 _____
 13 _____
 14 _____
 15 Telephone number of BUYER:
 16 _____
 17 Professional license number of BUYER:
 18 _____

11 (6) This section does not supersede the licensing
 12 requirements of chapter 493.

13 Section 141. Section 717.1400, Florida Statutes, is
 14 created to read:

15 717.1400 Registration.--

16 (1) In order to file claims as a claimant's
 17 representative, acquire ownership or entitlement to unclaimed
 18 property, receive a distribution of fees and costs from the
 19 department, and obtain unclaimed property dollar amounts, the
 20 number of reported shares of stock, and the last four digits
 21 of social security numbers held by the department, a private
 22 investigator holding a Class "C" individual license under
 23 chapter 493 must register with the department on such form as
 24 the department shall prescribe by rule, and verified by the
 25 applicant. To register with the department, a private
 26 investigator must provide:

27 (a) A legible copy of the applicant's Class "A"
 28 business license under chapter 493 or that of the applicant's
 29 employer which holds a Class "A" business license under
 30 chapter 493.

31

1 (b) A legible copy of the applicant's Class "C"
2 individual license issued under chapter 493.

3 (c) The applicant's business address and telephone
4 number.

5 (d) The names of agents or employees, if any, who are
6 designated to act on behalf of the private investigator
7 together with a legible copy of their photo-identification
8 issued by an agency of the United States, or a state, or a
9 political subdivision thereof.

10 (e) Sufficient information to enable the department to
11 disburse funds by electronic funds transfer.

12 (f) The tax identification number of the private
13 investigator's employer which holds a Class "A" business
14 license under chapter 493.

15 (2) In order to file claims as a claimant's
16 representative, acquire ownership or entitlement to unclaimed
17 property, receive a distribution of fees and costs from the
18 department, and obtain unclaimed property dollar amounts, the
19 number of reported shares of stock, and the last four digits
20 of social security numbers held by the department, a
21 Florida-certified public accountant must register with the
22 department on such form as the department shall prescribe by
23 rule, and must be verified by the applicant. To register with
24 the department a Florida-certified public accountant must
25 provide:

26 (a) The applicant's Florida Board of Accountancy
27 number.

28 (b) A legible copy of the applicant's current driver's
29 license showing the full name and current address of such
30 person. If a current driver's license is not available,
31 another form of identification showing full name and current

1 address of such person or persons shall be filed with the
2 department.

3 (c) The applicant's business address and telephone
4 number.

5 (d) The names of agents or employees, if any, who are
6 designated to act on behalf of the Florida-certified public
7 accountant together with a legible copy of their
8 photo-identification issued by an agency of the United States,
9 or a state, or a political subdivision thereof.

10 (e) Sufficient information to enable the department to
11 disburse funds by electronic funds transfer.

12 (f) The tax identification number of the accountant's
13 public accounting firm employer.

14 (3) In order to file claims as a claimant's
15 representative, acquire ownership or entitlement to unclaimed
16 property, receive a distribution of fees and costs from the
17 department, and obtain unclaimed property dollar amounts, the
18 number of reported shares of stock, and the last four digits
19 of social security numbers held by the department, an attorney
20 licensed to practice in this state must register with the
21 department on such form as the department shall prescribe by
22 rule, and must be verified by the applicant. To register with
23 the department, such attorney must provide:

24 (a) The applicant's Florida Bar number.

25 (b) A legible copy of the applicant's current driver's
26 license showing the full name and current address of such
27 person. If a current driver's license is not available,
28 another form of identification showing full name and current
29 address of such person or persons shall be filed with the
30 department.

31

1 (c) The applicant's business address and telephone
2 number.

3 (d) The names of agents or employees, if any, who are
4 designated to act on behalf of the attorney, together with a
5 legible copy of their photo-identification issued by an agency
6 of the United States, or a state, or a political subdivision
7 thereof.

8 (e) Sufficient information to enable the department to
9 disburse funds by electronic funds transfer.

10 (f) The tax identification number of the lawyer's
11 employer law firm.

12 (4) Information and documents already on file with the
13 department prior to the effective date of this provision need
14 not be resubmitted in order to complete the registration.

15 (5) If a material change in the status of a
16 registration occurs, a registrant must, within 30 days,
17 provide the department with the updated documentation and
18 information in writing. Material changes include, but are not
19 limited to; a designated agent or employee ceasing to act on
20 behalf of the designating person, a surrender, suspension, or
21 revocation of a license, or a license renewal.

22 (a) If a designated agent or employee ceases to act on
23 behalf of the person who has designated the agent or employee
24 to act on such person's behalf, the designating person must,
25 within 30 days, inform the Bureau of Unclaimed Property in
26 writing of the termination of agency or employment.

27 (b) If a registrant surrenders the registrant's
28 license or the license is suspended or revoked, the registrant
29 must, within 30 days, inform the bureau in writing of the
30 surrender, suspension, or revocation.

31

1 (c) If a private investigator's Class "C" individual
2 license under chapter 493 or a private investigator's
3 employer's Class "A" business license under chapter 493 is
4 renewed, the private investigator must provide a copy of the
5 renewed license to the department within 30 days after the
6 receipt of the renewed license by the private investigator or
7 the private investigator's employer.

8 (6) A registrant or applicant for registration may not
9 have a name that might lead another person to conclude that
10 the registrant is affiliated or associated with the United
11 States, or an agency thereof, or a state or an agency or
12 political subdivision of a state. The department shall deny an
13 application for registration or revoke a registration if the
14 applicant or registrant has a name that might lead another
15 person to conclude that the applicant or registrant is
16 affiliated or associated with the United States, or an agency
17 thereof, or a state or an agency or political subdivision of a
18 state. Names that might lead another person to conclude that
19 the applicant or registrant is affiliated or associated with
20 the United States, or an agency thereof, or a state or an
21 agency or political subdivision of a state, include, but are
22 not limited to, the words United States, Florida, state,
23 bureau, division, department, or government.

24 Section 142. Subsection (2) of section 212.02, Florida
25 Statutes, is amended to read:

26 212.02 Definitions.--The following terms and phrases
27 when used in this chapter have the meanings ascribed to them
28 in this section, except where the context clearly indicates a
29 different meaning:

30 (2) "Business" means any activity engaged in by any
31 person, or caused to be engaged in by him or her, with the

1 object of private or public gain, benefit, or advantage,
2 either direct or indirect. Except for the sales of any
3 aircraft, boat, mobile home, or motor vehicle, the term
4 "business" shall not be construed in this chapter to include
5 occasional or isolated sales or transactions involving
6 tangible personal property or services by a person who does
7 not hold himself or herself out as engaged in business or
8 sales of unclaimed tangible personal property under s.
9 717.122, but includes other charges for the sale or rental of
10 tangible personal property, sales of services taxable under
11 this chapter, sales of or charges of admission, communication
12 services, all rentals and leases of living quarters, other
13 than low-rent housing operated under chapter 421, sleeping or
14 housekeeping accommodations in hotels, apartment houses,
15 roominghouses, tourist or trailer camps, and all rentals of or
16 licenses in real property, other than low-rent housing
17 operated under chapter 421, all leases or rentals of or
18 licenses in parking lots or garages for motor vehicles,
19 docking or storage spaces for boats in boat docks or marinas
20 as defined in this chapter and made subject to a tax imposed
21 by this chapter. The term "business" shall not be construed in
22 this chapter to include the leasing, subleasing, or licensing
23 of real property by one corporation to another if all of the
24 stock of both such corporations is owned, directly or through
25 one or more wholly owned subsidiaries, by a common parent
26 corporation; the property was in use prior to July 1, 1989,
27 title to the property was transferred after July 1, 1988, and
28 before July 1, 1989, between members of an affiliated group,
29 as defined in s. 1504(a) of the Internal Revenue Code of 1986,
30 which group included both such corporations and there is no
31 substantial change in the use of the property following the

1 transfer of title; the leasing, subleasing, or licensing of
2 the property was required by an unrelated lender as a
3 condition of providing financing to one or more members of the
4 affiliated group; and the corporation to which the property is
5 leased, subleased, or licensed had sales subject to the tax
6 imposed by this chapter of not less than \$667 million during
7 the most recent 12-month period ended June 30. Any tax on such
8 sales, charges, rentals, admissions, or other transactions
9 made subject to the tax imposed by this chapter shall be
10 collected by the state, county, municipality, any political
11 subdivision, agency, bureau, or department, or other state or
12 local governmental instrumentality in the same manner as other
13 dealers, unless specifically exempted by this chapter.

14 Section 143. Subsection (4) of section 322.142,
15 Florida Statutes, is amended to read:

16 322.142 Color photographic or digital imaged
17 licenses.--

18 (4) The department may maintain a film negative or
19 print file. The department shall maintain a record of the
20 digital image and signature of the licensees, together with
21 other data required by the department for identification and
22 retrieval. Reproductions from the file or digital record shall
23 be made and issued only for departmental administrative
24 purposes, for the issuance of duplicate licenses, in response
25 to law enforcement agency requests, ~~or~~ to the Department of
26 Revenue pursuant to an interagency agreement to facilitate
27 service of process in Title IV-D cases, or to the Department
28 of Financial Services pursuant to an interagency agreement to
29 facilitate the location of owners of unclaimed property, the
30 validation of unclaimed property claims, and the

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1 identification of fraudulent or false claims, and are exempt
2 from the provisions of s. 119.07(1).

3 Section 144. Paragraph (1) is added to subsection (4)
4 of section 395.3025, Florida Statutes, and subsection (10) of
5 that section is amended, to read:

6 395.3025 Patient and personnel records; copies;
7 examination.--

8 (4) Patient records are confidential and must not be
9 disclosed without the consent of the person to whom they
10 pertain, but appropriate disclosure may be made without such
11 consent to:

12 (1) The Department of Financial Services, or an agent,
13 employee, or independent contractor of the department who is
14 auditing for unclaimed property pursuant to chapter 717.

15 (10) The home addresses, telephone numbers, social
16 security numbers, and photographs of employees of any licensed
17 facility who provide direct patient care or security services;
18 the home addresses, telephone numbers, social security
19 numbers, photographs, and places of employment of the spouses
20 and children of such persons; and the names and locations of
21 schools and day care facilities attended by the children of
22 such persons are confidential and exempt from s. 119.07(1) and
23 s. 24(a), Art. I of the State Constitution. However, any state
24 or federal agency that is authorized to have access to such
25 information by any provision of law shall be granted such
26 access in the furtherance of its statutory duties,
27 notwithstanding the provisions of this subsection. The
28 Department of Financial Services, or an agent, employee, or
29 independent contractor of the department who is auditing for
30 unclaimed property pursuant to chapter 717, shall be granted
31 access to the name, address, and social security number of any

1 employee owed unclaimed property. This subsection is subject
2 to the Open Government Sunset Review Act of 1995 in accordance
3 with s. 119.15, and shall stand repealed on October 2, 2004,
4 unless reviewed and saved from repeal through reenactment by
5 the Legislature.

6 Section 145. Section 732.103, Florida Statutes, is
7 amended to read:

8 732.103 Share of other heirs.--The part of the
9 intestate estate not passing to the surviving spouse under s.
10 732.102, or the entire intestate estate if there is no
11 surviving spouse, descends as follows:

12 (1) To the lineal descendants of the decedent.

13 (2) If there is no lineal descendant, to the
14 decedent's father and mother equally, or to the survivor of
15 them.

16 (3) If there is none of the foregoing, to the
17 decedent's brothers and sisters and the descendants of
18 deceased brothers and sisters.

19 (4) If there is none of the foregoing, the estate
20 shall be divided, one-half of which shall go to the decedent's
21 paternal, and the other half to the decedent's maternal,
22 kindred in the following order:

23 (a) To the grandfather and grandmother equally, or to
24 the survivor of them.

25 (b) If there is no grandfather or grandmother, to
26 uncles and aunts and descendants of deceased uncles and aunts
27 of the decedent.

28 (c) If there is either no paternal kindred or no
29 maternal kindred, the estate shall go to the other kindred who
30 survive, in the order stated above.

31

1 (5) If there is no kindred of either part, the whole
2 of the property shall go to the kindred of the last deceased
3 spouse of the decedent as if the deceased spouse had survived
4 the decedent and then died intestate entitled to the estate.

5 (6) If none of the foregoing, and if any of the
6 descendants of the decedent's great-grandparents were
7 holocaust victims as defined in s. 626.9543(3)(b), including
8 such victims in countries cooperating with the discriminatory
9 policies of Nazi Germany then to the lineal descendants of the
10 great grandparents. The court shall allow any such descendent
11 to meet a reasonable, not unduly restrictive, standard of
12 proof to substantiate his or her lineage. This subsection only
13 applies to escheated property and shall cease to be effective
14 for proceedings filed after December 31, 2004.

15 Section 146. This act shall take effect July 1, 2004.
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