

1
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"; creating s. 627.4554, F.S.;
11 providing a purpose; providing application;
12 providing definitions; specifying duties of
13 insurers and insurance agents relating to
14 making annuity investment recommendations to
15 senior consumers; providing requirements;
16 limiting responsibility of insurers or
17 insurance agents under certain circumstances;
18 requiring a system of compliance and
19 supervision; providing for enforcement by the
20 Office of Insurance Regulation and the
21 Department of Financial Services; authorizing
22 the office and the department to issue orders
23 to mitigate certain responsibilities of
24 insurers or insurance agents; providing for
25 reduction or elimination of certain penalties
26 under certain circumstances; providing
27 recordkeeping requirements; providing an
28 exemption from application for variable
29 annuities; amending s. 20.121, F.S.; requiring
30 the Division of Consumer Services of the
31 Department of Financial Services to designate

1 an employee as primary contact for consumers on
2 issues involving sinkholes; authorizing the
3 department to issue an order of conditional
4 release from a stop-work order if an employer
5 complies with coverage requirements and a
6 penalty payment agreement; amending s. 501.137,
7 F.S.; requiring an insurer to reinstate, under
8 certain circumstances, an insurance policy that
9 is cancelled due to failure of the lender to
10 pay a premium for which sufficient escrow funds
11 are on deposit; requiring that the lender
12 reimburse the property owner for any penalties
13 or fees paid for purposes of reinstating the
14 policy; requiring the lender to pay the
15 increased cost of insurance premiums for a
16 specified period of time under certain
17 conditions; amending s. 624.610, F.S.; revising
18 the requirements of a trust fund for a single
19 assuming insurer; amending s. 625.081, F.S.;
20 providing an exception for credit disability
21 insurance from a health insurance active life
22 reserve requirement; amending s. 625.121, F.S.;
23 providing for valuation of life insurance
24 policies; amending s. 626.321, F.S.; limiting
25 the types of business that may be transacted by
26 personal lines agents; creating s. 626.9743,
27 F.S., relating to claim settlement practices
28 for motor vehicle insurance; prescribing
29 standards to be followed by insurers; creating
30 s. 626.9744, F.S., relating to claim settlement
31 practices for homeowners' insurance;

1 prescribing standards to be followed by
2 insurers; amending s. 627.311, F.S.; allowing
3 the automobile insurance joint underwriting
4 plan to require additional proof from insureds
5 regarding cancellation of coverage; allowing
6 additional time for the investigation of claims
7 against the plan; providing for expiration of
8 the provision; amending s. 627.4091, F.S.;
9 providing additional disclosure requirements
10 with respect to a refusal to insure; amending
11 s. 627.4133, F.S.; requiring property insurers
12 to reinstate a canceled policy as required by
13 s. 501.137, F.S.; restricting the use of
14 certain claims as a cause for cancellation or
15 nonrenewal; amending s. 627.476, F.S.;
16 authorizing the use of certain mortality tables
17 for purposes of the Standard Nonforfeiture Law
18 for Life Insurance; creating s. 627.7077, F.S.;
19 providing for a feasibility study for a
20 proposed Florida Sinkhole Insurance Facility;
21 amending s. 627.838, F.S.; deleting a filing
22 fee; amending s. 627.848, F.S.; specifying
23 provisions for cancellation of insurance
24 contracts; amending s. 627.849, F.S., to
25 conform to the elimination of a filing fee;
26 providing for a study and report by the Florida
27 State University College of Business on
28 personal lines property and casualty insurance;
29 repealing s. 625.131, F.S., relating to credit
30 life and disability policies; providing for
31

1 construction of the act; providing effective
2 dates.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 17.0416, Florida Statutes, is
7 created to read:

8 17.0416 Authority to provide services on a fee
9 basis.--

10 (1) The Chief Financial Officer, through the
11 Department of Financial Services, may provide accounting and
12 payroll services on a fee basis under contractual agreement
13 with eligible entities, including, but not limited to, state
14 universities, community colleges, units of local government,
15 constitutional officers, and any other person or entity having
16 received any property, funds, or moneys from the state. All
17 funds collected by the department under these contracts shall
18 be deposited into the General Revenue Fund.

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

21 Section 2. Section 17.16, Florida Statutes, is amended
22 to read:

23 17.16 Seal.--~~The seal of office of the Chief Financial~~
24 Officer shall have an official seal by which its proceedings
25 are authenticated ~~be the same as the seal heretofore used for~~
26 ~~that purpose.~~

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

29 17.57 Deposits and investments of state money.--

30 (2) The Chief Financial Officer shall make funds
31 available to meet the disbursement needs of the state. Funds

1 | which are not needed for this purpose shall be placed in
2 | qualified public depositories that will pay rates established
3 | by the Chief Financial Officer at levels not less than the
4 | prevailing rate for United States Treasury securities with a
5 | corresponding maturity. In the event money is available for
6 | interest-bearing time deposits or savings accounts as provided
7 | herein and qualified public depositories are unwilling to
8 | accept such money and pay thereon the rates established above,
9 | then such money which qualified public depositories are
10 | unwilling to accept shall be invested in:

11 | (a) Direct United States Treasury obligations.

12 | (b) Obligations of the Federal Farm Credit Banks.

13 | (c) Obligations of the Federal Home Loan Bank and its
14 | district banks.

15 | (d) Obligations of the Federal Home Loan Mortgage
16 | Corporation, including participation certificates.

17 | (e) Obligations guaranteed by the Government National
18 | Mortgage Association.

19 | (f) Obligations of the Federal National Mortgage
20 | Association.

21 | (g) Commercial paper of prime quality of the highest
22 | letter and numerical rating as provided for by at least one
23 | nationally recognized rating service.

24 | (h) Time drafts or bills of exchange drawn on and
25 | accepted by a commercial bank, otherwise known as "bankers
26 | acceptances," which are accepted by a member bank of the
27 | Federal Reserve System having total deposits of not less than
28 | \$400 million or which are accepted by a commercial bank which
29 | is not a member of the Federal Reserve System with deposits of
30 | not less than \$400 million and which is licensed by a state
31 | government or the Federal Government, and whose senior debt

1 | issues are rated in one of the two highest rating categories
2 | by a nationally recognized rating service and which are held
3 | in custody by a domestic bank which is a member of the Federal
4 | Reserve System.

5 | (i) Corporate obligations or corporate master notes of
6 | any corporation within the United States, if the long-term
7 | obligations of such corporation are rated by at least two
8 | nationally recognized rating services in any one of the four
9 | highest classifications. However, if such obligations are
10 | rated by only one nationally recognized rating service, then
11 | the obligations shall be rated in any one of the two highest
12 | classifications.

13 | (j) Obligations of the Student Loan Marketing
14 | Association.

15 | (k) Obligations of the Resolution Funding Corporation.

16 | (l) Asset-backed or mortgage-backed securities of the
17 | highest credit quality.

18 | (m) Any obligations not previously listed which are
19 | guaranteed as to principal and interest by the full faith and
20 | credit of the United States Government or are obligations of
21 | United States agencies or instrumentalities which are rated in
22 | the highest category by a nationally recognized rating
23 | service.

24 | (n) Commingled no-load investment funds or no-load
25 | mutual funds in which all securities held by the funds are
26 | authorized in this subsection.

27 | (o) Money market mutual funds as defined and regulated
28 | by the Securities and Exchange Commission.

29 | (p) Obligations of state and local governments rated
30 | in any of the four highest classifications by at least two
31 | nationally recognized rating services. However, if such

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

4 (q) Derivatives of investment instruments authorized
5 in paragraphs (a)-(m).

6 (r) Covered put and call options on investment
7 instruments authorized in this subsection for the purpose of
8 hedging transactions by investment managers to mitigate risk
9 or to facilitate portfolio management.

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

15 (t) Foreign bonds denominated in United States dollars
16 and registered with the Securities and Exchange Commission for
17 sale in the United States, if the long-term obligations of
18 such issuers are rated by at least two nationally recognized
19 rating services in any one of the four highest
20 classifications. However, if such obligations are rated by
21 only one nationally recognized rating service, the obligations
22 shall be rated in any one of the two highest classifications.

23 (u) Convertible debt obligations of any corporation
24 domiciled within the United States, if the convertible debt
25 issue is rated by at least two nationally recognized rating
26 services in any one of the four highest classifications.
27 However, if such obligations are rated by only one nationally
28 recognized rating service, then the obligations shall be rated
29 in any one of the two highest classifications.

30 (v) Securities not otherwise described in this
31 subsection. However, not more than 3 percent of the funds

1 under the control of the Chief Financial Officer shall be
2 invested in securities described in this paragraph.

3
4 These investments may be in varying maturities and may be in
5 book-entry form. Investments made pursuant to this subsection
6 may be under repurchase agreement or reverse repurchase
7 agreement. The Chief Financial Officer may hire registered
8 investment advisers and other consultants to assist in
9 investment management and to pay fees directly from investment
10 earnings. Investment securities, proprietary investment
11 services related to contracts, performance evaluation
12 services, investment-related equipment or software used
13 directly to assist investment trading or investment accounting
14 operations including bond calculators, telerates, Bloombergs,
15 special program calculators, intercom systems, and software
16 used in accounting, communications, and trading, and advisory
17 and consulting contracts made under this section are exempt
18 from the provisions of chapter 287.

19 Section 4. Section 17.59, Florida Statutes, is amended
20 to read:

21 17.59 Safekeeping services.--

22 (1) The Chief Financial Officer shall administer a
23 collateral management service for all ~~may accept for~~
24 ~~safekeeping purposes, deposits of cash, securities, and other~~
25 ~~documents or articles of value from any state agencies agency~~
26 as defined in s. 216.011, or any county, city, or political
27 subdivision thereof, or other public authority that requires
28 by statute, rule, or contract the deposit or pledge of
29 collateral.

1 (2) Eligible collateral listed in s. 17.57 may be
2 deposited or pledged using the following collateral
3 arrangements as approved by the Chief Financial Officer:
4 (a) Collateral deposited and held by a custodian of
5 the Chief Financial Officer.
6 (b) Collateral pledged to the Chief Financial Officer.
7 (c) Securities and articles of value deposited and
8 held by the Chief Financial Officer.
9 (d) Cash deposited in the Treasury Cash Deposit Trust
10 Fund and the Public Deposit Security Trust Fund.
11 (e) Cash deposited with the Chief Financial Officer as
12 escrow agent.
13 (3) The Chief Financial Officer may adopt rules for
14 the proper management and maintenance of the collateral
15 management service.
16 (4)(2) The Chief Financial Officer may, in his or her
17 discretion, establish a fee for processing, servicing, and
18 safekeeping deposits and other documents or articles of value
19 maintained by held in the Chief Financial Officer's
20 vaults as requested by the various entities according to a
21 service-level agreement or as provided for by law. Such fee
22 shall be equivalent to the fee charged by financial
23 institutions for processing, servicing, and safekeeping the
24 same types of deposits and other documents or articles of
25 value.
26 (5)(3) The Chief Financial Officer shall collect in
27 advance, and persons so served shall pay to the Chief
28 Financial Officer in advance, the miscellaneous charges as
29 described in a service-level agreement. follows:
30 (a) For copies of documents or records on file with
31 the Chief Financial Officer, per page.....\$.50.

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

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

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

9 17.61 Chief Financial Officer; powers and duties in
10 the investment of certain funds.--

11 (1) The Chief Financial Officer shall invest all
12 general revenue funds and all the trust funds and all agency
13 funds of each state agency, and of the judicial branch, as
14 defined in s. 216.011, and may, upon request, invest funds of
15 any ~~statutorily created~~ board, association, or entity created
16 by the State Constitution or by law, except for the funds
17 required to be invested pursuant to ss. 215.44-215.53, by the
18 procedure and in the authorized securities prescribed in s.
19 17.57; for this purpose, the Chief Financial Officer may open
20 and maintain one or more demand and safekeeping accounts in
21 any bank or savings association for the investment and
22 reinvestment and the purchase, sale, and exchange of funds and
23 securities in the accounts. Funds in such accounts used solely
24 for investments and reinvestments shall be considered
25 investment funds and not funds on deposit, and such funds
26 shall be exempt from the provisions of chapter 280. In
27 addition, the securities or investments purchased or held
28 under the provisions of this section and s. 17.57 may be
29 loaned to securities dealers and banks and may be registered
30 by the Chief Financial Officer in the name of a third-party
31 nominee in order to facilitate such loans, provided the loan

1 is collateralized by cash or United States government
2 securities having a market value of at least 100 percent of
3 the market value of the securities loaned. The Chief Financial
4 Officer shall keep a separate account, designated by name and
5 number, of each fund. Individual transactions and totals of
6 all investments, or the share belonging to each fund, shall be
7 recorded in the accounts.

8 Section 6. Subsection (1) and paragraph (a) of
9 subsection (3) of section 20.121, Florida Statutes, are
10 amended to read:

11 20.121 Department of Financial Services.--There is
12 created a Department of Financial Services.

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

16 (3) FINANCIAL SERVICES COMMISSION.--Effective January
17 7, 2003, there is created within the Department of Financial
18 Services the Financial Services Commission, composed of the
19 Governor, the Attorney General, the Chief Financial Officer,
20 and the Commissioner of Agriculture, which shall for purposes
21 of this section be referred to as the commission. Commission
22 members shall serve as agency head of the Financial Services
23 Commission. The commission shall be a separate budget entity
24 and shall be exempt from the provisions of s. 20.052.
25 Commission action shall be by majority vote consisting of at
26 least three affirmative votes. The commission shall not be
27 subject to control, supervision, or direction by the
28 Department of Financial Services in any manner, including
29 purchasing, transactions involving real or personal property,
30 personnel, or budgetary matters.

31

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

4 1. The Office of Insurance Regulation, which shall be
5 responsible for all activities concerning insurers and other
6 risk bearing entities, including licensing, rates, policy
7 forms, market conduct, claims, ~~adjusters~~, issuance of
8 certificates of authority, solvency, viatical settlements,
9 premium financing, and administrative supervision, as provided
10 under the insurance code or chapter 636. The head of the
11 Office of Insurance Regulation is the Director of the Office
12 of Insurance Regulation, who may also be known as the
13 Commissioner of Insurance Regulation.

14 2. The Office of Financial Regulation, which shall be
15 responsible for all activities of the Financial Services
16 Commission relating to the regulation of banks, credit unions,
17 other financial institutions, finance companies, and the
18 securities industry. The head of the office is the Director
19 of the Office of Financial Regulation, who may also be known
20 as the Commissioner of Financial Regulation. The Office of
21 Financial Regulation shall include a Bureau of Financial
22 Investigations, which shall function as a criminal justice
23 agency for purposes of ss. 943.045-943.08 and shall have a
24 separate budget. The bureau may conduct investigations within
25 or outside this state as the bureau deems necessary to aid in
26 the enforcement of this section. If, during an investigation,
27 the office has reason to believe that any criminal law of this
28 state has or may have been violated, the office shall refer
29 any records tending to show such violation to state or federal
30 law enforcement or prosecutorial agencies and shall provide
31 investigative assistance to those agencies as required.

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

3 110.1227 Florida Employee Long-Term-Care Plan Act.--

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

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

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

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

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

15 (e) The Department of Management Services shall
16 appoint a member.

17 (f) The President of the Senate shall appoint a member
18 of the Senate.

19 (g) The Speaker of the House of Representatives shall
20 appoint a member of the House of Representatives.

21 Section 8. Subsection (2) of section 112.215, Florida
22 Statutes, as amended by section 8 of chapter 2003-399, Laws of
23 Florida, is amended, paragraph (e) is added to subsection (4)
24 of that section and subsection (11) of that section is
25 amended, to read:

26 112.215 Government employees; deferred compensation
27 program.--

28 (2) For the purposes of this section, the term
29 "employee" means any person, whether appointed, elected, or
30 under contract, providing services for the state; any state
31 agency or county or other political subdivision of the state;

1 | any municipality; any state university board of trustees; or
2 | any constitutional county officer under s. 1(d), Art. VIII of
3 | the State Constitution for which compensation or statutory
4 | fees are paid.

5 | (4)

6 | (e) The administrative costs of the deferred
7 | compensation plan must be wholly or partially self-funded.
8 | Fees for such self-funding of the plan shall be paid by
9 | investment providers and may be recouped from their respective
10 | plan participants. Such fees shall be deposited in the
11 | Deferred Compensation Trust Fund.

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

24 | (a) The bank or savings association shall, to the
25 | extent that the time deposit accounts or certificates of
26 | deposit are not insured by the Federal Deposit Insurance
27 | Corporation, deposit or issue collateral with the Chief
28 | Financial Officer for all state funds held by it under a
29 | deferred compensation plan, or with such other appropriate
30 | official for all public funds held by it under a deferred
31 | compensation plan of a county, municipality, other political

1 subdivision, or constitutional county officer, in an amount
2 which equals at least 150 percent of all uninsured deferred
3 compensation funds then held.

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

7
8 The Chief Financial Officer shall have all the applicable
9 powers provided in ss. 280.04, 280.05, and 280.08 relating to
10 the sale or other disposition of the pledged collateral.

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

13 215.95 Financial Management Information Board.--

14 (1) There is created, as part of the Administration
15 Commission, the Financial Management Information Board. The
16 board shall be composed of the Governor, the Chief Financial
17 Officer, the Commissioner of Agriculture, and the Attorney
18 General. The Governor shall be chair of the board. The
19 Governor or the Chief Financial Officer may call a meeting of
20 the board at any time the need arises.

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

23 215.96 Coordinating council and design and
24 coordination staff.--

25 (2) The coordinating council shall consist of the
26 Chief Financial Officer; the Commissioner of Agriculture; the
27 secretary of the Department of Management Services; the
28 Attorney General; and the Director of Planning and Budgeting,
29 Executive Office of the Governor, or their designees. The
30 Chief Financial Officer, or his or her designee, shall be
31 chair of the coordinating council, and the design and

1 coordination staff shall provide administrative and clerical
2 support to the council and the board. The design and
3 coordination staff shall maintain the minutes of each meeting
4 and shall make such minutes available to any interested
5 person. The Auditor General, the State Courts Administrator,
6 an executive officer of the Florida Association of State
7 Agency Administrative Services Directors, and an executive
8 officer of the Florida Association of State Budget Officers,
9 or their designees, shall serve without voting rights as ex
10 officio members on the coordinating council. The chair may
11 call meetings of the coordinating council as often as
12 necessary to transact business; however, the coordinating
13 council shall meet at least once a year. Action of the
14 coordinating council shall be by motion, duly made, seconded
15 and passed by a majority of the coordinating council voting in
16 the affirmative for approval of items that are to be
17 recommended for approval to the Financial Management
18 Information Board.

19 (4) The Financial Management Information Board,
20 through the coordinating council, shall provide the necessary
21 planning, implementation, and integration policies,
22 coordination procedures, and reporting processes to facilitate
23 the successful and efficient integration of the central
24 administrative and financial management information systems,
25 including the Florida Accounting Information Resource system
26 (FLAIR), Cash Management System (CMS), and FLAIR/CMS
27 replacement project, the payroll system in the Department of
28 Financial Services, the Legislative Appropriations
29 System/Planning and Budgeting Subsystem (LAS/PBS), the State
30 Purchasing System (SPURS) and MyFlorida Marketplace project,
31 the Cooperative Personnel Employment Subsystem (COPES) and the

1 PeopleFirst Outsourcing project, and the State Unified Tax
2 system (SUNTAX).

3 (a) To fulfill this role, the coordinating council
4 shall establish an Enterprise Resource Planning Integration
5 Task Force, which shall consist of the coordinating council
6 members plus the Chief Information Officer in the State
7 Technology Office and the Executive Director or designee in
8 the Department of Revenue, who shall serve with voting rights
9 on the task force. The nonvoting ex officio members of the
10 coordinating council shall be nonvoting members of the task
11 force.

12 (b) The task force shall be established by August 1,
13 2003, and shall remain in existence until the integration
14 goals have been achieved among the FLAIR/CMS Replacement
15 project, SPURS and MyFlorida Marketplace project, COPES and
16 PeopleFirst project, payroll system, LAS/PBS, and SUNTAX
17 system, or until June 30, 2005, whichever is later. The task
18 force shall hold its initial meeting no later than September
19 1, 2003, and shall meet at the call of the chair or at least
20 once every 60 days. In its initial meeting, task force members
21 shall:

22 1. Adopt a task force charter that identifies major
23 objectives, activities, milestones and deliverables,
24 significant assumptions, and constraints on the task force
25 functions and major stakeholder groups interested in the
26 outcome of the task force.

27 2. Consider and adopt processes by which information
28 will be collected and business process and technical
29 integration issues will be raised for analysis and
30 recommendation by the task force.

31

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

4 (c) The coordinating council shall provide
5 administrative and technical support to the task force as is
6 reasonably necessary for the task force to effectively and
7 timely carry out its duties and responsibilities. The cost of
8 providing such support may be paid from funds appropriated for
9 the operation of the council or the FLAIR/CMS Replacement
10 project. The task force also may contract for services to
11 obtain specific expertise to analyze, facilitate, and
12 formulate recommendations to address process and technical
13 integration problems that need to be resolved.

14 (d) Using information and input from project teams and
15 stakeholders responsible for the FLAIR/CMS Replacement
16 project, SPURS and MyFlorida Marketplace project, COPES and
17 PeopleFirst project, payroll system, LAS/PBS, and SUNTAX
18 system, the responsibilities of the task force shall include,
19 but not be limited to:

20 1. Identifying and documenting central administrative
21 and financial management policies, procedures, and processes
22 that need to be integrated and recommending steps for
23 implementation.

24 2. Collecting information from the subsystem owners
25 and project teams and developing and publishing a consolidated
26 list of enterprise resource planning functional and technical
27 integration requirements.

28 3. Publishing integration plans and timelines based on
29 information collected from task force members.

30 4. Forming committees, workgroups, and teams as
31 provided in subsection (3).

1 5. Developing recommendations for the Financial
2 Management Information Board which clearly describe any
3 business or technical problems that need to be addressed, the
4 options for resolving the problem, and the recommended
5 actions.

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

8 (e) The task force shall provide recommendations to
9 the Financial Management Information Board for review and
10 approval regarding the technical, procedural, policy, and
11 process requirements and changes that are needed to
12 successfully integrate, implement, and realize the benefits of
13 the enterprise resource planning initiatives associated with
14 the FLAIR/CMS Replacement project, SPURS and MyFlorida
15 Marketplace project, COPEs and PeopleFirst project, payroll
16 system, LAS/PBS, and SUNTAX system. The first of these reports
17 should be provided no later than October 3, 2003.

18 (f) The task force shall monitor, review, and evaluate
19 the progress of the FLAIR/CMS Replacement project, SPURS and
20 MyFlorida Marketplace project, COPEs and PeopleFirst project,
21 payroll system, LAS/PBS, and SUNTAX system, in implementing
22 the process and technical integration requirements and changes
23 approved by the Financial Management Information Board and in
24 achieving the necessary integration among the central
25 administrative and financial management information systems
26 represented on the task force. The task force shall prepare
27 and submit quarterly reports to the Executive Office of the
28 Governor, the chairs of the Senate Appropriations Committee
29 and the House Appropriations Committee, and the Financial
30 Management Information Board. Each quarterly report shall
31 identify and describe the technical, procedural, policy, and

1 process requirements and changes proposed and adopted by the
2 board and shall describe the status of the implementation of
3 these integration efforts, identify any problems, issues, or
4 risks that require executive-level action, and report actual
5 costs related to the Enterprise Resource Planning Integration
6 Task Force.

7 (g) By January 15, 2004, and annually thereafter,
8 until it is disbanded, the Enterprise Resource Planning
9 Integration Task Force shall report to the Financial
10 Management Information Board, the Speaker of the House of
11 Representatives, and the President of the Senate the results
12 of the task force's monitoring, review, and evaluation of
13 enterprise resource planning integration activities and
14 requirements, and any recommendations for statutory changes to
15 be considered by the Legislature.

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

17 Section 11. Subsection (10) is added to section
18 287.064, Florida Statutes, to read:

19 287.064 Consolidated financing of deferred-payment
20 purchases.--

21 (10) Costs incurred pursuant to a guaranteed energy
22 performance savings contract, including the cost of energy
23 conservation measures, each as defined in s. 489.145, may be
24 financed pursuant to a master equipment financing agreement;
25 however, the costs of training, operation, and maintenance may
26 not be financed. The period of time for repayment of the funds
27 drawn pursuant to the master equipment financing agreement
28 under this subsection may exceed 5 years but may not exceed 10
29 years.

30 Section 12. Paragraph (a) of subsection (8) of section
31 408.05, Florida Statutes, is amended to read:

1 | 408.05 State Center for Health Statistics.--

2 | (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM
3 | ADVISORY COUNCIL.--

4 | (a) There is established in the agency the State
5 | Comprehensive Health Information System Advisory Council to
6 | assist the center in reviewing the comprehensive health
7 | information system and to recommend improvements for such
8 | system. The council shall consist of the following members:

9 | 1. An employee of the Executive Office of the
10 | Governor, to be appointed by the Governor.

11 | 2. An employee of the Office of Insurance Regulation
12 | ~~Department of Financial Services~~, to be appointed by the
13 | director of the office ~~Chief Financial Officer~~.

14 | 3. An employee of the Department of Education, to be
15 | appointed by the Commissioner of Education.

16 | 4. Ten persons, to be appointed by the Secretary of
17 | Health Care Administration, representing other state and local
18 | agencies, state universities, the Florida Association of
19 | Business/Health Coalitions, local health councils,
20 | professional health-care-related associations, consumers, and
21 | purchasers.

22 | Section 13. Subsection (4) of section 501.212, Florida
23 | Statutes, is amended and subsection (7) is added to that
24 | section, to read:

25 | 501.212 Application.--This part does not apply to:

26 | (4) Any person or activity regulated under laws
27 | administered by:

28 | (a) The Department of Financial Services or the Office
29 | of Insurance Regulation of the Financial Services Commission;

30 | ~~or~~

31 |

1 (b) Banks and savings and loan associations regulated
2 by the Office of Financial Regulation of the Financial
3 Services Commission; ~~or~~
4 (c) Banks or savings and loan associations regulated
5 by federal agencies; ~~or~~
6 (d) Any person or activity regulated under the laws
7 administered by the former Department of Insurance which are
8 now administered by the Department of Financial Services.
9 (7)(a) Causes of action pertaining to commercial real
10 property located in this state if the parties to the action
11 executed a written lease or contract that expressly provides
12 for the process of resolution of any dispute and the award of
13 damages, attorney's fees, and costs, if any; or
14 (b) Causes of action concerning failure to maintain
15 real property if the Florida Statutes:
16 1. Require the owner to comply with applicable
17 building, housing, and health codes;
18 2. Require the owner to maintain buildings and
19 improvements in common areas in a good state of repair and
20 maintenance and maintain the common areas in a good state of
21 appearance, safety, and cleanliness; and
22 3. Provide a cause of action for failure to maintain
23 the real property and provide legal or equitable remedies,
24 including the award of attorney's fees.
25
26 However, this subsection does not affect any action or remedy
27 concerning residential tenancies covered under part II of
28 chapter 83, nor does it prohibit the enforcing authority from
29 maintaining exclusive jurisdiction to bring any cause of
30 action authorized under part II of chapter 501.
31

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

3 516.35 Credit insurance must comply with credit
4 insurance act.--

5 (1) Tangible property offered as security may be
6 reasonably insured against loss for a reasonable term,
7 considering the circumstances of the loan. If such insurance
8 is sold at standard rates through a person duly licensed by
9 the Department of Financial Services ~~Office of Insurance~~
10 ~~Regulation of the Financial Services Commission~~ and if the
11 policy is payable to the borrower or any member of her or his
12 family, it shall not be deemed to be a collateral sale,
13 purchase, or agreement even though a customary mortgagee
14 clause is attached or the licensee is a coassured.

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

17 624.313 Publications.--

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

20 (a)1- As needed, questions and answers for the use of
21 persons applying for an examination for licensing as agents
22 for property, casualty, surety, health, and miscellaneous
23 insurers.

24 (b)2- As needed, questions and answers for the use of
25 persons applying for an examination for licensing as agents
26 for life and health insurers.

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

31

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

4 624.317 Investigation of agents, adjusters,
5 administrators, service companies, and others.--If it has
6 reason to believe that any person has violated or is violating
7 any provision of this code, or upon the written complaint
8 signed by any interested person indicating that any such
9 violation may exist:

10 (1) The department shall conduct such investigation as
11 it deems necessary of the accounts, records, documents, and
12 transactions pertaining to or affecting the insurance affairs
13 of any general agent, surplus line agent, adjuster, managing
14 general agent, insurance agent, customer representative,
15 service representative, or other person subject to its
16 jurisdiction, subject to the requirements of s. 626.601.

17 (2) The office shall conduct such investigation as it
18 deems necessary of the accounts, records, documents, and
19 transactions pertaining to or affecting the insurance affairs
20 of any:

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

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

25 624.4622 Local government self-insurance funds.--

26 (3) Notwithstanding subsection (2), a local government
27 self-insurance fund created under this section after October
28 1, 2004, shall initially be subject to the requirements of a
29 commercial fund under s. 624.4621 and, for the first 5 years
30 of its existence, shall be subject to all the requirements
31

1 applied to commercial self-insurance funds or to group
2 self-insurance funds, respectively.

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

20 (b) Each annual statement shall contain a statement of
21 opinion on loss and loss adjustment expense reserves made by a
22 member of the American Academy of Actuaries. Workpapers in
23 support of the statement of opinion must be provided to the
24 office upon request.

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

27 624.501 Filing, license, appointment, and
28 miscellaneous fees.--The department, commission, or office, as
29 appropriate, shall collect in advance, and persons so served
30 shall pay to it in advance, fees, licenses, and miscellaneous
31 charges as follows:

1 (12) Adjusters:

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

4 Section 19. Subsections (1) and (2) of section
5 626.016, Florida Statutes, are amended to read:

6 626.016 Powers and duties of department, commission,
7 and office.--

8 (1) The powers and duties of the Chief Financial
9 Officer and the department specified in this part apply only
10 with respect to insurance agents, managing general agents,
11 insurance adjusters, reinsurance intermediaries, viatical
12 settlement brokers, customer representatives, service
13 representatives, and agencies.

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

18 Section 20. Paragraph (a) of subsection (1) of section
19 626.112, Florida Statutes, is amended to read:

20 626.112 License and appointment required; agents,
21 customer representatives, adjusters, insurance agencies,
22 service representatives, managing general agents.--

23 (1)(a) No person may be, act as, or advertise or hold
24 himself or herself out to be an insurance agent, insurance
25 adjuster, or customer representative unless he or she is
26 currently licensed by the department and appointed by an
27 appropriate appointing entity or person ~~one or more insurers~~.
28 ~~No person may be, act as, or advertise or hold himself or~~
29 ~~herself out to be an insurance adjuster unless he or she is~~
30 ~~currently licensed by the office and appointed by one or more~~
31 ~~insurers.~~

1 Section 21. Section 626.161, Florida Statutes, is
2 amended to read:

3 626.161 Licensing forms.--The department shall
4 prescribe and furnish all printed forms required in connection
5 with the application for issuance of and termination of all
6 licenses and appointments, ~~except that, with respect to~~
7 ~~adjusters, the commission shall prescribe and the office shall~~
8 ~~furnish such forms.~~

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

12 626.171 Application for license.--

13 (1) The department ~~or office~~ shall not issue a license
14 as agent, customer representative, adjuster, insurance agency,
15 service representative, managing general agent, or reinsurance
16 intermediary to any person except upon written application
17 therefor filed with it, qualification therefor, and payment in
18 advance of all applicable fees. Any such application shall be
19 made under the oath of the applicant and be signed by the
20 applicant. Beginning November 1, 2002, the department shall
21 accept the uniform application for nonresident agent
22 licensing. The department may adopt revised versions of the
23 uniform application by rule.

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

25 (f) Such other or additional information as the
26 department ~~or office~~ may deem proper to enable it to determine
27 the character, experience, ability, and other qualifications
28 of the applicant to hold himself or herself out to the public
29 as an insurance representative.

30 (5) An application for a license as an agent, customer
31 representative, adjuster, insurance agency, service

1 representative, managing general agent, or reinsurance
2 intermediary must be accompanied by a set of the individual
3 applicant's fingerprints, or, if the applicant is not an
4 individual, by a set of the fingerprints of the sole
5 proprietor, majority owner, partners, officers, and directors,
6 on a form adopted by rule of the department ~~or commission~~ and
7 accompanied by the fingerprint processing fee set forth in s.
8 624.501. Fingerprints shall be used to investigate the
9 applicant's qualifications pursuant to s. 626.201. The
10 fingerprints shall be taken by a law enforcement agency or
11 other department-approved entity.

12 Section 23. Section 626.181, Florida Statutes, is
13 amended to read:

14 626.181 Number of applications for licensure
15 required.--After a license as agent, customer representative,
16 or adjuster has been issued to an individual, the same
17 individual shall not be required to take another examination
18 for a similar license, regardless, in the case of an agent, of
19 the number of insurers to be represented by him or her as
20 agent, unless:

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

23 (2) During any period of 48 months since the filing of
24 the original license application, such individual was not
25 appointed as an agent, customer representative, or adjuster,
26 unless the failure to be so appointed was due to military
27 service, in which event the period within which a new
28 application is not required may, in the discretion of the
29 department ~~or office~~, be extended to 12 months following the
30 date of discharge from military service if the military
31 service does not exceed 3 years, but in no event to extend

1 under this clause for a period of more than 6 years from the
2 date of filing of the original application for license.

3 Section 24. Section 626.191, Florida Statutes, is
4 amended to read:

5 626.191 Repeated applications.--The failure of an
6 applicant to secure a license upon an application shall not
7 preclude him or her from applying again as many times as
8 desired, but the department ~~or office~~ shall not give
9 consideration to or accept any further application by the same
10 individual for a similar license dated or filed within 30 days
11 subsequent to the date the department ~~or office~~ denied the
12 last application, except as provided in s. 626.281.

13 Section 25. Section 626.211, Florida Statutes, is
14 amended to read:

15 626.211 Approval, disapproval of application.--

16 (1) If upon the basis of a completed application for
17 license and such further inquiry or investigation as the
18 department ~~or office~~ may make concerning an applicant the
19 department ~~or office~~ is satisfied that, subject to any
20 examination required to be taken and passed by the applicant
21 for a license, the applicant is qualified for the license
22 applied for and that all pertinent fees have been paid, it
23 shall approve the application. The department ~~or office~~ shall
24 not deny, delay, or withhold approval of an application due to
25 the fact that it has not received a criminal history report
26 based on the applicant's fingerprints.

27 (2) Upon approval of an applicant for license as
28 agent, customer representative, or adjuster who is subject to
29 written examination, the department ~~or office~~ shall notify the
30 applicant when and where he or she may take the required
31 examination.

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

4 (4) If upon the basis of the completed application and
5 such further inquiry or investigation the department ~~or office~~
6 deems the applicant to be lacking in any one or more of the
7 required qualifications for the license applied for, the
8 department ~~or office~~ shall disapprove the application and
9 notify the applicant, stating the grounds of disapproval.

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

13 626.221 Examination requirement; exemptions.--

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

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

21 (a) An applicant for renewal of appointment as an
22 agent, customer representative, or adjuster, unless the
23 department ~~or office~~ determines that an examination is
24 necessary to establish the competence or trustworthiness of
25 such applicant.

26 (c) In the discretion of the department ~~or office~~, an
27 applicant for reinstatement of license or appointment as an
28 agent, customer representative, or adjuster whose license has
29 been suspended within 2 years prior to the date of application
30 or written request for reinstatement.

31

1 (d) An applicant who, within 2 years prior to
2 application for license and appointment as an agent, customer
3 representative, or adjuster, was a full-time salaried employee
4 of the department ~~or office~~ and had continuously been such an
5 employee with responsible insurance duties for not less than 2
6 years and who had been a licensee within 2 years prior to
7 employment by the department ~~or office~~ with the same class of
8 license as that being applied for.

9 (f) A person who has been licensed and appointed as a
10 public adjuster or independent adjuster, or licensed and
11 appointed either as an agent or company adjuster as to all
12 property, casualty, and surety insurances, may be licensed and
13 appointed as a company adjuster as to any of such insurances,
14 or as an independent adjuster or public adjuster, without
15 additional written examination if an application for
16 appointment is filed with the department ~~office~~ within 48
17 months following the date of cancellation or expiration of the
18 prior appointment.

19 (g) A person who has been licensed as an adjuster for
20 motor vehicle, property and casualty, workers' compensation,
21 and health insurance may be licensed as such an adjuster
22 without additional written examination if his or her
23 application for appointment is filed with the department
24 ~~office~~ within 48 months after cancellation or expiration of
25 the prior license.

26 (l) An applicant for license as an adjuster who has
27 the designation of Accredited Claims Adjuster (ACA) from a
28 regionally accredited postsecondary institution in this state,
29 or the designation of Professional Claims Adjuster (PCA) from
30 the Professional Career Institute, whose curriculum has been
31 approved by the department ~~office~~ and whose curriculum

1 includes comprehensive analysis of basic property and casualty
2 lines of insurance and testing at least equal to that of
3 standard department ~~office~~ testing for the all-lines adjuster
4 license. The department ~~commission~~ shall adopt rules
5 establishing standards for the approval of curriculum.

6 Section 27. Section 626.231, Florida Statutes, is
7 amended to read:

8 626.231 Eligibility for examination.--No person shall
9 be permitted to take an examination for license until his or
10 her application for the license has been approved and the
11 required fees have been received by the department ~~or office~~
12 or a person designated by the department ~~or office~~ to
13 administer the examination.

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

16 626.241 Scope of examination.--

17 (1) Each examination for a license as agent, customer
18 representative, or adjuster shall be of such scope as is
19 deemed by the department ~~or office~~ to be reasonably necessary
20 to test the applicant's ability and competence and knowledge
21 of the kinds of insurance and transactions to be handled under
22 the license applied for, of the duties and responsibilities of
23 such a licensee, and of the pertinent provisions of the laws
24 of this state.

25 Section 29. Subsections (1) and (3) of section
26 626.251, Florida Statutes, are amended to read:

27 626.251 Time and place of examination; notice.--

28 (1) The department ~~or office~~ or a person designated by
29 the department ~~or office~~ shall mail written notice of the time
30 and place of the examination to each applicant for license
31 required to take an examination who will be eligible to take

1 the examination as of the examination date. The notice shall
2 be so mailed, postage prepaid, and addressed to the applicant
3 at his or her address shown on the application for license or
4 at such other address as requested by the applicant in writing
5 filed with the department ~~or office~~ prior to the mailing of
6 the notice. Notice shall be deemed given when so mailed.

7 (3) The department ~~or office~~ shall make an examination
8 available to the applicant, to be taken as soon as reasonably
9 possible after the applicant is eligible therefor. Any
10 examination required under this part shall be available in
11 this state at a designated examination center.

12 Section 30. Subsections (1), (2), and (3) of section
13 626.261, Florida Statutes, are amended to read:

14 626.261 Conduct of examination.--

15 (1) The applicant for license shall appear in person
16 and personally take the examination for license at the time
17 and place specified by the department ~~or office~~ or by a person
18 designated by the department ~~or office~~.

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

22 (3) The questions propounded shall be as prepared by
23 the department ~~or office~~, or by a person designated by the
24 department ~~or office~~ for that purpose, consistent with the
25 applicable provisions of this code.

26 Section 31. Section 626.266, Florida Statutes, is
27 amended to read:

28 626.266 Printing of examinations or related materials
29 to preserve examination security.--A contract let for the
30 development, administration, or grading of examinations or
31 related materials by the department ~~or office~~ pursuant to the

1 various agent, customer representative, or adjuster licensing
2 and examination provisions of this code may include the
3 printing or furnishing of these examinations or related
4 materials in order to preserve security. Any such contract
5 shall be let as a contract for a contractual service pursuant
6 to s. 287.057.

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

9 626.271 Examination fee; determination, refund.--

10 (1) Prior to being permitted to take an examination,
11 each applicant who is subject to examination shall pay to the
12 department ~~or office~~ or a person designated by the department
13 ~~or office~~ an examination fee. A separate and additional
14 examination fee shall be payable for each separate class of
15 license applied for, notwithstanding that all such
16 examinations are taken on the same date and at the same place.

17 Section 33. Section 626.281, Florida Statutes, is
18 amended to read:

19 626.281 Reexamination.--

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

21 (a) Taken an examination and failed to make a passing
22 grade, or

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

26
27 may take additional examinations, after filing with the
28 department ~~or office~~ an application for reexamination together
29 with applicable fees. The failure of an applicant to pass an
30 examination or the failure to appear for the examination or to
31

1 take or complete the examination does not preclude the
2 applicant from taking subsequent examinations.

3 (2) The department ~~or office~~ may require any
4 individual whose license as an agent, customer representative,
5 or adjuster has expired or has been suspended to pass an
6 examination prior to reinstating or relicensing the individual
7 as to any class of license. The examination fee shall be paid
8 as to each examination.

9 Section 34. Section 626.2817, Florida Statutes, is
10 amended to read:

11 626.2817 Regulation of course providers, instructors,
12 school officials, and monitor groups involved in prelicensure
13 education for insurance agents and other licensees.--

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

18 (2) The department ~~or commission~~ shall adopt rules
19 establishing standards for the approval, registration,
20 discipline, or removal from registration of course providers,
21 instructors, school officials, and monitor groups. The
22 standards must be designed to ensure that such persons have
23 the knowledge, competence, and integrity to fulfill the
24 educational objectives of the prelicensure requirements of
25 this chapter and chapter 648 and to assure that insurance
26 agents and licensees are competent to engage in the activities
27 authorized under the license.

28 (3) The department ~~or commission~~ shall adopt rules to
29 establish a process for determining compliance with the
30 prelicensure requirements of this chapter and chapter 648. The
31

1 department ~~or commission~~ shall adopt rules prescribing the
2 forms necessary to administer the prelicensure requirements.

3 Section 35. Section 626.291, Florida Statutes, is
4 amended to read:

5 626.291 Denial, issuance of license.--

6 (1) Within 30 days after the applicant has completed
7 any examination required under s. 626.221, the department ~~or~~
8 ~~office~~ or its designee shall provide a score report; and, if
9 it finds that the applicant has received a passing grade, the
10 department ~~or office~~ shall within such period notify the
11 applicant and issue and transmit the license to which such
12 examination related. If it finds that the applicant did not
13 make a passing grade on the examination for a particular
14 license, the department ~~or office~~ or its designee shall within
15 this period provide notice to the applicant to that effect and
16 of its denial of the license.

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

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

25 Section 36. Section 626.301, Florida Statutes, is
26 amended to read:

27 626.301 Form and contents of licenses, in
28 general.--Each license issued by the department ~~or office~~
29 shall be in such form as the department ~~or commission~~ may
30 designate and contain the licensee's name, lines of authority
31 the licensee is authorized to transact, the licensee's

1 | personal identification number, the date of issuance, and any
2 | other information the department ~~or commission~~ deems necessary
3 | to fully identify the licensee and the authority being
4 | granted. The department ~~or commission~~ may by rule require
5 | photographs of applicants as a part of the licensing process.

6 | Section 37. Subsection (2) of section 626.371, Florida
7 | Statutes, is amended to read:

8 | 626.371 Payment of fees, taxes for appointment period
9 | without appointment.--

10 | (2) If, upon application and qualification for an
11 | initial or renewal appointment and such investigation as the
12 | department ~~or office~~ may make, it appears to the department ~~or~~
13 | ~~office~~ that an individual who was formerly licensed or is
14 | currently licensed but not properly appointed to represent an
15 | insurer or employer and who has been actively engaged or is
16 | currently actively engaged as such an appointee, but without
17 | being appointed as required, the department ~~or office~~ may, if
18 | it finds that such failure to be appointed was an inadvertent
19 | error on the part of the insurer or employer so represented,
20 | nevertheless issue or authorize the issuance of the
21 | appointment as applied for but subject to the condition that,
22 | before the appointment is issued, all fees and taxes which
23 | would have been due had the applicant been so appointed during
24 | such current and prior periods, with applicable fees pursuant
25 | to s. 624.501 for such current and prior periods of
26 | appointment, shall be paid to the department ~~or office~~.

27 | Section 38. Subsections (2), (3), and (4) of section
28 | 626.381, Florida Statutes, are amended to read:

29 | 626.381 Renewal, continuation, reinstatement, or
30 | termination of appointment.--

31 |

1 (2) Each appointing entity shall file with the
2 department ~~or office~~ the lists, statements, and information as
3 to appointees whose appointments are being renewed or
4 terminated, accompanied by payment of the applicable renewal
5 fees and taxes as prescribed in s. 624.501, by a date set
6 forth by the department ~~or office~~ following the month during
7 which the appointments will expire.

8 (3) Renewal of an appointment which is received by the
9 department ~~or office~~ or person designated by the department to
10 administer the appointment process prior to the expiration of
11 an appointment in the licensee's birth month or license issue
12 date, whichever applies, may be renewed by the department ~~or~~
13 ~~office~~ without penalty and shall be effective as of the first
14 day of the month succeeding the month in which the appointment
15 would have expired.

16 (4) Renewal of an appointment which is received by the
17 department ~~or office~~ or person designated by the department to
18 administer the appointment process after the renewal date may
19 be accepted and effectuated by the department ~~or office~~ in its
20 discretion if the appointment, late filing, continuation, and
21 reinstatement fee accompanies the renewal request pursuant to
22 s. 624.501. Late filing fees shall be paid by the appointing
23 entity and may not be charged to the appointee.

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

26 626.431 Effect of expiration of license and
27 appointment.--

28 (2) When a licensee's last appointment for a
29 particular class of insurance has been terminated or not
30 renewed, the department ~~or office~~ must notify the licensee
31 that his or her eligibility for appointment as such an

1 | appointee will expire unless he or she is appointed prior to
2 | expiration of the 48-month period referred to in subsection
3 | (3).

4 | Section 40. Section 626.461, Florida Statutes, is
5 | amended to read:

6 | 626.461 Continuation of appointment of agent or other
7 | representative.--Subject to renewal or continuation by the
8 | appointing entity, the appointment of the agent, adjuster,
9 | service representative, customer representative, or managing
10 | general agent shall continue in effect until the person's
11 | license is revoked or otherwise terminated, unless written
12 | notice of earlier termination of the appointment is filed with
13 | the department ~~or office~~ or person designated by the
14 | department to administer the appointment process by either the
15 | appointing entity or the appointee.

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

18 | 626.471 Termination of appointment.--

19 | (2) As soon as possible and at all events within 30
20 | days after terminating the appointment of an appointee, other
21 | than as to an appointment terminated by the appointing
22 | entity's failure to continue or renew it, the appointing
23 | entity shall file written notice thereof with the department
24 | ~~or office~~, together with a statement that it has given the
25 | appointee notice thereof as provided in subsection (1) and
26 | shall file with the department ~~or office~~ the reasons and facts
27 | involved in such termination as required under s. 626.511.

28 | (3) Upon termination of the appointment of an
29 | appointee, whether by failure to renew or continue the
30 | appointment, the appointing entity shall:

31 |

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

3 (b) Subject to the exceptions provided under
4 subsection (1), continue the outstanding contracts transacted
5 by an agent until the expiration date or anniversary date when
6 the policy is a continuous policy with no expiration date.
7 This paragraph shall not be construed to prohibit the
8 cancellation of such contracts when not otherwise prohibited
9 by law.

10 (4) An appointee may terminate the appointment at any
11 time by giving written or electronic notice thereof to the
12 appointing entity, department ~~or office~~, or person designated
13 by the department to administer the appointment process. The
14 department shall immediately terminate the appointment and
15 notify the appointing entity of such termination. Such
16 termination shall be subject to the appointee's contract
17 rights, if any.

18 (5) Upon receiving notice of termination, the
19 department ~~or office~~ or person designated by the department to
20 administer the appointment process shall terminate the
21 appointment.

22 Section 42. Subsections (2), (3), and (5) of section
23 626.521, Florida Statutes, are amended to read:

24 626.521 Character, credit reports.--

25 (2) If requested by the department ~~or office~~, the
26 insurer, manager, general agent, general lines agent, or
27 employer, as the case may be, shall furnish to the department
28 ~~or office~~ on a form adopted and furnished by the department ~~or~~
29 ~~commission and furnished by the department or office~~, such
30 information as it ~~may~~ reasonably requires ~~require~~ relative to
31 such individual and investigation.

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

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

11 Section 43. Subsections (1) and (2) of section
12 626.541, Florida Statutes, are amended to read:

13 626.541 Firm, corporate, and business names; officers;
14 associates; notice of changes.--

15 (1) Any licensed agent or adjuster doing business
16 under a firm or corporate name or under any business name
17 other than his or her own individual name shall, within 30
18 days after the initial transaction of insurance under such
19 business name, file with the department ~~or office~~, on forms
20 adopted and furnished by the department ~~or commission and~~
21 ~~furnished by the department or office~~, a written statement of
22 the firm, corporate, or business name being so used, the
23 address of any office or offices or places of business making
24 use of such name, and the name and social security number of
25 each officer and director of the corporation and of each
26 individual associated in such firm or corporation as to the
27 insurance transactions thereof or in the use of such business
28 name.

29 (2) In the event of any change of such name, or of any
30 of the officers and directors, or of any of such addresses, or
31 in the personnel so associated, written notice of such change

1 must be filed with the department ~~or office~~ within 30 days by
2 or on behalf of those licensees terminating any such firm,
3 corporate, or business name or continuing to operate
4 thereunder.

5 Section 44. Section 626.551, Florida Statutes, is
6 amended to read:

7 626.551 Notice of change of address, name.--Every
8 licensee shall notify the department ~~or office~~ in writing
9 within 60 days after a change of name, residence address,
10 principal business street address, or mailing address. Any
11 licensed agent who has moved his or her residence from this
12 state shall have his or her license and all appointments
13 immediately terminated by the department ~~or office~~. Failure to
14 notify the department ~~or office~~ within the required time
15 period shall result in a fine not to exceed \$250 for the first
16 offense and, for subsequent offenses, a fine of not less than
17 \$500 or suspension or revocation of the license pursuant to s.
18 626.611 or s. 626.621.

19 Section 45. Section 626.611, Florida Statutes, is
20 amended to read:

21 626.611 Grounds for compulsory refusal, suspension, or
22 revocation of agent's, title agency's, adjuster's, customer
23 representative's, service representative's, or managing
24 general agent's license or appointment.--The department ~~or~~
25 ~~office~~ shall deny an application for, suspend, revoke, or
26 refuse to renew or continue the license or appointment of any
27 applicant, agent, title agency, adjuster, customer
28 representative, service representative, or managing general
29 agent, and it shall suspend or revoke the eligibility to hold
30 a license or appointment of any such person, if it finds that
31

1 as to the applicant, licensee, or appointee any one or more of
2 the following applicable grounds exist:

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

5 (2) Material misstatement, misrepresentation, or fraud
6 in obtaining the license or appointment or in attempting to
7 obtain the license or appointment.

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

10 (4) If the license or appointment is willfully used,
11 or to be used, to circumvent any of the requirements or
12 prohibitions of this code.

13 (5) Willful misrepresentation of any insurance policy
14 or annuity contract or willful deception with regard to any
15 such policy or contract, done either in person or by any form
16 of dissemination of information or advertising.

17 (6) If, as an adjuster, or agent licensed and
18 appointed to adjust claims under this code, he or she has
19 materially misrepresented to an insured or other interested
20 party the terms and coverage of an insurance contract with
21 intent and for the purpose of effecting settlement of claim
22 for loss or damage or benefit under such contract on less
23 favorable terms than those provided in and contemplated by the
24 contract.

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

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

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

1 (10) Misappropriation, conversion, or unlawful
2 withholding of moneys belonging to insurers or insureds or
3 beneficiaries or to others and received in conduct of business
4 under the license or appointment.

5 (11) Unlawfully rebating, attempting to unlawfully
6 rebate, or unlawfully dividing or offering to divide his or
7 her commission with another.

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

14 (13) Willful failure to comply with, or willful
15 violation of, any proper order or rule of the department,
16 ~~commission, or office~~ or willful violation of any provision of
17 this code.

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

25 (15) Fraudulent or dishonest practice in submitting or
26 aiding or abetting any person in the submission of an
27 application for workers' compensation coverage under chapter
28 440 containing false or misleading information as to employee
29 payroll or classification for the purpose of avoiding or
30 reducing the amount of premium due for such coverage.

31

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

3 Section 46. Section 626.621, Florida Statutes, is
4 amended to read:

5 626.621 Grounds for discretionary refusal, suspension,
6 or revocation of agent's, adjuster's, customer
7 representative's, service representative's, or managing
8 general agent's license or appointment.--The department ~~or~~
9 ~~office~~ may, in its discretion, deny an application for,
10 suspend, revoke, or refuse to renew or continue the license or
11 appointment of any applicant, agent, adjuster, customer
12 representative, service representative, or managing general
13 agent, and it may suspend or revoke the eligibility to hold a
14 license or appointment of any such person, if it finds that as
15 to the applicant, licensee, or appointee any one or more of
16 the following applicable grounds exist under circumstances for
17 which such denial, suspension, revocation, or refusal is not
18 mandatory under s. 626.611:

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

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

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

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

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

1 (6) In the conduct of business under the license or
2 appointment, engaging in unfair methods of competition or in
3 unfair or deceptive acts or practices, as prohibited under
4 part IX of this chapter, or having otherwise shown himself or
5 herself to be a source of injury or loss to the public or
6 detrimental to the public interest.

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

9 (8) Having been found guilty of or having pleaded
10 guilty or nolo contendere to a felony or a crime punishable by
11 imprisonment of 1 year or more under the law of the United
12 States of America or of any state thereof or under the law of
13 any other country, without regard to whether a judgment of
14 conviction has been entered by the court having jurisdiction
15 of such cases.

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

17 (10) Cheating on an examination required for licensure
18 or violating test center or examination procedures published
19 orally, in writing, or electronically at the test site by
20 authorized representatives of the examination program
21 administrator. Communication of test center and examination
22 procedures must be clearly established and documented.

23 (11) Failure to inform the department ~~or office~~ in
24 writing within 30 days after pleading guilty or nolo
25 contendere to, or being convicted or found guilty of, any
26 felony or a crime punishable by imprisonment of 1 year or more
27 under the law of the United States or of any state thereof, or
28 under the law of any other country without regard to whether a
29 judgment of conviction has been entered by the court having
30 jurisdiction of the case.

31

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

5 Section 47. Section 626.631, Florida Statutes, is
6 amended to read:

7 626.631 Procedure for refusal, suspension, or
8 revocation of license.--

9 (1) If any licensee is convicted by a court of a
10 violation of this code or a felony, the licenses and
11 appointments of such person shall be immediately revoked by
12 the department ~~or office~~. The licensee may subsequently
13 request a hearing pursuant to ss. 120.569 and 120.57, and the
14 department ~~or office~~ shall expedite any such requested
15 hearing. The sole issue at such hearing shall be whether the
16 revocation should be rescinded because such person was not in
17 fact convicted of a violation of this code or a felony.

18 (2) The papers, documents, reports, or evidence of the
19 department ~~or office~~ relative to a hearing for revocation or
20 suspension of a license or appointment pursuant to the
21 provisions of this chapter and chapter 120 are confidential
22 and exempt from the provisions of s. 119.07(1) until after the
23 same have been published at the hearing. However, such papers,
24 documents, reports, or items of evidence are subject to
25 discovery in a hearing for revocation or suspension of a
26 license or appointment.

27 Section 48. Subsections (1) and (2) of section
28 626.641, Florida Statutes, are amended to read:

29 626.641 Duration of suspension or revocation.--

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

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

15 | (2) No person or appointee under any license or
16 | appointment revoked by the department ~~or office~~, nor any
17 | person whose eligibility to hold same has been revoked by the
18 | department ~~or office~~, shall have the right to apply for
19 | another license or appointment under this code within 2 years
20 | from the effective date of such revocation or, if judicial
21 | review of such revocation is sought, within 2 years from the
22 | date of final court order or decree affirming the revocation.
23 | The department ~~or office~~ shall not, however, grant a new
24 | license or appointment or reinstate eligibility to hold such
25 | license or appointment if it finds that the circumstance or
26 | circumstances for which the eligibility was revoked or for
27 | which the previous license or appointment was revoked still
28 | exist or are likely to recur; if an individual's license as
29 | agent or customer representative or eligibility to hold same
30 | has been revoked upon the ground specified in s. 626.611(12),
31 |

1 the department ~~or office~~ shall refuse to grant or issue any
2 new license or appointment so applied for.

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

5 626.661 Surrender of license.--

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

9 Section 50. Subsections (1) and (3) of section
10 626.681, Florida Statutes, are amended to read:

11 626.681 Administrative fine in lieu of or in addition
12 to suspension, revocation, or refusal of license, appointment,
13 or disapproval.--

14 (1) Except as to insurance agencies, if the department
15 ~~or office~~ finds that one or more grounds exist for the
16 suspension, revocation, or refusal to issue, renew, or
17 continue any license or appointment issued under this chapter,
18 or disapproval of a continuing education course provider,
19 instructor, school official, or monitor groups, the department
20 ~~or office~~ may, in its discretion, in lieu of or in addition to
21 such suspension or revocation, or in lieu of such refusal, or
22 disapproval, and except on a second offense or when such
23 suspension, revocation, or refusal is mandatory, impose upon
24 the licensee, appointee, course provider, instructor, school
25 official, or monitor group an administrative penalty in an
26 amount up to \$500 or, if the department ~~or office~~ has found
27 willful misconduct or willful violation on the part of the
28 licensee, appointee, course provider, instructor, school
29 official, or monitor group up to \$3,500. The administrative
30 penalty may, in the discretion of the department ~~or office~~, be
31 augmented by an amount equal to any commissions received by or

1 accruing to the credit of the licensee or appointee in
2 connection with any transaction as to which the grounds for
3 suspension, revocation, or refusal related.

4 (3) The department ~~or office~~ may allow the licensee,
5 appointee, or continuing education course provider,
6 instructor, school official, or monitor group a reasonable
7 period, not to exceed 30 days, within which to pay to the
8 department ~~or office~~ the amount of the penalty so imposed. If
9 the licensee, appointee, course provider, instructor, school
10 official, or monitor group fails to pay the penalty in its
11 entirety to the department ~~or office~~ within the period so
12 allowed, the license, appointments, approval, or status of
13 that person shall stand suspended or revoked or issuance,
14 renewal, or continuation shall be refused, as the case may be,
15 upon expiration of such period.

16 Section 51. Section 626.691, Florida Statutes, is
17 amended to read:

18 626.691 Probation.--

19 (1) If the department ~~or office~~ finds that one or more
20 grounds exist for the suspension, revocation, or refusal to
21 renew or continue any license or appointment issued under this
22 part, the department ~~or office~~ may, in its discretion, except
23 when an administrative fine is not permissible under s.
24 626.681 or when such suspension, revocation, or refusal is
25 mandatory, in lieu of or in addition to such suspension or
26 revocation, or in lieu of such refusal, or in connection with
27 any administrative monetary penalty imposed under s. 626.681,
28 place the offending licensee or appointee on probation for a
29 period, not to exceed 2 years, as specified by the department
30 ~~or office~~ in its order.

31

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

10 Section 52. Section 626.692, Florida Statutes, is
11 amended to read:

12 626.692 Restitution.--If any ground exists for the
13 suspension, revocation, or refusal of a license or
14 appointment, the department ~~or office~~ may, in addition to any
15 other penalty authorized under this chapter, order the
16 licensee to pay restitution to any person who has been
17 deprived of money by the licensee's misappropriation,
18 conversion, or unlawful withholding of moneys belonging to
19 insurers, insureds, beneficiaries, or others. In no instance
20 shall the amount of restitution required to be paid under this
21 section exceed the amount of money misappropriated, converted,
22 or unlawfully withheld. Nothing in this section limits or
23 restricts a person's right to seek other remedies as provided
24 for by law.

25 Section 53. Section 626.8582, Florida Statutes, is
26 amended to read:

27 626.8582 "Nonresident public adjuster" defined.--A
28 "nonresident public adjuster" is a person who:

- 29 (1) Is not a resident of this state;
30 (2) Is a currently licensed public adjuster in his or
31 her state of residence for the type or kinds of insurance for

1 | which the licensee intends to adjust claims in this state or,
2 | if a resident of a state that does not license public
3 | adjusters, has passed the department's ~~office's~~ adjuster
4 | examination as prescribed in s. 626.8732(1)(b); and

5 | (3) Is a self-employed public adjuster or associated
6 | with or employed by a public adjusting firm or other public
7 | adjuster.

8 | Section 54. Section 626.8584, Florida Statutes, is
9 | amended to read:

10 | 626.8584 "Nonresident independent adjuster"
11 | defined.--A "nonresident independent adjuster" is a person
12 | who:

13 | (1) Is not a resident of this state;

14 | (2) Is a currently licensed independent adjuster in
15 | his or her state of residence for the type or kinds of
16 | insurance for which the licensee intends to adjust claims in
17 | this state or, if a resident of a state that does not license
18 | independent adjusters, has passed the department's ~~office's~~
19 | adjuster examination as prescribed in s. 626.8734(1)(b); and

20 | (3) Is a self-employed independent adjuster or
21 | associated with or employed by an independent adjusting firm
22 | or other independent adjuster.

23 | Section 55. Section 626.859, Florida Statutes, is
24 | amended to read:

25 | 626.859 "Catastrophe" or "emergency" adjuster
26 | defined.--A "catastrophe" or "emergency" adjuster is a person
27 | who is not a licensed adjuster under this part, but who has
28 | been designated and certified to the department ~~office~~ by
29 | insurers as qualified to adjust claims, losses, or damages
30 | under policies or contracts of insurance issued by such
31 | insurer, and whom the department ~~office~~ may license, in the

1 event of a catastrophe or emergency, for the purposes and
2 under the conditions which the department ~~office~~ shall fix and
3 for the period of the emergency as the department ~~office~~ shall
4 determine, to adjust claims, losses, or damages under the
5 policies of insurance issued by the insurers.

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

8 626.863 Licensed independent adjusters required;
9 insurers' responsibility.--

10 (2) Before referring any claim or loss, the insurer
11 shall ascertain from the department ~~office~~ whether the
12 proposed independent adjuster is currently licensed and
13 appointed as such. Having once ascertained that a particular
14 person is so licensed and appointed, the insurer may assume
15 that he or she will continue to be so licensed and appointed
16 until the insurer has knowledge, or receives information from
17 the department ~~office~~, to the contrary.

18 Section 57. Section 626.865, Florida Statutes, is
19 amended to read:

20 626.865 Public adjuster's qualifications, bond.--

21 (1) The department ~~office~~ shall issue a license to an
22 applicant for a public adjuster's license upon determining
23 that the applicant has paid the applicable fees specified in
24 s. 624.501 and possesses the following qualifications:

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

26 (b) Is a United States citizen or legal alien who
27 possesses work authorization from the United States
28 Immigration and Naturalization Service and a bona fide
29 resident of this state.

30 (c) Is trustworthy and has such business reputation as
31 would reasonably assure that the applicant will conduct his or

1 her business as insurance adjuster fairly and in good faith
2 and without detriment to the public.

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

14 (e) Has passed any required written examination.

15 (2) At the time of application for license as a public
16 adjuster, the applicant shall file with the department ~~office~~
17 a bond executed and issued by a surety insurer authorized to
18 transact such business in this state, in the amount of
19 \$50,000, conditioned for the faithful performance of his or
20 her duties as a public adjuster under the license applied for.
21 The bond shall be in favor of the department ~~office~~ and shall
22 specifically authorize recovery by the department ~~office~~ of
23 the damages sustained in case the licensee is guilty of fraud
24 or unfair practices in connection with his or her business as
25 public adjuster. The aggregate liability of the surety for all
26 such damages shall in no event exceed the amount of the bond.
27 Such bond shall not be terminated unless at least 30 days'
28 written notice is given to the licensee and filed with the
29 department ~~office~~.

30 Section 58. Section 626.866, Florida Statutes, is
31 amended to read:

1 626.866 Independent adjuster's qualifications.--The
2 department ~~office~~ shall issue a license to an applicant for an
3 independent adjuster's license upon determining that the
4 applicable license fee specified in s. 624.501 has been paid
5 and that the applicant possesses the following qualifications:

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

7 (2) Is a United States citizen or legal alien who
8 possesses work authorization from the United States
9 Immigration and Naturalization Service and a bona fide
10 resident of this state.

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

15 (4) Has had sufficient experience, training, or
16 instruction concerning the adjusting of damage or loss under
17 insurance contracts, other than life and annuity contracts, is
18 sufficiently informed as to the terms and the effects of the
19 provisions of such types of contracts, and possesses adequate
20 knowledge of the insurance laws of this state relating to such
21 contracts as to enable and qualify him or her to engage in the
22 business of insurance adjuster fairly and without injury to
23 the public or any member thereof with whom he or she may have
24 relations as an insurance adjuster and to adjust all claims in
25 accordance with the policy or contract and the insurance laws
26 of this state.

27 (5) Has passed any required written examination.

28 Section 59. Section 626.867, Florida Statutes, is
29 amended to read:

30 626.867 Company employee adjuster's
31 qualifications.--The department ~~office~~ shall issue a license

1 to an applicant for a company employee adjuster's license upon
2 determining that the applicable license fee specified in s.
3 624.501 has been paid and that the applicant possesses the
4 following qualifications:

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

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

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

14 (4) Has had sufficient experience, training, or
15 instruction concerning the adjusting of damage or loss of
16 risks described in his or her application, is sufficiently
17 informed as to the terms and the effects of the provisions of
18 insurance contracts covering such risks, and possesses
19 adequate knowledge of the insurance laws of this state
20 relating to such insurance contracts as to enable and qualify
21 him or her to engage in such business as insurance adjuster
22 fairly and without injury to the public or any member thereof
23 with whom he or she may have relations as an insurance
24 adjuster and to adjust all claims in accordance with the
25 policy or contract and the insurance laws of this state.

26 (5) Has passed any required written examination.

27 Section 60. Paragraph (c) of subsection (4) of section
28 626.869, Florida Statutes, is amended to read:

29 626.869 License, adjusters.--

30 (4)

31

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

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

6 626.8695 Primary adjuster.--

7 (1) Each person operating an adjusting firm and each
8 location of a multiple location adjusting firm must designate
9 a primary adjuster for each such firm or location and must
10 file with the department ~~office~~ the name of such primary
11 adjuster and the address of the firm or location where he or
12 she is the primary adjuster, on a form approved by the
13 department ~~commission~~. The designation of the primary adjuster
14 may be changed at the option of the adjusting firm. Any such
15 change is effective upon notification to the department
16 ~~office~~. Notice of change must be sent to the department ~~office~~
17 within 30 days after such change.

18 (3) The department ~~office~~ may suspend or revoke the
19 license of the primary adjuster if the adjusting firm employs
20 any person who has had a license denied or any person whose
21 license is currently suspended or revoked. However, if a
22 person has been denied a license for failure to pass a
23 required examination, he or she may be employed to perform
24 clerical or administrative functions for which licensure is
25 not required.

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

29 (6) An adjusting firm location may not conduct the
30 business of insurance unless a primary adjuster is designated.
31 Failure of the person operating the adjusting firm to

1 designate a primary adjuster for the firm, or for each
2 location, as applicable, on a form prescribed by the
3 department ~~commission~~ within 30 days after inception of the
4 firm or change of primary adjuster designation, constitutes
5 grounds for requiring the adjusting firm to obtain an
6 adjusting firm license pursuant to s. 626.8696.

7 (7) Any adjusting firm may request, on a form
8 prescribed by the department ~~commission~~, verification from the
9 department ~~office~~ of any person's current licensure status.

10 If a request is mailed to the office within 5 working days
11 after the date an adjuster is hired, and the department ~~office~~
12 subsequently notifies the adjusting firm that an employee's
13 license is currently suspended, revoked, or has been denied,
14 the license of the primary adjuster shall not be revoked or
15 suspended if the unlicensed person is immediately dismissed
16 from employment as an adjuster with the firm.

17 Section 62. Paragraph (e) of subsection (1) and
18 subsection (5) of section 626.8696, Florida Statutes, are
19 amended to read:

20 626.8696 Application for adjusting firm license.--

21 (1) The application for an adjusting firm license must
22 include:

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

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

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

3 626.8697 Grounds for refusal, suspension, or
4 revocation of adjusting firm license.--

5 (1) The department ~~office~~ shall deny, suspend, revoke,
6 or refuse to continue the license of any adjusting firm if it
7 finds, as to any adjusting firm or as to any majority owner,
8 partner, manager, director, officer, or other person who
9 manages or controls the firm, that any of the following
10 grounds exist:

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

13 (b) Material misstatement, misrepresentation, or fraud
14 in obtaining the license or in attempting to obtain the
15 license.

16 (2) The department ~~office~~ may, in its discretion,
17 deny, suspend, revoke, or refuse to continue the license of
18 any adjusting firm if it finds that any of the following
19 applicable grounds exist with respect to the firm or any
20 owner, partner, manager, director, officer, or other person
21 who is otherwise involved in the operation of the firm:

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

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

27 (c) Violation of any order or rule of the office or
28 commission.

29 (d) An owner, partner, manager, director, officer, or
30 other person who manages or controls the firm having been
31 found guilty of or having pleaded guilty or nolo contendere to

1 a felony or a crime punishable by imprisonment of 1 year or
2 more under the laws of the United States or of any state or
3 under the laws of any other country, without regard to whether
4 adjudication was made or withheld by the court.

5 (e) Failure to inform the department ~~office~~ in writing
6 within 30 days after a pleading by an owner, partner, manager,
7 director, officer, or other person managing or controlling the
8 firm of guilty or nolo contendere to, or being convicted or
9 found guilty of, any felony or a crime punishable by
10 imprisonment of 1 year or more under the laws of the United
11 States or of any state, or under the laws of any other
12 country, without regard to whether adjudication was made or
13 withheld by the court.

14 (f) Knowingly aiding, assisting, procuring, advising,
15 or abetting any person in the violation of or to violate a
16 provision of the insurance code or any order or rule of the
17 department, ~~office~~, or commission.

18 (g) Knowingly employing any individual in a managerial
19 capacity or in a capacity dealing with the public who is under
20 an order of revocation or suspension issued by the department
21 ~~office~~.

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

25 1. Misappropriation, conversion, or unlawful or
26 unreasonable withholding of moneys belonging to insurers or
27 insureds or beneficiaries or claimants or to others and
28 received in the conduct of business under the license.

29 2. Misrepresentation or deception with regard to the
30 business of insurance, dissemination of information, or
31 advertising.

1 3. Demonstrated lack of fitness or trustworthiness to
2 engage in the business of insurance adjusting arising out of
3 activities related to insurance adjusting or the adjusting
4 firm.

5 (i) Failure to appoint a primary adjuster.

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

12 Section 64. Section 626.8698, Florida Statutes, is
13 amended to read:

14 626.8698 Disciplinary guidelines for public
15 adjusters.--The department ~~office~~ may deny, suspend, or revoke
16 the license of a public adjuster, and administer a fine not to
17 exceed \$5,000 per act, for any of the following:

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

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

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

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

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

1 (6) Violating any ethical rule of the department
2 ~~commission~~.

3 Section 65. Subsections (2) and (3) of section
4 626.870, Florida Statutes, are amended to read:

5 626.870 Application for license.--

6 (2) The department ~~commission~~ shall so prepare the
7 form of the application as to elicit and require from the
8 applicant the information necessary to enable the department
9 ~~office~~ to determine whether the applicant possesses the
10 qualifications prerequisite to issuance of the license to the
11 applicant.

12 (3) The department ~~commission~~ may, in its discretion,
13 require that the application be supplemented by the
14 certificate or affidavit of such person or persons as it deems
15 necessary for its determination of the applicant's residence,
16 business reputation, and reputation for trustworthiness. The
17 department ~~commission~~ shall prescribe and ~~the office~~ may
18 furnish the forms for such certificates and affidavits.

19 Section 66. Section 626.871, Florida Statutes, is
20 amended to read:

21 626.871 Reappointment after military service.--The
22 department ~~office~~ may, without requiring a further written
23 examination, issue an appointment as an adjuster to a formerly
24 licensed and appointed adjuster of this state who held a
25 current adjuster's appointment at the time of entering service
26 in the Armed Forces of the United States, subject to the
27 following conditions:

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

30 (2) The application for the appointment must be filed
31 with the department ~~office~~ and the applicable fee paid, within

1 12 months following the date of honorable discharge of the
2 applicant from the military service; and

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

9 Section 67. Subsections (1) and (5) of section
10 626.872, Florida Statutes, are amended to read:

11 626.872 Temporary license.--

12 (1) The department ~~office~~ may, in its discretion,
13 issue a temporary license as an independent adjuster or as a
14 company employee adjuster, subject to the following
15 conditions:

16 (a) The applicant must be an employee of an adjuster
17 currently licensed by the department ~~office~~, an employee of an
18 authorized insurer, or an employee of an established adjusting
19 firm or corporation which is supervised by a currently
20 licensed independent adjuster.

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

25 (c) The applicant must be a natural person of at least
26 18 years of age, must be a bona fide resident of this state,
27 must be trustworthy, and must have such business reputation as
28 would reasonably assure that the applicant will conduct his or
29 her business as an adjuster fairly and in good faith and
30 without detriment to the public.

31

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

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

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

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

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

17 626.873 Nonresident company employee adjusters.--

18 (1) The department ~~office~~ shall, upon application
19 therefor, issue a license to an applicant for a nonresident
20 adjuster's license upon determining that the applicant has
21 paid the applicable license fees required under s. 624.501
22 and:

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

25 (b) Is an employee of an insurer, or a wholly owned
26 subsidiary of an insurer, admitted to do business in this
27 state.

28 (c) Has filed a certificate or letter of authorization
29 from the insurance department of his or her home state, if
30 such state requires an adjuster to be licensed, stating that
31 he or she holds a current license or authorization to adjust

1 insurance losses. Such certificate or authorization must be
2 signed by the insurance commissioner, or his or her deputy, of
3 the adjuster's home state and must reflect whether or not the
4 adjuster has ever had his or her license or authorization in
5 the adjuster's home state suspended or revoked and, if such is
6 the case, the reason for such action.

7 Section 69. Section 626.8732, Florida Statutes, is
8 amended to read:

9 626.8732 Nonresident public adjuster's qualifications,
10 bond.--

11 (1) The department ~~office~~ shall, upon application
12 therefor, issue a license to an applicant for a nonresident
13 public adjuster's license upon determining that the applicant
14 has paid the applicable license fees required under s. 624.501
15 and:

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

17 (b) Has passed to the satisfaction of the department
18 ~~office~~ a written Florida public adjuster's examination of the
19 scope prescribed in s. 626.241(6); however, the requirement
20 for such an examination does not apply to any of the
21 following:

22 1. An applicant who is licensed as a resident public
23 adjuster in his or her state of residence, when that state
24 requires the passing of a written examination in order to
25 obtain the license and a reciprocal agreement with the
26 appropriate official of that state has been entered into by
27 the department ~~office~~; or

28 2. An applicant who is licensed as a nonresident
29 public adjuster in a state other than his or her state of
30 residence when the state of licensure requires the passing of
31 a written examination in order to obtain the license and a

1 reciprocal agreement with the appropriate official of the
2 state of licensure has been entered into by the department
3 ~~office~~.

4 (c) Is self-employed as a public adjuster or
5 associated with or employed by a public adjusting firm or
6 other public adjuster. Applicants licensed as nonresident
7 public adjusters under this section must be appointed as such
8 in accordance with the provisions of ss. 626.112 and 626.451.
9 Appointment fees in the amount specified in s. 624.501 must be
10 paid to the department ~~office~~ in advance. The appointment of a
11 nonresident public adjuster shall continue in force until
12 suspended, revoked, or otherwise terminated, but subject to
13 biennial renewal or continuation by the licensee in accordance
14 with procedures prescribed in s. 626.381 for licensees in
15 general.

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

20 (e) Has had sufficient experience, training, or
21 instruction concerning the adjusting of damages or losses
22 under insurance contracts, other than life and annuity
23 contracts; is sufficiently informed as to the terms and
24 effects of the provisions of those types of insurance
25 contracts; and possesses adequate knowledge of the laws of
26 this state relating to such contracts as to enable and qualify
27 him or her to engage in the business of insurance adjuster
28 fairly and without injury to the public or any member thereof
29 with whom he or she may have business as a public adjuster.

30 (2) The applicant shall furnish the following with his
31 or her application:

1 (a) A complete set of his or her fingerprints. The
2 applicant's fingerprints must be certified by an authorized
3 law enforcement officer. The department ~~office~~ may not
4 authorize an applicant to take the required examination or
5 issue a nonresident public adjuster's license to the applicant
6 until the department ~~office~~ has received a report from the
7 Florida Department of Law Enforcement and the Federal Bureau
8 of Investigation relative to the existence or nonexistence of
9 a criminal history report based on the applicant's
10 fingerprints.

11 (b) If currently licensed as a resident public
12 adjuster in the applicant's state of residence, a certificate
13 or letter of authorization from the licensing authority of the
14 applicant's state of residence, stating that the applicant
15 holds a current or comparable license to act as a public
16 adjuster. The certificate or letter of authorization must be
17 signed by the insurance commissioner or his or her deputy or
18 the appropriate licensing official and must disclose whether
19 the adjuster has ever had any license or eligibility to hold
20 any license declined, denied, suspended, revoked, or placed on
21 probation or whether an administrative fine or penalty has
22 been levied against the adjuster and, if so, the reason for
23 the action.

24 (c) If the applicant's state of residence does not
25 require licensure as a public adjuster and the applicant has
26 been licensed as a resident insurance adjuster, agent, broker,
27 or other insurance representative in his or her state of
28 residence or any other state within the past 3 years, a
29 certificate or letter of authorization from the licensing
30 authority stating that the applicant holds or has held a
31 license to act as such an insurance adjuster, agent, or other

1 insurance representative. The certificate or letter of
2 authorization must be signed by the insurance commissioner or
3 his or her deputy or the appropriate licensing official and
4 must disclose whether or not the adjuster, agent, or other
5 insurance representative has ever had any license or
6 eligibility to hold any license declined, denied, suspended,
7 revoked, or placed on probation or whether an administrative
8 fine or penalty has been levied against the adjuster and, if
9 so, the reason for the action.

10 (3) At the time of application for license as a
11 nonresident public adjuster, the applicant shall file with the
12 department ~~office~~ a bond executed and issued by a surety
13 insurer authorized to transact surety business in this state,
14 in the amount of \$50,000, conditioned for the faithful
15 performance of his or her duties as a nonresident public
16 adjuster under the license applied for. The bond must be in
17 favor of the department ~~office~~ and must specifically authorize
18 recovery by the department ~~office~~ of the damages sustained if
19 the licensee commits fraud or unfair practices in connection
20 with his or her business as nonresident public adjuster. The
21 aggregate liability of the surety for all the damages may not
22 exceed the amount of the bond. The bond may not be terminated
23 unless at least 30 days' written notice is given to the
24 licensee and filed with the department ~~office~~.

25 (4) The usual and customary records pertaining to
26 transactions under the license of a nonresident public
27 adjuster must be retained for at least 3 years after
28 completion of the adjustment and must be made available in
29 this state to the department ~~office~~ upon request. The failure
30 of a nonresident public adjuster to properly maintain records
31 and make them available to the department ~~office~~ upon request

1 constitutes grounds for the immediate suspension of the
2 license issued under this section.

3 (5) After licensure as a nonresident public adjuster,
4 as a condition of doing business in this state, the licensee
5 must annually on or before January 1, on a form prescribed by
6 the department ~~commission~~, submit an affidavit certifying that
7 the licensee is familiar with and understands the insurance
8 code and rules adopted thereunder and the provisions of the
9 contracts negotiated or to be negotiated. Compliance with this
10 filing requirement is a condition precedent to the issuance,
11 continuation, reinstatement, or renewal of a nonresident
12 public adjuster's appointment.

13 Section 70. Subsections (1), (3), and (4) of section
14 626.8734, Florida Statutes, are amended to read:

15 626.8734 Nonresident independent adjuster's
16 qualifications.--

17 (1) The department ~~office~~ shall, upon application
18 therefor, issue a license to an applicant for a nonresident
19 independent adjuster's license upon determining that the
20 applicant has paid the applicable license fees required under
21 s. 624.501 and:

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

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

28 1. An applicant who is licensed as a resident
29 independent adjuster in his or her state of residence when
30 that state requires the passing of a written examination in
31 order to obtain the license and a reciprocal agreement with

1 the appropriate official of that state has been entered into
2 by the department ~~office~~; or

3 2. An applicant who is licensed as a nonresident
4 independent adjuster in a state other than his or her state of
5 residence when the state of licensure requires the passing of
6 a written examination in order to obtain the license and a
7 reciprocal agreement with the appropriate official of the
8 state of licensure has been entered into by the department
9 ~~office~~.

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

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

25 (e) Has had sufficient experience, training, or
26 instruction concerning the adjusting of damages or losses
27 under insurance contracts, other than life and annuity
28 contracts; is sufficiently informed as to the terms and
29 effects of the provisions of those types of insurance
30 contracts; and possesses adequate knowledge of the laws of
31 this state relating to such contracts as to enable and qualify

1 him or her to engage in the business of insurance adjuster
2 fairly and without injury to the public or any member thereof
3 with whom he or she may have business as an independent
4 adjuster.

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

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

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

27 626.8736 Nonresident independent or public adjusters;
28 service of process.--

29 (4) Upon receiving the service, the Chief Financial
30 Officer shall forthwith send one of the copies of the process,
31 by registered mail with return receipt requested, to the

1 defendant nonresident independent or public adjuster at his or
2 her last address of record with the department ~~office~~.

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

4 626.8738 Penalty for violation.--In addition to any
5 other remedy imposed pursuant to this code, any person who
6 acts as a resident or nonresident public adjuster or holds
7 himself or herself out to be a public adjuster to adjust
8 claims in this state, without being licensed by the department
9 ~~office~~ as a public adjuster and appointed as a public
10 adjuster, commits a felony of the third degree, punishable as
11 provided in s. 775.082, s. 775.083, or s. 775.084. Each act in
12 violation of this section constitutes a separate offense.

13 Section 73. Section 626.874, Florida Statutes, is
14 amended to read:

15 626.874 Catastrophe or emergency adjusters.--

16 (1) In the event of a catastrophe or emergency, the
17 department ~~office~~ may issue a license, for the purposes and
18 under the conditions which it shall fix and for the period of
19 emergency as it shall determine, to persons who are residents
20 or nonresidents of this state, who are at least 18 years of
21 age, who are United States citizens or legal aliens who
22 possess work authorization from the United States Immigration
23 and Naturalization Service, and who are not licensed adjusters
24 under this part but who have been designated and certified to
25 it as qualified to act as adjusters by independent resident
26 adjusters or by an authorized insurer or by a licensed general
27 lines agent to adjust claims, losses, or damages under
28 policies or contracts of insurance issued by such insurers.
29 The fee for the license shall be as provided in s.
30 624.501(12)(c).

31

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

10 Section 74. Section 626.878, Florida Statutes, is
11 amended to read:

12 626.878 Rules; code of ethics.--An adjuster shall
13 subscribe to the code of ethics specified in the rules of the
14 department ~~commission~~. The rules shall implement the
15 provisions of this part and specify the terms and conditions
16 of contracts, including a right to cancel, and require
17 practices necessary to ensure fair dealing, prohibit conflicts
18 of interest, and ensure preservation of the rights of the
19 claimant to participate in the adjustment of claims.

20 Section 75. Section 627.7012, Florida Statutes, is
21 transferred, renumbered as section 626.879, Florida Statutes,
22 and amended to read:

23 ~~626.879~~627.7012 Pools of insurance adjusters.--The
24 department ~~commission~~ may, by rule, establish a pool of
25 qualified insurance adjusters. The rules must provide that, if
26 a hurricane occurs or an emergency is declared, the department
27 ~~office~~ may assign members of the pool to the affected area and
28 that an insurer may request that a member of the pool adjust
29 claims in the assigned area. The rules may not require that an
30 insurer use those adjusters assigned by the department ~~office~~.

31

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

3 626.9543 Holocaust victims.--

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

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

6 (a)(b) "Holocaust victim" means any person who lost
7 his or her life or property as a result of discriminatory
8 laws, policies, or actions targeted against discrete groups of
9 persons between 1920 and 1945, inclusive, in Nazi Germany,
10 areas occupied by Nazi Germany, or countries allied with Nazi
11 Germany.

12 (b)(e) "Insurance policy" means, but is not limited
13 to, life insurance, property insurance, or education policies.

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

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

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

23 626.989 Investigation by department or Division of
24 Insurance Fraud; compliance; immunity; confidential
25 information; reports to division; division investigator's
26 power of arrest.--

27 (9) In recognition of the complementary roles of
28 investigating instances of workers' compensation fraud and
29 enforcing compliance with the workers' compensation coverage
30 requirements under chapter 440, the Department of Financial
31 Services shall prepare and submit a joint performance report

ENROLLED

2004 Legislature

CS for CS for SB 2994, 2nd Engrossed

1 to the President of the Senate and the Speaker of the House of
2 Representatives by November 1, 2003, and then by January 1 of
3 each year. The annual report must include, but need not be
4 limited to:

5 (c) The number of investigations undertaken by the
6 Bureau of Workers' Compensation Insurance Fraud ~~office~~ which
7 were not the result of a referral from an insurer or the
8 Division of Workers' Compensation.

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

13 (f) The total number of employees assigned to the
14 Bureau of Workers' Compensation Insurance Fraud ~~office~~ and the
15 Division of Workers' Compensation Bureau of Compliance ~~unit~~
16 delineated by location of staff assigned; and the number and
17 location of employees assigned to the Bureau of Workers'
18 Compensation Insurance Fraud ~~office~~ who were assigned to work
19 other types of fraud cases.

20 Section 78. Subsection (4) is added to section
21 626.99245, Florida Statutes, to read:

22 626.99245 Conflict of regulation of viaticals.--

23 (4) The offer, sale, and purchase of viatical
24 settlement contracts, and the regulation of viatical
25 settlement providers shall be within the exclusive
26 jurisdiction of the Office of Insurance Regulation under the
27 provisions of part X of chapter 626.

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

30 627.0628 Florida Commission on Hurricane Loss

31 Projection Methodology.--

1 (2) COMMISSION CREATED.--

2 (a) There is created the Florida Commission on
3 Hurricane Loss Projection Methodology, which is assigned to
4 the State Board of Administration. For the purposes of this
5 section, the term "commission" means the Florida Commission on
6 Hurricane Loss Projection Methodology. The commission shall be
7 administratively housed within the State Board of
8 Administration, but it shall independently exercise the powers
9 and duties specified in this section.

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

12 1. The insurance consumer advocate.

13 2. The senior employee of the State Board of
14 Administration responsible for operations of the Florida
15 Hurricane Catastrophe Fund.

16 3. The Executive Director of the Citizens Property
17 Insurance Corporation.

18 4. The Director of the Division of Emergency
19 Management of the Department of Community Affairs.

20 5. The actuary member of the Florida Hurricane
21 Catastrophe Fund Advisory Council.

22 6. An employee of the office who is an actuary
23 responsible for property insurance rate filings and who is
24 appointed by the director of the office.

25 ~~7.6. Five Six~~ members appointed by the Chief Financial
26 Officer, as follows:

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

29 ~~a.b.~~ An actuary who is employed full time by a
30 property and casualty insurer which was responsible for at
31 least 1 percent of the aggregate statewide direct written

1 premium for homeowner's insurance in the calendar year
2 preceding the member's appointment to the commission.

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

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

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

11 ~~e.f.~~ An expert in meteorology who is a full time
12 member of the faculty of the State University System and who
13 specializes in hurricanes.

14 (c) Members designated under subparagraphs (b)1.-5.
15 shall serve on the commission as long as they maintain the
16 respective offices designated in subparagraphs (b)1.-5. The
17 member appointed by the director of the office under
18 subparagraph (b)6. shall serve on the commission until the end
19 of the term of office of the director who appointed him or
20 her, unless removed earlier by the director for cause. Members
21 appointed by the Chief Financial Officer under subparagraph
22 (b)7. subparagraph (b)6. shall serve on the commission until
23 the end of the term of office of the Chief Financial Officer
24 who appointed them, unless earlier removed by the Chief
25 Financial Officer for cause. Vacancies on the commission
26 shall be filled in the same manner as the original
27 appointment.

28 (d) The State Board of Administration shall annually
29 appoint one of the members of the commission to serve as
30 chair.

31

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

4 (f) The State Board of Administration shall, as a cost
5 of administration of the Florida Hurricane Catastrophe Fund,
6 provide for travel, expenses, and staff support for the
7 commission.

8 (g) There shall be no liability on the part of, and no
9 cause of action of any nature shall arise against, any member
10 of the commission, any member of the State Board of
11 Administration, or any employee of the State Board of
12 Administration for any action taken in the performance of
13 their duties under this section. In addition, the commission
14 may, in writing, waive any potential cause of action for
15 negligence of a consultant, contractor, or contract employee
16 engaged to assist the commission.

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

19 627.6699 Employee Health Care Access Act.--

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

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

23 2. Effective upon this act becoming a law, the board
24 shall consist of the director of the office ~~Chief Financial~~
25 ~~Officer~~ or his or her designee, who shall serve as the
26 chairperson, and 13 additional members who are representatives
27 of carriers and insurance agents and are appointed by the
28 director of the office ~~Chief Financial Officer~~ and serve as
29 follows:

30 a. The director of the office ~~Chief Financial Officer~~
31 shall include representatives of small employer carriers

1 subject to assessment under this subsection. If two or more
2 carriers elect to be risk-assuming carriers, the membership
3 must include at least two representatives of risk-assuming
4 carriers; if one carrier is risk-assuming, one member must be
5 a representative of such carrier. At least one member must be
6 a carrier who is subject to the assessments, but is not a
7 small employer carrier. Subject to such restrictions, at
8 least five members shall be selected from individuals
9 recommended by small employer carriers pursuant to procedures
10 provided by rule of the commission. Three members shall be
11 selected from a list of health insurance carriers that issue
12 individual health insurance policies. At least two of the
13 three members selected must be reinsuring carriers. Two
14 members shall be selected from a list of insurance agents who
15 are actively engaged in the sale of health insurance.

16 b. A member appointed under this subparagraph shall
17 serve a term of 4 years and shall continue in office until the
18 member's successor takes office, except that, in order to
19 provide for staggered terms, the director of the office ~~Chief~~
20 ~~Financial Officer~~ shall designate two of the initial
21 appointees under this subparagraph to serve terms of 2 years
22 and shall designate three of the initial appointees under this
23 subparagraph to serve terms of 3 years.

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

26 4. Vacancies on the board shall be filled in the same
27 manner as the original appointment for the unexpired portion
28 of the term.

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

1 Section 81. The transfer of the regulation of
2 adjusters from the Office of Insurance Regulation to the
3 Department of Financial Services by this act shall not affect
4 the regulation of adjusters in any administrative or judicial
5 action of the Office of Insurance Regulation arising out of or
6 involving the Office of Insurance Regulation before or pending
7 on the effective date of this act, and the Department of
8 Financial Services shall be substituted as a party in interest
9 on any such pending action.

10 Section 82. Any license, form, or action that was
11 approved or authorized by the Financial Services Commission or
12 the Office of Insurance Regulation which was otherwise
13 lawfully in use before the effective date of this act may
14 continue to be used or be effective as originally authorized
15 or permitted, until the Department of Financial Services
16 otherwise prescribes.

17 Section 83. Upon the effective date of this act, the
18 rules or portions thereof of the Financial Services Commission
19 which govern the regulation of insurance adjusters shall
20 become rules or portions thereof of the Department of
21 Financial Services as is appropriate to the corresponding
22 regulatory or constitutional function and shall remain in
23 effect until specifically amended or repealed in the manner
24 provided by law.

25 Section 84. Subsection (10) is added to section
26 494.0025, Florida Statutes, to read:

27 494.0025 Prohibited practices.--It is unlawful for any
28 person:

29 (10) To use the name or logo of a financial
30 institution, as defined in s. 655.005(1), or its affiliates or
31 subsidiaries when marketing or soliciting existing or

1 prospective customers if such marketing materials are used
2 without the written consent of the financial institution and
3 in a manner that would lead a reasonable person to believe
4 that the material or solicitation originated from, was
5 endorsed by, or is related to or the responsibility of the
6 financial institution or its affiliates or subsidiaries.

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

9 516.07 Grounds for denial of license or for
10 disciplinary action.--

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

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

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

26 520.995 Grounds for disciplinary action.--

27 (1) The following acts are violations of this chapter
28 and constitute grounds for the disciplinary actions specified
29 in subsection (2):

30 (j) Using the name or logo of a financial institution,
31 as defined in s. 655.005(1), or its affiliates or subsidiaries

1 when marketing or soliciting existing or prospective customers
2 if such marketing materials are used without the written
3 consent of the financial institution and in a manner that
4 would lead a reasonable person to believe that the material or
5 solicitation originated from, was endorsed by, or is related
6 to or the responsibility of the financial institution or its
7 affiliates or subsidiaries.

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

10 626.9541 Unfair methods of competition and unfair or
11 deceptive acts or practices defined.--

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

15 (bb) Deceptive use of name.--Using the name or logo of
16 a financial institution, as defined in s. 655.005(1), or its
17 affiliates or subsidiaries when marketing or soliciting
18 existing or prospective customers if such marketing materials
19 are used without the written consent of the financial
20 institution and in a manner that would lead a reasonable
21 person to believe that the material or solicitation originated
22 from, was endorsed by, or is related to or the responsibility
23 of the financial institution or its affiliates or
24 subsidiaries.

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

27 655.005 Definitions.--

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

30 (h) "Financial institution" means a state or federal
31 association, bank, savings bank, trust company, international

1 bank agency, international branch, representative office or
2 international administrative office, or credit union.

3 (p) "State financial institution" means a
4 state-chartered or state-organized association, bank,
5 investment company, trust company, international bank agency,
6 international branch, international representative office,
7 international administrative office, or credit union.

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

10 655.0322 Prohibited acts and practices; criminal
11 penalties.--

12 (1) As used in this section, the term "financial
13 institution" means a financial institution as defined in s.
14 655.50 which includes a state trust company, state or national
15 bank, state or federal association, state or federal savings
16 bank, state or federal credit union, Edge Act or agreement
17 corporation, international bank agency, international branch,
18 representative office or administrative office or other
19 business entity as defined by the commission by rule, whether
20 organized under the laws of this state, the laws of another
21 state, or the laws of the United States, which institution is
22 located in this state.

23 Section 90. Section 655.0385, Florida Statutes, is
24 amended to read:

25 655.0385 Disapproval of directors and executive
26 officers.--

27 (1) Each state financial institution shall notify the
28 office of the proposed appointment of any individual to the
29 board of directors or the appointment or employment of any
30 individual as an executive officer or equivalent position at
31

1 | least 60 days before such appointment or employment becomes
2 | effective, if the state financial institution:

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

4 | (b) Has undergone a change in control or conversion
5 | within the preceding 2 years. The office may exempt a
6 | financial institution from this paragraph if it operates in a
7 | safe and sound manner;

8 | (c) Is not in compliance with the minimum capital
9 | requirements applicable to such financial institution; or

10 | (d) Is otherwise operating in an unsafe and unsound
11 | condition, as determined by the office, on the basis of such
12 | financial institution's most recent report of condition or
13 | report of examination.

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

18 | (3) The office shall issue a notice of disapproval if
19 | the competence, experience, character, or integrity of the
20 | individual to be appointed or employed indicates that it is
21 | not in the best interests of the depositors, the members, or
22 | the public to permit the individual to be employed by or
23 | associated with the state financial institution.

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

27 | ~~(5)(4)~~ The commission may adopt rules to implement
28 | this section.

29 | Section 91. Subsection (3) of section 655.045, Florida
30 | Statutes, is amended to read:

31 |

1 655.045 Examinations, reports, and internal audits;
2 penalty.--

3 (3)(a) The board of directors of each state financial
4 institution or, in the case of a credit union, the supervisory
5 committee or audit committee shall perform or cause to be
6 performed, within each calendar year, an internal audit of
7 each state financial institution, subsidiary, or service
8 corporation and to file a copy of the report and findings of
9 such audit with the office on a timely basis. Such internal
10 audit must include such information as the commission by rule
11 requires for that type of institution.

12 (b) With the approval of the office, the board of
13 directors or, in the case of a credit union, the supervisory
14 committee may elect, in lieu of such periodic audits, to adopt
15 and implement an adequate continuous audit system and
16 procedure which must include full, adequate, and continuous
17 written reports to, and review by, the board of directors or,
18 in the case of a credit union, the supervisory committee,
19 together with written statements of the actions taken thereon
20 and reasons for omissions to take actions, all of which shall
21 be noted in the minutes and filed among the records of the
22 board of directors or, in the case of a credit union, the
23 supervisory committee. If at any time such continuous audit
24 system and procedure, including the reports and statements,
25 becomes inadequate, in the judgment of the office, the state
26 financial institution shall promptly make such changes as may
27 be required by the office to cause the same to accomplish the
28 purpose of this section.

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

1 Section 92. Subsection (1) of section 655.059, Florida
2 Statutes, is amended to read:
3 655.059 Access to books and records; confidentiality;
4 penalty for disclosure.--
5 (1) The books and records of a financial institution
6 are confidential and shall be made available for inspection
7 and examination only:
8 (a) To the office or its duly authorized
9 representative;
10 (b) To any person duly authorized to act for the
11 financial institution;
12 (c) To any federal or state instrumentality or agency
13 authorized to inspect or examine the books and records of an
14 insured financial institution;
15 (d) With respect to an international banking
16 corporation, to the home-country supervisor of the
17 corporation, provided:
18 1. The supervisor provides advance notice to the
19 office that the supervisor intends to examine the Florida
20 office of the corporation.
21 2. The supervisor confirms to the office that the
22 purpose of the examination is to ensure the safety and
23 soundness of the corporation.
24 3. The books and records pertaining to customer
25 deposit, investment, and custodial accounts are not disclosed
26 to the supervisor.
27 4. At any time during the conduct of the examination,
28 the office reserves the right to have an examiner present or
29 to participate jointly in the examination.
30
31

1 For purposes of this paragraph, "home-country supervisor"
2 means the governmental entity in the corporation's home
3 country with responsibility for the supervision and regulation
4 of the corporation;

5 (e) As compelled by a court of competent jurisdiction,
6 pursuant to a subpoena issued pursuant to the Florida Rules of
7 Civil or Criminal Procedure or the Federal Rules of Civil
8 Procedure, or pursuant to a subpoena issued in accordance with
9 state or federal law. Prior to the production of the books and
10 records of a financial institution, the party seeking
11 production must reimburse the financial institution for the
12 reasonable costs and fees incurred in compliance with the
13 production. If the parties disagree regarding the amount of
14 reimbursement, the party seeking the records may request the
15 court or agency having jurisdiction to set the amount of
16 reimbursement;

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

19 (g) Pursuant to a subpoena, to any federal or state
20 law enforcement or prosecutorial instrumentality authorized to
21 investigate suspected criminal activity;

22 (h) As authorized by the board of directors of the
23 financial institution; or

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

25 Section 93. Section 655.921, Florida Statutes, is
26 amended to read:

27 655.921 Transaction of business by out-of-state
28 financial institutions; exempt transactions in the financial
29 institutions codes.--

30 (1) Nothing in the financial institutions codes shall
31 be construed to prohibit a financial institution having its

1 principal place of business outside this state and not
2 operating branches in this state from:

3 (a) Contracting in this state with any person to
4 acquire from such person a part, or the entire, interest in a
5 loan that such person proposes to make, has heretofore made,
6 or hereafter makes, together with a like interest in any
7 security instrument covering real or personal property in the
8 state proposed to be given or hereafter or heretofore given to
9 such person to secure or evidence such loan.

10 (b) Entering into mortgage servicing contracts with
11 persons authorized to transact business in this state and
12 enforcing in this state the obligations heretofore or
13 hereafter acquired by it in the transaction of business
14 outside this state or in the transaction of any business
15 authorized by this section.

16 (c) Acquiring, holding, leasing, mortgaging,
17 contracting with respect to, or otherwise protecting,
18 managing, or conveying property in this state which has
19 heretofore or may hereafter be assigned, transferred,
20 mortgaged, or conveyed to it as security for, or in whole or
21 in part in satisfaction of, a loan or loans made by it or
22 obligations acquired by it in the transaction of any business
23 authorized by this section.

24 (d) Making loans or committing to make loans to any
25 person located in this state and soliciting compensating
26 deposit balances in connection therewith.

27 (2) No such financial institution shall be deemed to
28 be transacting business in this state, or be required to
29 qualify so to do, solely by reason of the performance of any
30 of the acts or business authorized in this section. ~~This~~
31

1 ~~section does not authorize or permit any such financial~~
2 ~~institution to maintain an office within the state.~~

3 Section 94. Section 655.922, Florida Statutes, is
4 amended to read:

5 655.922 Banking business by unauthorized persons; use
6 of name.--

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

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

25 (a) Transact business under any name or title that
26 contains the words "bank," "banco," "banque," "banker,"
27 "banking," "trust company," "savings and loan association,"
28 "savings bank," or "credit union," or words of similar import,
29 in any context or in any manner;

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

1 (c) Circulate or use any letterhead, billhead,
2 circular, paper, or writing of any kind or otherwise advertise
3 or represent in any manner,
4

5 which indicates or reasonably implies that the business being
6 conducted or advertised is the kind or character of business
7 transacted or conducted by a financial institution or which is
8 likely to lead any person to believe that such business is
9 that of a financial institution; however, the words "bank,"
10 "banker," "banking," "trust company," "savings and loan
11 association," "savings bank," or "credit union," or the plural
12 of any thereof, may be used by, and in the corporate or other
13 name or title of, any company which is or becomes a financial
14 institution holding company pursuant to federal law; any
15 subsidiary of any such financial institution holding company
16 which includes as a part of its name or title all or any part,
17 or abbreviations, of the name or title of the financial
18 institution holding company of which it is a subsidiary; any
19 trade organization or association, whether or not
20 incorporated, functioning for the purpose of promoting the
21 interests of financial institutions or financial institution
22 holding companies, the active members of which are financial
23 institutions or financial institution holding companies; and
24 any international development bank chartered pursuant to part
25 II of chapter 663.

26 (3) No person may use the name or logo of any
27 financial institution or an affiliate or subsidiary thereof,
28 or use a name similar to that of a financial institution or an
29 affiliate or subsidiary thereof, to market or solicit business
30 from a customer or prospective customer of such institution
31 if:

1 (a) The solicitation is done without the written
2 consent of the financial institution or its affiliate or
3 subsidiary; and

4 (b) A reasonable person would believe that the
5 materials originated from, are endorsed by, or are connected
6 with the financial institution or its affiliates or
7 subsidiaries.

8 ~~(4)(3)~~ Any court, in a proceeding brought by the
9 office, by any financial institution the principal place of
10 business of which is in this state, or by any other person
11 residing, or whose principal place of business is located, in
12 this state and whose interests are substantially affected
13 thereby, may enjoin any person from violating any of the
14 provisions of this section. For the purposes of this
15 subsection, the interests of a trade organization or
16 association are deemed to be substantially affected if the
17 interests of any of its members are so affected. In addition,
18 the office may issue and serve upon any person who violates
19 any of the provisions of this section a complaint seeking a
20 cease and desist order in accordance with the procedures and
21 in the manner prescribed by s. 655.033.

22 ~~(5)(4)~~ Nothing in this section shall be construed to
23 prohibit the lawful establishment or the lawful operations of
24 a financial institution and nothing in this code shall be
25 construed to prohibit any advertisement or other activity in
26 this state by any person if such prohibition would contravene
27 any applicable federal law which preempts the law of this
28 state.

29 (6) The commission shall adopt rules to administer
30 this section.

31

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

3 655.94 Special remedies for nonpayment of rent.--

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

27 Section 96. Section 658.16, Florida Statutes, is
28 amended to read:

29 658.16 Creation of banking or trust corporation.--

30 (1) When authorized by the office, as provided herein,
31 a corporation may be formed under the laws of this state for

1 the purpose of becoming a state bank or a state trust company
2 and conducting a general banking or trust business.

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

6 (a) The institution is not subject to automatic
7 termination, dissolution, or suspension upon the occurrence of
8 an event including the death, disability, bankruptcy,
9 expulsion, or withdrawal of an owner of the institution, other
10 than the passage of time;

11 (b) The exclusive authority to manage the institution
12 is vested in a board of managers or directors that is elected
13 or appointed by the owners which operates in substantially the
14 same manner as, and has substantially the same rights, powers,
15 privileges, duties, and responsibilities, as a board of
16 directors of a bank or trust company chartered as a
17 corporation; and

18 (c) Neither the laws of the state of the institution's
19 organization nor the institution's operating agreement,
20 bylaws, or other organizational documents:

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

24 2. Require the consent of any other owner of the
25 institution in order for an owner to transfer an ownership
26 interest in the institution, including voting rights.

27 (3) As used in the financial institutions codes, the
28 term:

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

1 (b) "Director" includes a manager or director of a
2 bank or trust company chartered as a limited liability
3 company, or other person who has, with respect to such a bank
4 or trust company, authority substantially similar to that of a
5 director of a corporation;

6 (c) "Officer" includes an officer of a bank or trust
7 company chartered as a limited liability company, or other
8 person who has, with respect to such a bank or trust company,
9 authority substantially similar to that of an officer of a
10 corporation;

11 (d) "Stock," "voting stock," "voting shares," and
12 "voting securities" includes similar ownership interests in a
13 bank or trust company chartered as a limited liability
14 company, including certificates or other evidence of ownership
15 interests;

16 (e) "Articles of incorporation" or "bylaws" of a bank
17 or trust company chartered as a limited liability company
18 means the institution's articles of organization and operating
19 agreement or other organizational documentation that is
20 substantially similar to that of a corporation;

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

25 (g) "Dividend" includes distributions of earnings to
26 the owners of a bank or trust company chartered as a limited
27 liability company.

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

30
31

1 658.23 Submission of articles of incorporation;
2 contents; form; approval; filing; commencement of corporate
3 existence; bylaws.--

4 (5) Unless the articles of incorporation provide
5 otherwise, the board of directors shall have authority to
6 adopt or amend bylaws that do not conflict with bylaws that
7 may have been adopted by the stockholders. The bylaws shall
8 be for the governance ~~government~~ of the bank or trust company,
9 subordinate only to the articles of incorporation and the laws
10 of the United States and of this state. ~~A current copy of the~~
11 ~~bylaws shall be filed with the office at all times.~~

12 Section 98. Section 658.26, Florida Statutes, is
13 amended to read:

14 658.26 Places of transacting business; branches;
15 facilities.--

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

19 (2)(a) In addition, with the approval of the office
20 and upon such conditions as the commission or office
21 prescribes, any state bank or trust company may establish
22 branches or relocate offices within or outside the state. With
23 the approval of the office upon a determination that the
24 resulting bank or trust company will be of sound financial
25 condition, any bank or trust company incorporated pursuant to
26 this chapter may establish branches by merger with any other
27 bank or trust company.

28 (b) As provided by commission rules, a financial
29 institution operating in a safe and sound manner may establish
30 or relocate an office by filing a written notice with the
31 office at least 30 days before opening or relocating that

1 office, without filing an application or paying an application
2 fee. The notification must specify the name and location of
3 the office and effective date of the change. The relocation of
4 a main office to a location outside this state must be by
5 application only.

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

9 (d)(b) An application to establish ~~for~~ a branch by a
10 bank that is ineligible ~~does not meet the requirements for the~~
11 branch notification ~~process~~ shall be in writing in such form
12 as the commission prescribes and be supported by such
13 information, data, and records as the commission or office may
14 require to make findings necessary for approval. ~~Applications~~
15 ~~filed pursuant to this subsection shall not be published in~~
16 ~~the Florida Administrative Weekly but shall otherwise be~~
17 ~~subject to the provisions of chapter 120.~~ Upon the filing of
18 an application and a nonrefundable filing fee for the
19 establishment of any branch permitted by paragraph (a), the
20 office shall ~~make an investigation with respect to compliance~~
21 ~~with the requirements of paragraph (a) and shall investigate~~
22 ~~and consider all factors relevant to such requirements,~~
23 ~~including~~ the following:

24 1. The sufficiency of capital accounts in relation to
25 the deposit liabilities of the bank, or in relation to the
26 number and valuation of fiduciary accounts of the trust
27 company, including the proposed branch, and the additional
28 fixed assets, if any, which are proposed for the branch and
29 its operations, without undue risk to the bank or its
30 depositors, or undue risk to the trust company or its
31 fiduciary accounts;

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

5 3. The sufficiency and quality of management available
6 to operate the branch;

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

10 5. Substantial compliance by the applicants with
11 applicable law governing their operations.

12 ~~(e)(e)~~ A state bank that is not eligible for
13 notification of a branch relocation must file an application
14 in the form required by the commission. Upon the filing of a
15 relocation application and a nonrefundable filing fee, the
16 office shall investigate to determine whether the financial
17 institution has substantially complied with applicable law
18 governing its operations. Additional investments in land,
19 buildings, leases, and leasehold improvements resulting from
20 such relocation must comply with the limitations imposed by s.
21 658.67(7)(a). A main office may not be moved outside this
22 state unless the move is expressly authorized by the financial
23 institutions codes or by federal law. A financial institution
24 that has been in operation for less than 24 months must
25 provide evidence that the criteria of s. 658.21(1) will be
26 met. As provided by commission rule, a financial institution
27 operating in a safe and sound manner may establish a branch by
28 filing a written notice with the office at least 30 days
29 before opening that branch. In such case, the financial
30 institution need not file a branch application or pay a branch
31 application fee.

1 ~~(3)(a) An office in this state may be relocated with~~
2 ~~prior written approval of the office. An application for~~
3 ~~relocation shall be in writing in such form as the commission~~
4 ~~prescribes and shall be supported by such information, data,~~
5 ~~and records as the commission or office may require to make~~
6 ~~findings necessary for approval.~~

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

19 ~~(c) A relocation application filed by a state bank or~~
20 ~~trust company that is operating in a safe and sound manner~~
21 ~~which is not denied within 10 working days after receipt shall~~
22 ~~be deemed approved unless the office notifies the financial~~
23 ~~institution in writing that the application was not complete.~~

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

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

1 ~~(3)~~(4) With prior written notification to the office,
2 any bank may operate facilities which are not physically
3 connected to the main or branch office of the bank, provided
4 that the facilities are situated on the property of the main
5 or branch office or property contiguous thereto. Property
6 which is separated from the main or branch office of a bank by
7 only a street, and one or more walkways and alleyways are
8 determined to be, for purposes of this subsection, contiguous
9 to the property of the main or branch office.

10 ~~(4)~~(5) A bank may provide, directly or through a
11 contract with another company, off-premises armored car
12 service to its customers. Armored car services shall not be
13 considered a branch for the purposes of subsection (2).

14 ~~(5)~~(6)(a) Any state bank that is a subsidiary of a
15 bank holding company may agree to receive deposits, renew time
16 deposits, close loans, service loans, and receive payments on
17 loans and other obligations, as an agent for an affiliated
18 depository institution.

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

21 (c) As used in this section, "receive deposits" means
22 the taking of deposits to be credited to an existing account
23 and does not include the opening or origination of new deposit
24 accounts at an affiliated institution by the agent
25 institution.

26 (d) Under this section, affiliated banks may act as
27 agents for one another regardless of whether the institutions
28 are located in the same or different states. This section
29 applies solely to affiliated depository institutions acting as
30 agents, and has no application to agency relationships
31

1 concerning nondepositories as agent, whether or not affiliated
2 with the depository institution.

3 (e) In addition, under this section, agent banks may
4 perform ministerial functions for the principal bank making a
5 loan. Ministerial functions include, but are not limited to,
6 such activities as providing loan applications, assembling
7 documents, providing a location for returning documents
8 necessary for making the loan, providing loan account
9 information, and receiving payments. It does not include such
10 loan functions as evaluating applications or disbursing loan
11 funds.

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

14 658.33 Directors, number, qualifications; officers.--

15 (5) The president, ~~or~~ chief executive officer, or any
16 other person, regardless of title, who has equivalent rank or
17 leads the overall operations of a bank or trust company must
18 have had at least 1 year of direct experience as an executive
19 officer, director, or regulator of a financial institution
20 within the last 3 years. This requirement may be waived by the
21 office after considering the overall experience and expertise
22 of the proposed officer and the condition of the bank or trust
23 company, as reflected in the most recent regulatory
24 examination report and other available data.

25 Section 100. Section 658.37, Florida Statutes, is
26 amended to read:

27 658.37 Dividends and surplus.--

28 (1) The directors of any bank or trust company, after
29 charging off bad debts, depreciation, and other worthless
30 assets if any, and making provision for reasonably anticipated
31 future losses on loans and other assets, may quarterly,

1 semiannually, or annually declare a dividend of so much of the
2 aggregate of the net profits of that period combined with its
3 retained net profits of the preceding 2 years as they shall
4 judge expedient, and, with the approval of the office, any
5 bank or trust company may declare a dividend from retained net
6 profits which accrued prior to the preceding 2 years, but each
7 bank or trust company shall, before the declaration of a
8 dividend on its common stock, carry 20 percent of its net
9 profits for such preceding period as is covered by the
10 dividend to its surplus fund, until the same shall at least
11 equal the amount of its common and preferred stock then issued
12 and outstanding. No bank or trust company shall declare any
13 dividend at any time at which its net income from the current
14 year combined with the retained net income from the preceding
15 2 years is a loss or which would cause the capital accounts of
16 the bank or trust company to fall below the minimum amount
17 required by law, regulation, order, or any written agreement
18 with the office or a state or federal regulatory agency. A
19 bank or trust company may, however, split up or divide the
20 issued shares of capital stock into a greater number of shares
21 without increasing or decreasing the capital accounts of the
22 bank or trust company, and such shall not be construed to be a
23 dividend within the meaning of this section.

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

26 Section 101. Present subsection (10) of section
27 658.48, Florida Statutes, is redesignated as subsection (11),
28 and a new subsection (10) is added to that section, to read:

29 658.48 Loans.--A state bank may make loans and
30 extensions of credit, with or without security, subject to the
31 following limitations and provisions:

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

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

7 658.67 Investment powers and limitations.--A bank may
8 invest its funds, and a trust company may invest its corporate
9 funds, subject to the following definitions, restrictions, and
10 limitations:

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

17 (a) The book entry shall be the lesser of the balance
18 of the loan or investment plus acquisition costs and accrued
19 interest or the appraisal value or market value of the
20 property acquired which shall be determined and dated within 1
21 year prior to or 90 days after the date of acquisition and in
22 compliance with s. 655.60.

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

25 658.73 Fees and assessments.--

26 (4) Any individual or entity other than a financial
27 institution chartered in this state must ~~Each state bank and~~
28 ~~state trust company shall~~ pay to the office \$25 for each
29 "certificate of good standing" certifying that a
30 state-chartered financial institution is licensed to conduct
31 business in this state under the financial institutions codes.

1 All such requests shall be in writing. The office shall waive
2 this fee when the request is by a state or federal regulatory
3 agency or law enforcement agency.

4 Section 104. Subsections (4) and (7) of section
5 663.16, Florida Statutes, are amended to read:

6 663.16 Definitions; ss. 663.17-663.181.--As used in
7 ss. 663.17-663.181, the term:

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

11 (7) "Control" means any person or group of persons
12 acting in concert, directly or indirectly, owning,
13 controlling, or holding the power to vote 25 ~~more than 50~~
14 percent or more of the voting stock of a company, or having
15 the ability in any manner to elect a majority of directors of
16 a corporation, or otherwise exercising a controlling influence
17 over the management and policies of a corporation as
18 determined by the office.

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

21 663.304 Application for authority to organize an
22 international development bank.--

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

26 (a) The name, residence, and occupation of each
27 incorporator and proposed director.

28 ~~(b) The proposed corporate name and evidence of~~
29 ~~reservation of the proposed corporate name with the Department~~
30 ~~of State.~~

31

1 ~~(b)(e)~~ The total initial capital and the number of
2 shares of capital stock to be authorized.

3 ~~(c)(d)~~ The location, by street and post-office address
4 and county, of the principal office of the proposed
5 international development bank.

6 ~~(d)(e)~~ If known, the name and residence of the
7 proposed president and the proposed chief executive officer,
8 if other than the proposed president.

9 ~~(e)(f)~~ Such detailed financial, business, and
10 biographical information as the commission or office may
11 reasonably require for each proposed director and for the
12 proposed president and the proposed chief executive officer,
13 if other than the president.

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

16 665.034 Acquisition of assets of or control over an
17 association.--

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

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

26 Section 107. Subsections (2) and (6) of section
27 674.406, Florida Statutes, are amended to read:

28 674.406 Customer's duty to discover and report
29 unauthorized signature or alteration.--

30 (2) If the items are not returned to the customer, the
31 person retaining the items shall either retain the items or,

1 | if the items are destroyed, maintain the capacity to furnish
2 | legible copies of the items until the expiration of 5 7 years
3 | after receipt of the items. A customer may request an item
4 | from the bank that paid the item, and that bank must provide
5 | in a reasonable time either the item or, if the item has been
6 | destroyed or is not otherwise obtainable, a legible copy of
7 | the item.

8 | (6) Without regard to care or lack of care of either
9 | the customer or the bank, a customer who does not within 180
10 | days ~~1 year~~ after the statement or items are made available to
11 | the customer (subsection (1)) discover and report the
12 | customer's unauthorized signature on or any alteration on the
13 | item or who does not, within 1 year after that time, discover,
14 | and report any unauthorized endorsement is precluded from
15 | asserting against the bank the unauthorized signature or
16 | alteration. If there is a preclusion under this subsection,
17 | the payor bank may not recover for breach of warranty under s.
18 | 674.2081 with respect to the unauthorized signature or
19 | alteration to which the preclusion applies.

20 | Section 108. Section 658.68, Florida Statutes, is
21 | repealed.

22 | Section 109. Subsection (4) is added to section
23 | 627.4133, Florida Statutes, to read:

24 | 627.4133 Notice of cancellation, nonrenewal, or
25 | renewal premium.--

26 | (4) Notwithstanding the provisions of s. 440.42(3), if
27 | cancellation of a policy providing coverage for workers'
28 | compensation and employer's liability insurance is requested
29 | by the insured, such cancellation shall be effective on the
30 | date the carrier sends the notice of cancellation to the
31 | insured.

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

7 717.101 Definitions.--As used in this chapter, unless
8 the context otherwise requires:

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

11 ~~(16)~~~~(15)~~ "Owner" means a depositor in the case of a
12 deposit, a beneficiary in case of a trust or ~~other than~~ a
13 deposit in trust, ~~a claimant~~, or a payee in the case of other
14 intangible property, or a person having a legal or equitable
15 interest in property subject to this chapter or his or her
16 legal representative.

17 (20) "Ultimate equitable owner" means a natural person
18 who, directly or indirectly, owns or controls an ownership
19 interest in a corporation, a foreign corporation, an alien
20 business organization, or any other form of business
21 organization, regardless of whether such natural person owns
22 or controls such ownership interest through one or more
23 natural persons or one or more proxies, powers of attorney,
24 nominees, corporations, associations, partnerships, trusts,
25 joint stock companies, or other entities or devices, or any
26 combination thereof.

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

29 717.106 Bank deposits and funds in financial
30 organizations.--
31

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

7 (a) Increased or decreased the amount of the deposit
8 or presented the passbook or other similar evidence of the
9 deposit for the crediting of interest;

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

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

15 (d) Owned other property to which paragraph (a),
16 paragraph (b), or paragraph (c) is applicable and if the
17 banking or financial organization communicates in writing with
18 the owner with regard to the property that would otherwise be
19 presumed unclaimed under this subsection at the address to
20 which communications regarding the other property regularly
21 are sent; or

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

24 1. Communicated in writing with the banking or
25 financial organization; or

26 2. Otherwise indicated an interest as evidenced by a
27 memorandum or other record on file with the banking or
28 financial organization and if the banking or financial
29 organization communicates in writing with the owner with
30 regard to the property that would otherwise be unclaimed under
31

1 this subsection at the address to which communications
2 regarding the other relationship regularly are sent; ~~or~~
3 ~~(f) Received first class mail from the banking or~~
4 ~~financial organization or a subsidiary of such banking or~~
5 ~~financial organization, which was not returned as~~
6 ~~undeliverable, in the ordinary course of business at the~~
7 ~~address reflected in the banking or financial organization's~~
8 ~~records.~~

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

11 717.107 Funds owing under life insurance policies.--

12 (1) Funds held or owing under any life or endowment
13 insurance policy or annuity contract which has matured or
14 terminated are presumed unclaimed if unclaimed for more than 5
15 years after the funds became due and payable as established
16 from the records of the insurance company holding or owing the
17 funds, but property described in paragraph (3)(b) is presumed
18 unclaimed if such property is not claimed for more than 2
19 years. The amount presumed unclaimed shall include any amount
20 due and payable under s. 627.4615.

21 Section 113. Section 717.109, Florida Statutes, is
22 amended to read:

23 717.109 Refunds held by business associations.--Except
24 ~~as to the extent~~ otherwise provided ~~ordered by law the court~~
25 ~~or administrative agency~~, any sum that a business association
26 has been ordered to refund by a court or administrative agency
27 which has been unclaimed by the owner for more than 1 year
28 after it became payable in accordance with the final
29 determination or order providing for the refund, regardless of
30 whether the final determination or order requires any person
31

1 entitled to a refund to make a claim for it, is presumed
2 unclaimed.

3 Section 114. Section 717.116, Florida Statutes, is
4 amended to read:

5 717.116 Contents of safe-deposit box or other
6 safekeeping repository.--All tangible and intangible property
7 held by a banking or financial organization in a safe-deposit
8 box or any other safekeeping repository in this state in the
9 ordinary course of the holder's business, and proceeds
10 resulting from the sale of the property permitted by law, that
11 has not been claimed by the owner for more than 3 years after
12 the lease or rental period on the box or other repository has
13 expired are presumed unclaimed.

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

16 717.117 Report of unclaimed property.--

17 (1) Every person holding funds or other property,
18 tangible or intangible, presumed unclaimed and subject to
19 custody as unclaimed property under this chapter shall report
20 to the department on such forms as the department may
21 prescribe by rule. In lieu of forms, a report identifying 25
22 or more different apparent owners must be submitted by the
23 holder ~~may submit the required information~~ via electronic
24 medium as the department may prescribe by rule. The report
25 must include:

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

1 (b) For unclaimed funds which have a value of \$50 or
2 more held or owing under any life or endowment insurance
3 policy or annuity contract, the full name, taxpayer
4 identification number or social security number, date of
5 birth, if known, and last known address of the insured or
6 annuitant and of the beneficiary according to records of the
7 insurance company holding or owing the funds.

8 (c) For all tangible property held in a safe-deposit
9 box or other safekeeping repository, a description of the
10 property and the place where the property is held and may be
11 inspected by the department, and any amounts owing to the
12 holder. Contents of a safe-deposit box or other safekeeping
13 repository which consist of documents or writings of a private
14 nature and which have little or no apparent value shall not be
15 presumed unclaimed.

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

20 (e) The date the property became payable, demandable,
21 or returnable, and the date of the last transaction with the
22 apparent owner with respect to the property.

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

28 (g) Such other information as the department may
29 prescribe by rule as necessary for the administration of this
30 chapter.

31

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

4 (3) The report must be filed before May 1 of each
5 year. Such report shall apply to the preceding calendar year.
6 ~~If such report is not filed on or before the applicable filing~~
7 ~~date, the holder shall pay to~~ The department may impose and
8 collect a penalty of \$10 per day up to a maximum of for each
9 ~~day the report is delinquent, but such penalty shall not~~
10 exceed \$500 for the failure to timely report or the failure to
11 include in a report information required by this chapter. The
12 penalty shall be remitted to the department within 30 days
13 after the date of the notification to the holder that the
14 penalty is due and owing. As necessary for proper
15 administration of this chapter, the department may waive any
16 penalty due with appropriate justification. On written request
17 by any person required to file a report and upon a showing of
18 good cause, the department may postpone the reporting date.
19 The department must provide information contained in a report
20 filed with the department to any person requesting a copy of
21 the report or information contained in a report, to the extent
22 the information requested is not confidential, within 90 days
23 after the report has been processed and added to the unclaimed
24 property data base subsequent to a determination that the
25 report is accurate and that the reported property is the same
26 as the remitted property.

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

29 (a) When an owner's account becomes inactive, the
30 holder shall conduct at least one search for the apparent
31 owner using due diligence. For purposes of this section,

1 ~~except for banks, credit unions, and state or federal savings~~
2 ~~associations,~~ an account is inactive if 2 years have
3 transpired after the last owner-initiated account activity, if
4 2 years have transpired after the expiration date on the
5 instrument or contract, or if 2 years have transpired since
6 first-class mail has been returned as undeliverable. ~~With~~
7 ~~respect to banks, credit unions, and state or federal savings~~
8 ~~associations, an account is inactive if 2 years have~~
9 ~~transpired after the last owner initiated account activity and~~
10 ~~first class mail has been returned as undeliverable or 2 years~~
11 ~~after the expiration date on the instrument or contract and~~
12 ~~first class mail has been returned as undeliverable.~~

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

18 ~~(c)2-~~ Within 30 days after receiving updated address
19 information, the holder shall provide notice by telephone or
20 first-class mail to the current address notifying the apparent
21 owner that the holder is in possession of property which is
22 presumed unclaimed and may be remitted to the department. The
23 notice shall also provide the apparent owner with the address
24 or the telephone number of an office where the apparent owner
25 may claim the property or reestablish the inactive account.

26 (d) The account shall be presumed unclaimed if the
27 holder is not able to contact the apparent owner by telephone,
28 the first-class mail notice is returned to the holder as
29 undeliverable, or the apparent owner does not contact the
30 holder in response to the first-class mail notice.

31

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

3 (7)(a) This section does ~~shall~~ not apply to the
4 unclaimed patronage refunds as provided for by contract or
5 through bylaw provisions of entities organized under chapter
6 425.

7 (b) This section does not apply to intangible property
8 held, issued, or owing by a business association subject to
9 the jurisdiction of the United States Surface Transportation
10 Board or its successor federal agency if the apparent owner of
11 such intangible property is a business association. The holder
12 of such property does not have any obligation to report, to
13 pay, or to deliver such property to the department.

14 Section 116. Section 717.118, Florida Statutes, is
15 amended to read:

16 717.118 Notification of apparent owners ~~Notice and~~
17 ~~publication of lists~~ of unclaimed property.--

18 (1) It is specifically recognized that the state has
19 an obligation to make an effort to notify owners of unclaimed
20 property in a cost-effective manner. In order to provide all
21 the citizens of this state an effective and efficient program
22 for the recovery of unclaimed property, the department shall
23 use cost-effective means to make at least one active attempt
24 to notify owners of unclaimed property accounts valued at more
25 than \$100 with a reported address or taxpayer identification
26 number ~~the existence of unclaimed property held by the~~
27 ~~department~~. Such active attempt to notify ~~locate~~ apparent
28 owners shall include any attempt by the department to directly
29 contact the owner. Other means of notification, such as
30 publication of the names of owners in the newspaper, on
31 television, on the Internet, or through other promotional

1 efforts and items in which the department does not directly
2 attempt to contact the owner are expressly declared to be
3 passive attempts. Nothing in this subsection precludes other
4 agencies or entities of state government from notifying owners
5 of the existence of unclaimed property or attempting to notify
6 ~~locate~~ apparent owners of unclaimed property.

7 (2) ~~The following notification requirements shall~~
8 ~~apply:~~

9 (a) ~~Notifications that are published or televised may~~
10 ~~consist of the names of apparent owners of unclaimed property,~~
11 ~~and information regarding recovery of unclaimed property from~~
12 ~~the department. Such notification may be televised or~~
13 ~~published in the county in which the last known address of the~~
14 ~~apparent owner is located or, if the address is unknown, in~~
15 ~~the county in which the holder has its principal place of~~
16 ~~business. Published notifications may be in accordance with s.~~
17 ~~50.011.~~

18 (b) Notification provided directly to individual
19 apparent owners shall consist of a description of the property
20 and information regarding recovery of unclaimed property from
21 the department.

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

24 (3)(4) This section is not applicable to sums payable
25 on traveler's checks, money orders, and other written
26 instruments presumed unclaimed under s. 717.104.

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

29 717.119 Payment or delivery of unclaimed property.--

30 (5) All intangible and tangible property held in a
31 safe-deposit box or any other safekeeping repository reported

1 under s. 717.117 shall not be delivered to the department
2 until 120 days after the report due date. The delivery of the
3 property, through the United States mail or any other carrier,
4 shall be insured by the holder at an amount equal to the
5 estimated value of the property. Each package shall be clearly
6 marked on the outside "Deliver Unopened." A holder's
7 safe-deposit box contents shall be delivered to the department
8 in a single shipment. In lieu of a single shipment, holders
9 may provide the department with a single detailed shipping
10 schedule that includes package tracking information for all
11 packages being sent pursuant to this section.

12 (a) Holders may remit the value of cash and coins
13 found in unclaimed safe-deposit boxes to the department by
14 cashier's check or by electronic funds transfer, unless the
15 cash or coins have a value above face value. The department
16 shall identify by rule those cash and coin items having a
17 numismatic value. Cash and coin items identified as having a
18 numismatic value shall be remitted to the department in their
19 original form.

20 (b) Any firearm or ammunition found in an unclaimed
21 safe-deposit box or any other safekeeping repository shall be
22 delivered by the holder to a law enforcement agency for
23 disposal. However, the department is authorized to make a
24 reasonable attempt to ascertain the historical value to
25 collectors of any firearm that has been delivered to the
26 department. Any firearm appearing to have historical value to
27 collectors may be sold by the department pursuant to s.
28 717.122 to a person having a federal firearms license. Any
29 firearm which is not sold pursuant to s. 717.122 shall be
30 delivered by the department to a law enforcement agency in
31 this state for disposal. The department shall not be

1 administratively, civilly, or criminally liable for any
2 firearm delivered by the department to a law enforcement
3 agency in this state for disposal.

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

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

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

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

24 717.1201 Custody by state; holder relieved from
25 liability; reimbursement of holder paying claim; reclaiming
26 for owner; defense of holder; payment of safe-deposit box or
27 repository charges.--

28 (2) Any holder who has paid money to the department
29 pursuant to this chapter may make payment to any person
30 appearing to ~~the holder to~~ be entitled to payment and, upon
31 filing ~~proof of payment and~~ proof that the payee is ~~was~~

1 entitled thereto, the department shall forthwith repay
2 ~~reimburse~~ the holder ~~for the payment~~ without deduction of any
3 fee or other charges. If repayment ~~reimbursement~~ is sought for
4 a payment made on a negotiable instrument, including a
5 traveler's check or money order, the holder must be repaid
6 ~~reimbursed~~ under this subsection upon filing proof that the
7 instrument was duly presented and that the payee is ~~payment~~
8 ~~was made to a person who appeared to the holder to be~~ entitled
9 to payment. The holder shall be repaid ~~reimbursed~~ for payment
10 made under this subsection even if the payment was made to a
11 person whose claim was barred under s. 717.129(1).

12 Section 119. Subsections (1) and (3) of section
13 717.122, Florida Statutes, are amended, and subsection (5) is
14 added to that section, to read:

15 717.122 Public sale of unclaimed property.--

16 (1) Except as provided in subsection (2), the
17 department after the receipt of unclaimed property shall sell
18 it to the highest bidder at public sale on the Internet or at
19 a specified physical location wherever in the judgment of the
20 department the most favorable market for the property involved
21 exists. The department may decline the highest bid and reoffer
22 the property for sale if in the judgment of the department the
23 bid is insufficient. The department shall have the discretion
24 to withhold from sale any unclaimed property that the
25 department deems to be of benefit to the people of the state.
26 If in the judgment of the department the probable cost of sale
27 exceeds the value of the property, it need not be offered for
28 sale and may be disposed of as the department determines
29 appropriate. Any sale at a specified physical location held
30 under this section must be preceded by a single publication of
31 notice, at least 3 weeks in advance of sale, in a newspaper of

1 general circulation in the county in which the property is to
2 be sold. The department shall proportionately deduct auction
3 fees, preparation costs, and expenses from the amount posted
4 to the owner's account when safe-deposit box contents are
5 sold. No action or proceeding may be maintained against the
6 department for or on account of any decision to decline the
7 highest bid or withhold any unclaimed property from sale.

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

21 (5) The sale of unclaimed tangible personal property
22 is not subject to tax under chapter 212 when such property is
23 sold by or on behalf of the department pursuant to this
24 section.

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

27 717.123 Deposit of funds.--

28 (1) All funds received under this chapter, including
29 the proceeds from the sale of unclaimed property under s.
30 717.122, shall forthwith be deposited by the department in the
31 Unclaimed Property Trust Fund. The department shall retain,

1 from funds received under this chapter, an amount not
2 exceeding ~~\$15.58~~ million from which the department shall make
3 prompt payment of claims allowed by the department and shall
4 pay the costs incurred by the department in administering and
5 enforcing this chapter. All remaining funds received by the
6 department under this chapter shall be deposited by the
7 department into the State School Fund.

8 Section 121. Section 717.124, Florida Statutes, is
9 amended to read:

10 717.124 Unclaimed property claims ~~Filing of claim with~~
11 ~~department.~~--

12 (1) Any person, excluding another state, claiming an
13 interest in any property paid or delivered to the department
14 under this chapter may file with the department a claim on a
15 form prescribed by the department and verified by the claimant
16 or the claimant's representative. The claimant's
17 representative must be an attorney licensed to practice law in
18 this state, a licensed Florida-certified public accountant, or
19 a private investigator licensed under chapter 493. The
20 claimant's representative must be registered with the
21 department under this chapter. The claimant, or the claimant's
22 representative, shall provide the department with a legible
23 copy of a valid driver's license of the claimant at the time
24 the original claim form is filed. If the claimant has not been
25 issued a valid driver's license at the time the original claim
26 form is filed, the department shall be provided with a legible
27 copy of a photographic identification of the claimant issued
28 by the United States or a foreign nation, a state or territory
29 of the United States or foreign nation, or a political
30 subdivision or agency thereof. In lieu of photographic
31 identification, a notarized sworn statement by the claimant

1 may be provided which affirms the claimant's identity and
2 states the claimant's full name and address. Any claim filed
3 without the required identification or the sworn statement
4 with the original claim form and the original power of
5 attorney, if applicable, is void.

6 (a) Within 90 days after receipt of a claim, the
7 department may return any claim that provides for the receipt
8 of fees and costs greater than that permitted under this
9 chapter or that contains any apparent errors or omissions. The
10 department may also request that the claimant or the
11 claimant's representative provide additional information. The
12 department shall retain a copy or electronic image of the
13 claim.

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

19 (c) Within 90 days after receipt of the claim, or the
20 response of the claimant or the claimant's representative to
21 the department's request for additional information, whichever
22 is later, the department shall determine each claim ~~within 90~~
23 ~~days after it is filed.~~ Such determination shall contain a
24 notice of rights provided by ss. 120.569 and 120.57. The
25 90-day period shall be extended by 60 days if the department
26 has good cause to need additional time or if the unclaimed
27 property:

28 1. Is owned by a person who has been a debtor in
29 bankruptcy;

30 2. Was reported with an address outside of the United
31 States;

1 3. Is being claimed by a person outside of the United
2 States; or

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

6 (d) The department shall deny any claim under which
7 the claimant's representative has refused to authorize the
8 department to reduce the fees and costs to the maximum
9 permitted under this chapter.

10 (2) A claim for a cashier's check or a stock
11 certificate without the original instrument may require an
12 indemnity bond equal to the value of the claim to be provided
13 prior to issue of the stock or payment of the claim by the
14 department.

15 (3) The department may require an affidavit swearing
16 to the authenticity of the claim, lack of documentation, and
17 an agreement to allow the department to provide the name and
18 address of the claimant to subsequent claimants coming forward
19 with substantiated proof to claim the account. This shall
20 apply to claims equal to or less than \$250. The exclusive
21 remedy of a subsequent claimant to the property shall be
22 against the person who received the property from the
23 department.

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

30 ~~(b)(5)(a)~~ If an owner authorizes an attorney licensed
31 to practice law in this state, Florida-certified public

1 accountant, or private investigator licensed under chapter
2 493, and registered with the department under this chapter,
3 ~~investigative agency which is duly licensed to do business in~~
4 ~~this state~~ to claim the unclaimed property on the owner's
5 behalf, the department is authorized to make distribution of
6 the property or money in accordance with such power of
7 attorney. The original power of attorney must be executed by
8 the owner and must be filed with the department.

9 (c)(b)1. Payments of approved claims for unclaimed
10 cash accounts shall be made to the owner after deducting any
11 fees and costs authorized pursuant to a written power of
12 attorney. The contents of a safe-deposit box shall be
13 delivered directly to the claimant notwithstanding any
14 agreement to the contrary.

15 2. Payments of fees and costs authorized pursuant to a
16 written power of attorney for approved ~~cash~~ claims shall be
17 made or issued forwarded to the law firm employer of the
18 designated attorney licensed to practice law in this state,
19 the public accountancy firm employer of the licensed
20 Florida-certified public accountant, or the designated
21 employing private investigative agency licensed by this state.
22 Such payments shall ~~may~~ be made by electronic funds transfer
23 and may be made on such periodic schedule as the department
24 may define by rule, provided the payment intervals do not
25 exceed 31 days. Payment made to an attorney licensed in this
26 state, a Florida-certified public accountant, or a private
27 investigator licensed under chapter 493, operating
28 individually or as a sole practitioner, shall be to the
29 attorney, certified public accountant, or private
30 investigator.

31

1 ~~3. Payments of approved claims for unclaimed~~
2 ~~securities and other intangible ownership interests made to an~~
3 ~~attorney, Florida certified public accountant, or private~~
4 ~~investigative agency shall be promptly deposited into a trust~~
5 ~~or escrow account which is regularly maintained by the~~
6 ~~attorney, Florida certified public accountant, or the private~~
7 ~~investigative agency in a financial institution authorized to~~
8 ~~accept such deposits and located in this state.~~

9 ~~(c) Distribution of unclaimed property by the~~
10 ~~attorney, Florida certified public accountant, or private~~
11 ~~investigative agency to the claimant shall be made within 10~~
12 ~~days following final credit of the deposit into the trust or~~
13 ~~escrow account at the financial institution, unless a party to~~
14 ~~the agreement protests in writing such distribution before it~~
15 ~~is made.~~

16 ~~(5)(6)~~ The department shall not be administratively,
17 civilly, or criminally liable for any property or funds
18 distributed pursuant to this section, provided such
19 distribution is made in good faith.

20 (6) This section does not supersede the licensing
21 requirements of chapter 493.

22 Section 122. Section 717.12403, Florida Statutes, is
23 created to read:

24 717.12403 Unclaimed demand, savings, or checking
25 account in a financial institution held in the name of more
26 than one person.--

27 (1)(a) If an unclaimed demand, savings, or checking
28 account in a financial institution is reported as an "and"
29 account in the name of two or more persons who are not
30 beneficiaries, it is presumed that each person must claim the
31 account in order for the claim to be approved by the

1 department. This presumption may be rebutted by showing that
2 entitlement to the account has been transferred to another
3 person or by clear and convincing evidence demonstrating that
4 the account should have been reported by the financial
5 institution as an "or" account.

6 (b) If an unclaimed demand, savings, or checking
7 account in a financial institution is reported as an "and"
8 account and one of the persons on the account is deceased, it
9 is presumed that the account is a survivorship account. This
10 presumption may be rebutted by showing that entitlement to the
11 account has been transferred to another person or by clear and
12 convincing evidence demonstrating that the account is not a
13 survivorship account.

14 (2) If an unclaimed demand, savings, or checking
15 account in a financial institution is reported as an "or"
16 account in the name of two or more persons who are not
17 beneficiaries, it is presumed that either person listed on the
18 account may claim the entire amount held in the account. This
19 presumption may be rebutted by showing that entitlement to the
20 account has been transferred to another person or by clear and
21 convincing evidence demonstrating that the account should have
22 been reported by the financial institution as an "and"
23 account.

24 (3) If an unclaimed demand, savings, or checking
25 account in a financial institution is reported in the name of
26 two or more persons who are not beneficiaries without
27 identifying whether the account is an "and" account or an "or"
28 account, it is presumed that the account is an "or" account.
29 This presumption may be rebutted by showing that entitlement
30 to the account has been transferred to another person or by
31 clear and convincing evidence demonstrating that the account

1 should have been reported by the financial institution as an
2 "and" account.

3 (4) The department shall be deemed to have made a
4 distribution in good faith if the department remits funds
5 consistent with this section.

6 Section 123. Section 717.12404, Florida Statutes, is
7 created to read:

8 717.12404 Claims on behalf of a business entity or
9 trust.--

10 (1) Claims on behalf of an active or dissolved
11 corporation, for which the last annual report is not available
12 from the Department of State through the Internet, must be
13 accompanied by a microfiche copy of the records on file with
14 the Department of State or, if the corporation has not made a
15 corporate filing with the Department of State, an
16 authenticated copy of the last corporate filing identifying
17 the officers and directors from the appropriate authorized
18 official of the state of incorporation. A claim on behalf of a
19 corporation must be made by an officer or director identified
20 on the last corporate filing.

21 (2) Claims on behalf of a dissolved corporation, a
22 business entity other than an active corporation, or a trust
23 must include a legible copy of a valid driver's license of the
24 person acting on behalf of the dissolved corporation, business
25 entity other than an active corporation, or trust. If the
26 person has not been issued a valid driver's license, the
27 department shall be provided with a legible copy of a
28 photographic identification of the person issued by the United
29 States or a foreign nation, or a political subdivision or
30 agency thereof. In lieu of photographic identification, a
31 notarized sworn statement by the person may be provided which

1 affirms the person's identity and states the person's full
2 name and address. Any claim filed without the required
3 identification or the sworn statement with the original claim
4 form and the original power of attorney, if applicable, is
5 void.

6 Section 124. Section 717.12405, Florida Statutes, is
7 created to read:

8 717.12405 Claims by estates.--An estate or any person
9 representing an estate or acting on behalf of an estate may
10 claim unclaimed property only after the heir or legatee of the
11 decedent entitled to the property has been located. Any
12 estate, or any person representing an estate or acting on
13 behalf of an estate, that receives unclaimed property before
14 the heir or legatee of the decedent entitled to the property
15 has been located, is personally liable for the unclaimed
16 property and must immediately return the full amount of the
17 unclaimed property or the value thereof to the department in
18 accordance with s. 717.1341.

19 Section 125. Subsection (1) of section 717.1241,
20 Florida Statutes, is amended, and subsection (3) is added to
21 said section, to read:

22 717.1241 Conflicting claims.--

23 (1) ~~When ownership has been established but~~
24 ~~conflicting claims have been received by the department, the~~
25 ~~property shall be remitted as follows, notwithstanding the~~
26 ~~withdrawal of a claim to the:~~

27 (a) As between an owner and an owner's representative:

28 1. To the person submitting the first claim that is
29 complete or made complete received by the department; or
30
31

1 2. If an owner's claim and an owner's representative's
2 claim are received by the department on the same day and both
3 claims are complete, to the owner;

4 (b) As between two or more owner's representatives, to
5 the owner's representative who has submitted the first claim
6 that is complete or made complete ~~Owner if an owner's claim~~
7 ~~and an owner's representative's claim are received by the~~
8 ~~department on the same day; or~~

9 (c) As between two or more owner's representatives
10 whose claims were complete on the same day, to the owner's
11 representative who has agreed to receive the lowest fee. If
12 two or more owner's representatives whose claims were complete
13 on the same day are charging the same lowest fee, the fees
14 shall be divided equally between the owner's representatives
15 ~~Owner's representative who has the earliest dated contract~~
16 ~~with the owner if claims by two or more owner's~~
17 ~~representatives are received by the department on the same~~
18 ~~day.~~

19 (3) A claim is complete when entitlement to the
20 unclaimed property has been established.

21 Section 126. Subsection (1) of section 717.1242,
22 Florida Statutes, is amended to read:

23 717.1242 Restatement of jurisdiction of the circuit
24 court sitting in probate and the department.--

25 (1) It is and has been the intent of the Legislature
26 that, pursuant to s. 26.012(2)(b), circuit courts have
27 jurisdiction of proceedings relating to the settlement of the
28 estates of decedents and other jurisdiction usually pertaining
29 to courts of probate. It is and has been the intent of the
30 Legislature that, pursuant to s. 717.124, the department
31 determines the merits of claims for property paid or delivered

1 to the department under this chapter. Consistent with this
2 legislative intent, any estate or beneficiary, as defined in
3 s. 731.201, heir of an estate seeking to obtain property paid
4 or delivered to the department under this chapter must file a
5 claim with the department as provided in s. 717.124.

6 Section 127. Section 717.1244, Florida Statutes, is
7 created to read:

8 717.1244 Determinations of unclaimed property
9 claims.--In rendering a determination regarding the merits of
10 an unclaimed property claim, the department shall rely on the
11 applicable statutory, regulatory, common, and case law. Agency
12 statements applying the statutory, regulatory, common, and
13 case law to unclaimed property claims are not agency
14 statements subject to s. 120.56(4).

15 Section 128. Section 717.126, Florida Statutes, is
16 amended to read:

17 717.126 Administrative hearing; burden of proof; proof
18 of entitlement; venue.--

19 (1) Any person aggrieved by a decision of the
20 department may petition for a hearing as provided in ss.
21 120.569 and 120.57. In any proceeding for determination of a
22 claim to property paid or delivered to the department under
23 this chapter, the burden shall be upon the claimant to
24 establish entitlement to the property by a preponderance of
25 evidence. Having the same name as that reported to the
26 department is not sufficient, in the absence of other
27 evidence, to prove entitlement to unclaimed property.

28 (2) Unless otherwise agreed by the parties, venue
29 shall be in Tallahassee, Leon County, Florida. However, upon
30 the request of a party, the presiding officer may, in the
31

1 presiding officer's discretion, conduct the hearing at an
2 alternative remote video location.

3 Section 129. Section 717.1261, Florida Statutes, is
4 created to read:

5 717.1261 Death certificates.--Any person who claims
6 entitlement to unclaimed property by means of the death of one
7 or more persons shall file a copy of the death certificate of
8 the decedent or decedents that has been certified as being
9 authentic by the issuing governmental agency.

10 Section 130. Section 717.1262, Florida Statutes, is
11 created to read:

12 717.1262 Court documents.--Any person who claims
13 entitlement to unclaimed property by reason of a court
14 document shall file a certified copy of the court document
15 with the department.

16 Section 131. Subsections (1) and (6) of section
17 717.1301, Florida Statutes, are amended to read:

18 717.1301 Investigations; examinations; subpoenas.--

19 (1) The department may make investigations and
20 examinations within or outside this state of claims, reports,
21 and other records ~~within or outside this state~~ as it deems
22 necessary to administer and enforce the provisions of this
23 chapter. In such investigations and examinations the
24 department may administer oaths, examine witnesses, issue
25 subpoenas, and otherwise gather evidence. The department may
26 request any person who has not filed a report under s. 717.117
27 to file a verified report stating whether or not the person is
28 holding any unclaimed property reportable or deliverable under
29 this chapter.

30 (6) If an investigation or an examination of the
31 records of any person results in the disclosure of property

1 reportable and deliverable under this chapter, the department
2 may assess the cost of investigation or the examination
3 against the holder at the rate of \$100 per 8-hour day for each
4 ~~per~~ investigator or examiner. Such fee shall be calculated on
5 an hourly basis and shall be rounded to the nearest hour. The
6 person shall also pay the travel expense and per diem
7 subsistence allowance provided for state employees in s.
8 112.061. The person shall not be required to pay a per diem
9 fee and expenses of an examination or investigation which
10 shall consume more than 30 worker-days in any one year unless
11 such examination or investigation is due to fraudulent
12 practices of the person, in which case such person shall be
13 required to pay the entire cost regardless of time consumed.
14 The fee shall be remitted to the department within 30 days
15 after the date of the notification that the fee is due and
16 owing. Any person who fails to pay the fee within 30 days
17 after the date of the notification that the fee is due and
18 owing shall pay to the department interest at the rate of 12
19 percent per annum on such fee from the date of the
20 notification.

21 Section 132. Subsection (2) of section 717.1315,
22 Florida Statutes, is amended to read:

23 717.1315 Retention of records by owner's
24 representative.--

25 (2) An owner's representative, operating at two or
26 more places of business in this state, may maintain the books,
27 accounts, and records of all such offices at any one of such
28 offices, or at any other office maintained by such owner's
29 representative, upon the filing of a written notice with the
30 department designating in the written notice the office at
31 which such records are maintained.

1 (3) ~~An However, the~~ owner's representative shall make
2 all books, accounts, and records available at a convenient
3 location in this state upon request of the department.

4 Section 133. Subsection (2) of section 717.132,
5 Florida Statutes, is amended to read:

6 717.132 Enforcement; cease and desist orders;
7 administrative fines.--

8 (2) In addition to any other powers conferred upon it
9 to enforce and administer the provisions of this chapter, the
10 department may issue and serve upon a person an order to cease
11 and desist and to take corrective action whenever the
12 department finds that such person is violating, has violated,
13 or is about to violate any provision of this chapter, any rule
14 or order promulgated under this chapter, or any written
15 agreement entered into with the department. For purposes of
16 this subsection, the term "corrective action" includes
17 refunding excessive charges, requiring a person to return
18 unclaimed property, requiring a holder to remit unclaimed
19 property, and requiring a holder to correct a report that
20 contains errors or omissions. Any such order shall contain a
21 notice of rights provided by ss. 120.569 and 120.57.

22 Section 134. Section 717.1322, Florida Statutes, is
23 created to read:

24 717.1322 Administrative enforcement.--

25 (1) The following acts are violations of this chapter
26 and constitute grounds for an administrative enforcement
27 action by the department in accordance with the requirements
28 of chapter 120:

29 (a) Failure to comply with any provision of this
30 chapter, any rule or order adopted under this chapter, or any
31 written agreement entered into with the department.

1 **(b) Fraud, misrepresentation, deceit, or gross**
2 **negligence in any matter within the scope of this chapter.**

3 **(c) Fraudulent misrepresentation, circumvention, or**
4 **concealment of any matter required to be stated or furnished**
5 **to an owner or apparent owner under this chapter, regardless**
6 **of reliance by or damage to the owner or apparent owner.**

7 **(d) Willful imposition of illegal or excessive charges**
8 **in any unclaimed property transaction.**

9 **(e) False, deceptive, or misleading solicitation or**
10 **advertising within the scope of this chapter.**

11 **(f) Failure to maintain, preserve, and keep available**
12 **for examination all books, accounts, or other documents**
13 **required by this chapter, by any rule or order adopted under**
14 **this chapter, or by any agreement entered into with the**
15 **department under this chapter.**

16 **(g) Refusal to permit inspection of books and records**
17 **in an investigation or examination by the department or**
18 **refusal to comply with a subpoena issued by the department**
19 **under this chapter.**

20 **(h) Criminal conduct in the course of a person's**
21 **business.**

22 **(i) Failure to timely pay any fine imposed or assessed**
23 **under this chapter or any rule adopted under this chapter.**

24 **(j) For compensation or gain or in the expectation of**
25 **compensation or gain, the filing of a claim for unclaimed**
26 **property owned by another unless such person is a registered**
27 **attorney licensed to practice law in this state, registered**
28 **public accountant certified in this state, or a registered**
29 **private investigator licensed under chapter 493. This**
30 **subsection does not apply to a person who has been granted a**
31 **durable power of attorney to convey and receive all of the**

1 real and personal property of the owner, is the
2 court-appointed guardian of the owner, has been employed as an
3 attorney or qualified representative to contest the
4 department's denial of a claim, has been employed as an
5 attorney or qualified representative to contest the
6 department's denial of a claim, or has been employed as an
7 attorney to probate the estate of the owner or an heir or
8 legatee of the owner.

9 (k) Failure to authorize the release of records in the
10 possession of a third party after being requested to do so by
11 the department regarding a pending examination or
12 investigation.

13 (l) Receipt or solicitation of consideration to be
14 paid in advance of the approval of a claim under this chapter.

15 (2) Upon a finding by the department that any person
16 has committed any of the acts set forth in subsection (1), the
17 department may enter an order:

18 (a) Revoking or suspending a registration previously
19 granted under this chapter;

20 (b) Placing a registrant or an applicant for a
21 registration on probation for a period of time and subject to
22 such conditions as the department may specify;

23 (c) Placing permanent restrictions or conditions upon
24 issuance or maintenance of a registration under this chapter;

25 (d) Issuing a reprimand;

26 (e) Imposing an administrative fine not to exceed
27 \$2,000 for each such act; or

28 (f) Prohibiting any person from being a director,
29 officer, agent, employee, or ultimate equitable owner of a
30 10-percent or greater interest in an employer of a registrant.

31

1 (3) A registrant is subject to the disciplinary
2 actions specified in subsection (2) for violations of
3 subsection (1) by an agent or employee of the registrant's
4 employer if the registrant knew or should have known that such
5 agent or employee was violating any provision of this chapter.

6 (4)(a) The department shall adopt, by rule, and
7 periodically review the disciplinary guidelines applicable to
8 each ground for disciplinary action which may be imposed by
9 the department under this chapter.

10 (b) The disciplinary guidelines shall specify a
11 meaningful range of designated penalties based upon the
12 severity or repetition of specific offenses, or both. It is
13 the legislative intent that minor violations be distinguished
14 from more serious violations; that such guidelines consider
15 the amount of the claim involved, the complexity of locating
16 the owner, the steps taken to ensure the accuracy of the claim
17 by the person filing the claim, the acts of commission and
18 omission of the ultimate owners in establishing themselves as
19 rightful owners of the funds, the acts of commission or
20 omission of the agent or employee of an employer in the filing
21 of the claim, the actual knowledge of the agent, employee,
22 employer, or owner in the filing of the claim, the departure,
23 if any, by the agent or employee from the internal controls
24 and procedures established by the employer with regard to the
25 filing of a claim, the number of defective claims previously
26 filed by the agent, employee, employer, or owner; that such
27 guidelines provide reasonable and meaningful notice of likely
28 penalties that may be imposed for proscribed conduct; and that
29 such penalties be consistently applied by the department.

30 (c) A specific finding of mitigating or aggravating
31 circumstances shall allow the department to impose a penalty

1 other than that provided for in such guidelines. The
2 department shall adopt by rule disciplinary guidelines to
3 designate possible mitigating and aggravating circumstances
4 and the variation and range of penalties permitted for such
5 circumstances. Such mitigating and aggravating circumstances
6 shall also provide for consideration of, and be consistent
7 with, the legislative intent expressed in paragraph (b).

8 (d) In any proceeding brought under this chapter, the
9 administrative law judge, in recommending penalties in any
10 recommended order, shall follow the penalty guidelines
11 established by the department and shall state in writing any
12 mitigating or aggravating circumstances upon which the
13 recommended penalty is based.

14 (5) The department may seek any appropriate civil
15 legal remedy available to it by filing a civil action in a
16 court of competent jurisdiction against any person who has,
17 directly or through an owner's representative, wrongfully
18 submitted a claim as the ultimate owner of property and
19 improperly received funds from the department in violation of
20 this chapter.

21 Section 135. Section 717.1331, Florida Statutes, is
22 created to read:

23 717.1331 Actions against holders.--The department may
24 initiate, or cause to be initiated, an action against a holder
25 to recover unclaimed property. If the department prevails in a
26 civil or administrative action to recover unclaimed property
27 initiated by or on behalf of the department, the holder shall
28 be ordered to pay the department reasonable costs and
29 attorney's fees.

30 Section 136. Section 717.1333, Florida Statutes, is
31 created to read:

1 717.1333 Evidence; audit reports; examiner's
2 worksheets, investigative reports, other related
3 documents.--In any proceeding involving a holder under ss.
4 120.569 and 120.57 in which an auditor, examiner, or
5 investigator acting under authority of this chapter is
6 available for cross-examination, any official written report,
7 worksheet, or other related paper, or copy thereof, compiled,
8 prepared, drafted, or otherwise made or received by the
9 auditor, examiner, or investigator, after being duly
10 authenticated by the auditor, examiner, or investigator, may
11 be admitted as competent evidence upon the oath of the
12 auditor, examiner, or investigator that the report, worksheet,
13 or related paper was prepared or received as a result of an
14 audit, examination, or investigation of the books and records
15 of the person audited, examined, or investigated, or the agent
16 thereof.

17 Section 137. Subsection (5) is added to section
18 717.134, Florida Statutes, to read:

19 717.134 Penalties and interest.--

20 (5) The department may impose and collect a penalty of
21 \$500 per day up to a maximum of \$5,000 and 25 percent of the
22 value of property willfully not reported with all of the
23 information required by this chapter. Upon a holder's showing
24 of good cause, the department may waive the penalty or any
25 portion thereof. If the holder acted in good faith and without
26 negligence, the department shall waive the penalty provided
27 herein.

28 Section 138. Section 717.1341, Florida Statutes, is
29 created to read:

30 717.1341 Invalid claims, recovery of property,
31 interest and penalties.--

1 (1)(a) No person shall receive unclaimed property that
2 the person is not entitled to receive. Any person who
3 receives, or assists another person to receive, unclaimed
4 property that the person is not entitled to receive is
5 strictly, jointly, personally, and severally liable for the
6 unclaimed property and shall immediately return the property,
7 or the reasonable value of the property if the property has
8 been damaged or disposed of, to the department plus interest
9 at the rate set annually in accordance with s. 55.03(1).

10 Assisting another person to receive unclaimed property
11 includes executing a claim form on the person's behalf.

12 (b)1. In the case of stocks or bonds which have been
13 sold, the proceeds from the sale shall be returned to the
14 department plus any dividends or interest received thereon
15 plus an amount equal to the brokerage fee plus interest at a
16 rate set annually in accordance with s. 55.03(1) on the
17 proceeds from the sale of the stocks or bonds, the dividends
18 or interest received, and the brokerage fee.

19 2. In the case of stocks or bonds which have not been
20 sold, the stocks or bonds and any dividends or interest
21 received thereon shall be returned to the department, together
22 with interest on the dividends or interest received, at a rate
23 set annually in accordance with s. 55.03(1) of the value of
24 the property.

25 (2) The department may maintain a civil or
26 administrative action:

27 (a) To recover unclaimed property that was paid or
28 remitted to a person who was not entitled to the unclaimed
29 property or to offset amounts owed to the department against
30 amounts owed to an owner representative;

31

1 (b) Against a person who assists another person in
2 receiving, or attempting to receive, unclaimed property that
3 the person is not entitled to receive; or

4 (c) Against a person who attempts to receive unclaimed
5 property that the person is not entitled to receive.

6 (3) If the department prevails in any proceeding under
7 subsection (2), a fine not to exceed three times the value of
8 the property received or sought to be received may be imposed
9 on any person who knowingly, or with reckless disregard or
10 deliberate ignorance of the truth, violated this section. If
11 the department prevails in a civil or administrative
12 proceeding under subsection (2), the person who violated
13 subsection (1) shall be ordered to pay the department
14 reasonable costs and attorney's fees.

15 (4) No person shall knowingly file, knowingly conspire
16 to file, or knowingly assist in filing, a claim for unclaimed
17 property the person is not entitled to receive. Any person who
18 violates this subsection regarding unclaimed property of an
19 aggregate value:

20 (a) Greater than \$50,000, is guilty of a felony of the
21 first degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084;

23 (b) Greater than \$10,000 up to \$50,000, is guilty of a
24 felony of the second degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084;

26 (c) Greater than \$250 up to \$10,000, is guilty of a
27 felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084;

29 (d) Greater than \$50 up to \$250, is guilty of a
30 misdemeanor of the first degree, punishable as provided in s.
31 775.082 or s. 775.083; or

1 (e) Up to \$50, is guilty of a misdemeanor of the
2 second degree, punishable as provided in s. 775.082 or s.
3 775.083.

4 Section 139. Section 717.135, Florida Statutes, is
5 amended to read:

6 717.135 Agreement to recover ~~locate~~ reported property
7 in the custody of the department.--

8 (1) All agreements between a claimant's ~~an owner's~~
9 representative and a claimant ~~an owner~~ for compensation to
10 recover or assist in the recovery of property reported to the
11 department under s. 717.117 shall be in 11-point type or
12 greater and either:

13 (a) Limit the fees and costs for services ~~for each~~
14 ~~owner contract to \$25 for all contracts relating to unclaimed~~
15 ~~property with a dollar value below \$250. For all contracts~~
16 ~~relating to unclaimed property with a dollar value of \$250 and~~
17 ~~above, fees shall be limited to 20 15 percent per unclaimed ~~on~~~~
18 ~~property account held by the department for 24 months or less~~
19 ~~and 25 percent on property held by the department for more~~
20 ~~than 24 months. Fees and costs for cash accounts shall be~~
21 ~~based on the value of the property at the time the agreement~~
22 ~~for recovery is signed by the claimant ~~apparent owner~~. Fees~~
23 ~~and costs for accounts containing securities or other~~
24 ~~intangible ownership interests, which securities or interests~~
25 ~~are not converted to cash, shall be based on the purchase~~
26 ~~price of the security as quoted on a national exchange or~~
27 ~~other market on which the property ~~ownership interest~~ is~~
28 ~~regularly traded at the time the securities or other ownership~~
29 ~~interest is remitted to the claimant ~~owner~~ or the claimant's~~
30 ~~owner's representative. Fees and costs for tangible property~~
31 ~~or safe-deposit box accounts shall be based on the value of~~

1 the tangible property or contents of the safe-deposit box at
2 the time the ownership interest is transferred or remitted to
3 the claimant ~~owner or the owner's representative~~; or

4 (b) Disclose, on such form as the department shall
5 prescribe by rule, that the property is held by the Bureau of
6 Unclaimed Property of the Department of Financial Services
7 pursuant to this chapter, the person or name of the entity
8 that held the property prior to the property becoming
9 unclaimed, the date of the holder's last contact with the
10 owner, if known, and the approximate value of the property,
11 and identify which of the following categories of unclaimed
12 property the owner's representative is seeking to recover, as
13 reported by the holder:

- 14 1. Cash accounts.
- 15 2. Stale dated checks.
- 16 3. Life insurance or annuity contract assets.
- 17 4. Utility deposits.
- 18 5. Securities or other interests in business
19 associations.
- 20 6. Wages.
- 21 7. Accounts receivable.
- 22 8. Contents of safe-deposit boxes.

23
24 Such disclosure shall be on a page signed and dated by the
25 person asserting entitlement to the unclaimed property.

26 However, paragraph (1)(a) or (b) this section shall not apply
27 if probate proceedings must be initiated on behalf of the
28 claimant for an estate that has never been probated ~~to~~
29 ~~contracts made in connection with guardianship proceedings or~~
30 ~~the probate of an estate.~~

31

1 (2)(a) Agreements for recovery of cash accounts shall
2 state the value of the unclaimed property, the unclaimed
3 property account number, and the percentage dollar value of
4 the unclaimed property account to be paid to the claimant
5 ~~owner~~ and shall also state the percentage dollar value of
6 compensation to be paid to the claimant's owner's
7 representative.

8 (b) Agreements for recovery of accounts containing
9 securities, safe-deposit box accounts, other intangible or
10 tangible ownership interests, or other types of accounts,
11 except cash accounts, shall state the unclaimed property
12 account number, the number of shares of stock, if applicable,
13 the approximate value of the unclaimed property, and the
14 percentage value of compensation to be paid to the claimant's
15 ~~owner's~~ representative.

16 (c) All disclosures and agreements shall include the
17 name, address, and professional license number of the
18 claimant's owner's representative, and, if available, the
19 taxpayer identification number or social security number,
20 address, and telephone number of the claimant owner. The
21 original of all such disclosures and agreements to pay
22 compensation shall be signed and dated by the claimant owner
23 of the property and shall be filed ~~by the owner's~~
24 ~~representative~~ with the claim form.

25 (d) All agreements between a claimant's representative
26 and a claimant, who is a natural person, trust, or a dissolved
27 corporation, for compensation to recover or assist in the
28 recovery of property reported to the department under s.
29 717.117 must use the following form on 8 and 1/2 inch by 11
30 inch paper or on 8 and 1/2 inch by 14 inch paper with all of
31 the text on one side of the paper and with the other side of

1 the paper left blank; except that, at the option of the owner
2 representative, the department disclosure form may be placed
3 on the reverse side of the agreement. The agreement must be
4 accurately completed and executed. No other writing or
5 information shall be printed on the agreement. The title of
6 the agreement shall be in bold 14-point type and underlined.
7 The rest of the agreement shall be in 10-point type or
8 greater. All unclaimed property accounts claimed must be
9 identified on the agreement. The agreement must state:

10 RECOVERY AGREEMENT

11 \$ _____ = APPROXIMATE DOLLAR VALUE OF UNCLAIMED PROPERTY
12 NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF
13 APPLICABLE): _____
14 PROPERTY ACCOUNT NUMBERS: _____
15 _____ PERCENT TO BE PAID AS COMPENSATION TO THE CLAIMANT'S
16 REPRESENTATIVE
17 \$ _____ = NET AMOUNT TO BE PAID TO CLAIMANT
18 \$ _____ = AMOUNT TO BE PAID TO CLAIMANT'S REPRESENTATIVE

19
20
21 THIS AGREEMENT is between:

22 _____
23 (hereinafter, CLAIMANT)

24 and

25 _____
26 (hereinafter, CLAIMANT'S REPRESENTATIVE)

27 who agree to the following:

28 (1) As consideration for the research efforts in
29 locating and identifying assets due to the CLAIMANT and for
30 assistance in procuring payment of the assets to the CLAIMANT,
31 the CLAIMANT authorizes the government to pay to the
CLAIMANT'S REPRESENTATIVE a fee of either:

1 (a) _____ percent of all assets recovered, or
 2 (b) A flat fee of \$ _____ to recover the unclaimed
 3 property account identified above.

4
 5 NO FEES ARE TO BE PAID IN ADVANCE.

6 (2) I have read this agreement and in consideration
 7 thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a
 8 limited power of attorney to demand, collect, recover and
 9 receive the above compensation from the government in
 10 accordance with this agreement.

11 (3) IT IS HEREBY ACKNOWLEDGED BY ALL PARTIES TO THIS
 12 AGREEMENT THAT UNLESS THESE ASSETS ARE RECOVERED, NO FEES, NO
 13 COSTS OR CHARGES ARE DUE TO THE CLAIMANT'S REPRESENTATIVE, ITS
 14 AGENTS OR ATTORNEYS, AND THIS AGREEMENT WILL BECOME NULL AND
 15 VOID.

16 Original Signature of CLAIMANT: _____

17 DATE: _____

18 CLAIMANT'S Social Security Number or FEID number: _____

19 Make the CLAIMANT'S check payable to: _____

20 Mail check to this address: _____

21 _____

22 The CLAIMANT'S telephone number is: _____

23 Original Signature of CLAIMANT'S REPRESENTATIVE: _____

24 FEID Number of CLAIMANT'S REPRESENTATIVE: _____

25 DATE: _____

26 Address of CLAIMANT'S REPRESENTATIVE: _____

27 _____

28 Telephone number of CLAIMANT'S REPRESENTATIVE: _____

29 Professional license number of CLAIMANT'S REPRESENTATIVE: _____

30 _____

31

1 (e) All fees, whether expressed as a percentage or as
2 a flat fee, are subject to the limitations and requirements of
3 subsection (1).

4 (3) As used in this section, "claimant" means the
5 person on whose behalf a claim is filed.

6 (4) This section does not supersede the licensing
7 requirements of chapter 493.

8 Section 140. Section 717.1351, Florida Statutes, is
9 created to read:

10 717.1351 Acquisition of unclaimed property.--

11 (1) A person desiring to acquire ownership or
12 entitlement of property reported to the department under s.
13 717.117 must be an attorney licensed to practice law in this
14 state, a licensed Florida-certified public accountant, a
15 private investigator licensed under chapter 493, or an
16 employer of a licensed private investigator which employer
17 possesses a Class "A" license under chapter 493 and must be
18 registered with the department under this chapter.

19 (2) All contracts to acquire ownership or entitlement
20 of unclaimed property from the person or persons entitled to
21 the unclaimed property must be in 10-point type or greater and
22 must:

23 (a) Have a purchase price that discounts the value of
24 the unclaimed property at the time the agreement is executed
25 by the seller at no greater than 20 percent per account held
26 by the department; or

27 (b) Disclose, on such form as the department shall
28 prescribe by rule, that the property is held by the Bureau of
29 Unclaimed Property of the Department of Financial Services
30 pursuant to this chapter, the person or name of the entity
31 that held the property prior to the property becoming

1 unclaimed, the date of the holder's last contact with the
2 owner, if known, and the approximate value of the property,
3 and identify which of the following categories of unclaimed
4 property buyer is seeking to purchase as reported by the
5 holder:

6 1. Cash accounts.

7 2. Stale dated checks.

8 3. Life insurance or annuity contract assets.

9 4. Utility deposits.

10 5. Securities or other interests in business
11 associations.

12 6. Wages.

13 7. Accounts receivable.

14 8. Contents of safe-deposit boxes.

15
16 Such disclosure shall be on a page signed and dated by the
17 seller of the unclaimed property.

18 (3) The originals of all such disclosures and
19 agreements to transfer ownership or entitlement to unclaimed
20 property shall be signed and dated by the seller and shall be
21 filed with the claim form. The claimant shall provide the
22 department with a legible copy of a valid driver's license of
23 the seller at the time the original claim form is filed. If a
24 seller has not been issued a valid driver's license at the
25 time the original claim form is filed, the department shall be
26 provided with a legible copy of a photographic identification
27 of the seller issued by the United States or a foreign nation,
28 a state or territory of the United States or foreign nation,
29 or a political subdivision or agency thereof. In lieu of
30 photographic identification, a notarized sworn statement by
31 the seller may be provided which affirms the seller's identity

1 and states the seller's full name and address. If a claim is
2 filed without the required identification or the sworn
3 statement with the original claim form and the original
4 agreement to acquire ownership or entitlement to the unclaimed
5 property, the claim is void.

6 (4) Any contract to acquire ownership or entitlement
7 of unclaimed property from the person or persons entitled to
8 the unclaimed property must provide for the purchase price to
9 be remitted to the seller or sellers within 10 days after the
10 execution of the contract by the seller or sellers. The
11 contract must specify the unclaimed property account number,
12 the value of the unclaimed property account, and the number of
13 shares of stock, if applicable. Proof of payment by check must
14 be filed with the department with the claim.

15 (5) All agreements to purchase unclaimed property from
16 an owner, who is a natural person, a trust, or a dissolved
17 corporation must use the following form on 8 and 1/2 inch by
18 11 inch paper or on 8 and 1/2 inch by 14 inch paper with all
19 of the text on one side of the paper and with the other side
20 of the paper left blank; except that, at the option of the
21 owner representative, the department disclosure form may be
22 placed on the reverse side of the agreement. The agreement
23 must be accurately completed and executed. No other writing or
24 information shall be printed on the agreement. The title of
25 the agreement shall be in bold 14-point type and underlined.
26 The rest of the agreement shall be in 10-point type or
27 greater. All unclaimed property accounts to be purchased must
28 be identified on the agreement. The agreement must state:

29 PURCHASE AGREEMENT

30 \$ _____ = APPROXIMATE DOLLAR VALUE OF THE UNCLAIMED
31 PROPERTY

ENROLLED

2004 Legislature

CS for CS for SB 2994, 2nd Engrossed

1 PROPERTY ACCOUNT NUMBER(S):
2 NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF
3 APPLICABLE):
4 PERCENT OF UNCLAIMED PROPERTY TO BE PAID TO THE
5 BUYER
6 \$ = NET AMOUNT TO BE PAID TO OWNER
7 \$ = AMOUNT TO BE PAID TO BUYER
8 THIS AGREEMENT is between:
9 _____
10 (hereinafter, OWNER)
11 and
12 (hereinafter, BUYER)
13 who agree that the OWNER transfers to the BUYER for a purchase
14 price of \$ all rights to the above identified unclaimed
15 property accounts.
16 Original Signature of OWNER: DATE:
17 OWNER'S Social Security Number or FEID number:
18 Within 10 days after the execution of this Purchase Agreement
19 by the Owner, Buyer shall remit the OWNER'S check payable to:
20 _____
21 Mail check to this address:
22 _____
23 _____
24 The OWNER'S telephone number is:
25 Original Signature of BUYER:
26 FEID Number of BUYER: DATE:
27 Address of BUYER:
28 _____
29 Telephone number of BUYER:
30 Professional license number of BUYER:
31 _____

1 (6) This section does not supersede the licensing
2 requirements of chapter 493.

3 Section 141. Section 717.1400, Florida Statutes, is
4 created to read:

5 717.1400 Registration.--

6 (1) In order to file claims as a claimant's
7 representative, acquire ownership or entitlement to unclaimed
8 property, receive a distribution of fees and costs from the
9 department, and obtain unclaimed property dollar amounts, the
10 number of reported shares of stock, and the last four digits
11 of social security numbers held by the department, a private
12 investigator holding a Class "C" individual license under
13 chapter 493 must register with the department on such form as
14 the department shall prescribe by rule, and verified by the
15 applicant. To register with the department, a private
16 investigator must provide:

17 (a) A legible copy of the applicant's Class "A"
18 business license under chapter 493 or that of the applicant's
19 employer which holds a Class "A" business license under
20 chapter 493.

21 (b) A legible copy of the applicant's Class "C"
22 individual license issued under chapter 493.

23 (c) The applicant's business address and telephone
24 number.

25 (d) The names of agents or employees, if any, who are
26 designated to act on behalf of the private investigator
27 together with a legible copy of their photo-identification
28 issued by an agency of the United States, or a state, or a
29 political subdivision thereof.

30 (e) Sufficient information to enable the department to
31 disburse funds by electronic funds transfer.

1 (f) The tax identification number of the private
2 investigator's employer which holds a Class "A" business
3 license under chapter 493.

4 (2) In order to file claims as a claimant's
5 representative, acquire ownership or entitlement to unclaimed
6 property, receive a distribution of fees and costs from the
7 department, and obtain unclaimed property dollar amounts, the
8 number of reported shares of stock, and the last four digits
9 of social security numbers held by the department, a
10 Florida-certified public accountant must register with the
11 department on such form as the department shall prescribe by
12 rule, and must be verified by the applicant. To register with
13 the department a Florida-certified public accountant must
14 provide:

15 (a) The applicant's Florida Board of Accountancy
16 number.

17 (b) A legible copy of the applicant's current driver's
18 license showing the full name and current address of such
19 person. If a current driver's license is not available,
20 another form of identification showing full name and current
21 address of such person or persons shall be filed with the
22 department.

23 (c) The applicant's business address and telephone
24 number.

25 (d) The names of agents or employees, if any, who are
26 designated to act on behalf of the Florida-certified public
27 accountant together with a legible copy of their
28 photo-identification issued by an agency of the United States,
29 or a state, or a political subdivision thereof.

30 (e) Sufficient information to enable the department to
31 disburse funds by electronic funds transfer.

1 (f) The tax identification number of the accountant's
2 public accounting firm employer.

3 (3) In order to file claims as a claimant's
4 representative, acquire ownership or entitlement to unclaimed
5 property, receive a distribution of fees and costs from the
6 department, and obtain unclaimed property dollar amounts, the
7 number of reported shares of stock, and the last four digits
8 of social security numbers held by the department, an attorney
9 licensed to practice in this state must register with the
10 department on such form as the department shall prescribe by
11 rule, and must be verified by the applicant. To register with
12 the department, such attorney must provide:

13 (a) The applicant's Florida Bar number.

14 (b) A legible copy of the applicant's current driver's
15 license showing the full name and current address of such
16 person. If a current driver's license is not available,
17 another form of identification showing full name and current
18 address of such person or persons shall be filed with the
19 department.

20 (c) The applicant's business address and telephone
21 number.

22 (d) The names of agents or employees, if any, who are
23 designated to act on behalf of the attorney, together with a
24 legible copy of their photo-identification issued by an agency
25 of the United States, or a state, or a political subdivision
26 thereof.

27 (e) Sufficient information to enable the department to
28 disburse funds by electronic funds transfer.

29 (f) The tax identification number of the lawyer's
30 employer law firm.

31

1 (4) Information and documents already on file with the
2 department prior to the effective date of this provision need
3 not be resubmitted in order to complete the registration.

4 (5) If a material change in the status of a
5 registration occurs, a registrant must, within 30 days,
6 provide the department with the updated documentation and
7 information in writing. Material changes include, but are not
8 limited to; a designated agent or employee ceasing to act on
9 behalf of the designating person, a surrender, suspension, or
10 revocation of a license, or a license renewal.

11 (a) If a designated agent or employee ceases to act on
12 behalf of the person who has designated the agent or employee
13 to act on such person's behalf, the designating person must,
14 within 30 days, inform the Bureau of Unclaimed Property in
15 writing of the termination of agency or employment.

16 (b) If a registrant surrenders the registrant's
17 license or the license is suspended or revoked, the registrant
18 must, within 30 days, inform the bureau in writing of the
19 surrender, suspension, or revocation.

20 (c) If a private investigator's Class "C" individual
21 license under chapter 493 or a private investigator's
22 employer's Class "A" business license under chapter 493 is
23 renewed, the private investigator must provide a copy of the
24 renewed license to the department within 30 days after the
25 receipt of the renewed license by the private investigator or
26 the private investigator's employer.

27 (6) A registrant or applicant for registration may not
28 have a name that might lead another person to conclude that
29 the registrant is affiliated or associated with the United
30 States, or an agency thereof, or a state or an agency or
31 political subdivision of a state. The department shall deny an

1 application for registration or revoke a registration if the
2 applicant or registrant has a name that might lead another
3 person to conclude that the applicant or registrant is
4 affiliated or associated with the United States, or an agency
5 thereof, or a state or an agency or political subdivision of a
6 state. Names that might lead another person to conclude that
7 the applicant or registrant is affiliated or associated with
8 the United States, or an agency thereof, or a state or an
9 agency or political subdivision of a state, include, but are
10 not limited to, the words United States, Florida, state,
11 bureau, division, department, or government.

12 Section 142. Subsection (2) of section 212.02, Florida
13 Statutes, is amended to read:

14 212.02 Definitions.--The following terms and phrases
15 when used in this chapter have the meanings ascribed to them
16 in this section, except where the context clearly indicates a
17 different meaning:

18 (2) "Business" means any activity engaged in by any
19 person, or caused to be engaged in by him or her, with the
20 object of private or public gain, benefit, or advantage,
21 either direct or indirect. Except for the sales of any
22 aircraft, boat, mobile home, or motor vehicle, the term
23 "business" shall not be construed in this chapter to include
24 occasional or isolated sales or transactions involving
25 tangible personal property or services by a person who does
26 not hold himself or herself out as engaged in business or
27 sales of unclaimed tangible personal property under s.
28 717.122, but includes other charges for the sale or rental of
29 tangible personal property, sales of services taxable under
30 this chapter, sales of or charges of admission, communication
31 services, all rentals and leases of living quarters, other

1 | than low-rent housing operated under chapter 421, sleeping or
2 | housekeeping accommodations in hotels, apartment houses,
3 | roominghouses, tourist or trailer camps, and all rentals of or
4 | licenses in real property, other than low-rent housing
5 | operated under chapter 421, all leases or rentals of or
6 | licenses in parking lots or garages for motor vehicles,
7 | docking or storage spaces for boats in boat docks or marinas
8 | as defined in this chapter and made subject to a tax imposed
9 | by this chapter. The term "business" shall not be construed in
10 | this chapter to include the leasing, subleasing, or licensing
11 | of real property by one corporation to another if all of the
12 | stock of both such corporations is owned, directly or through
13 | one or more wholly owned subsidiaries, by a common parent
14 | corporation; the property was in use prior to July 1, 1989,
15 | title to the property was transferred after July 1, 1988, and
16 | before July 1, 1989, between members of an affiliated group,
17 | as defined in s. 1504(a) of the Internal Revenue Code of 1986,
18 | which group included both such corporations and there is no
19 | substantial change in the use of the property following the
20 | transfer of title; the leasing, subleasing, or licensing of
21 | the property was required by an unrelated lender as a
22 | condition of providing financing to one or more members of the
23 | affiliated group; and the corporation to which the property is
24 | leased, subleased, or licensed had sales subject to the tax
25 | imposed by this chapter of not less than \$667 million during
26 | the most recent 12-month period ended June 30. Any tax on such
27 | sales, charges, rentals, admissions, or other transactions
28 | made subject to the tax imposed by this chapter shall be
29 | collected by the state, county, municipality, any political
30 | subdivision, agency, bureau, or department, or other state or
31 |

1 | local governmental instrumentality in the same manner as other
2 | dealers, unless specifically exempted by this chapter.

3 | Section 143. Subsection (4) of section 322.142,
4 | Florida Statutes, is amended to read:

5 | 322.142 Color photographic or digital imaged
6 | licenses.--

7 | (4) The department may maintain a film negative or
8 | print file. The department shall maintain a record of the
9 | digital image and signature of the licensees, together with
10 | other data required by the department for identification and
11 | retrieval. Reproductions from the file or digital record shall
12 | be made and issued only for departmental administrative
13 | purposes, for the issuance of duplicate licenses, in response
14 | to law enforcement agency requests, ~~or~~ to the Department of
15 | Revenue pursuant to an interagency agreement to facilitate
16 | service of process in Title IV-D cases, or to the Department
17 | of Financial Services pursuant to an interagency agreement to
18 | facilitate the location of owners of unclaimed property, the
19 | validation of unclaimed property claims, and the
20 | identification of fraudulent or false claims, and are exempt
21 | from the provisions of s. 119.07(1).

22 | Section 144. Paragraph (1) is added to subsection (4)
23 | of section 395.3025, Florida Statutes, and subsection (10) of
24 | that section is amended, to read:

25 | 395.3025 Patient and personnel records; copies;
26 | examination.--

27 | (4) Patient records are confidential and must not be
28 | disclosed without the consent of the person to whom they
29 | pertain, but appropriate disclosure may be made without such
30 | consent to:
31 |

1 (1) The Department of Financial Services, or an agent,
2 employee, or independent contractor of the department who is
3 auditing for unclaimed property pursuant to chapter 717.

4 (10) The home addresses, telephone numbers, social
5 security numbers, and photographs of employees of any licensed
6 facility who provide direct patient care or security services;
7 the home addresses, telephone numbers, social security
8 numbers, photographs, and places of employment of the spouses
9 and children of such persons; and the names and locations of
10 schools and day care facilities attended by the children of
11 such persons are confidential and exempt from s. 119.07(1) and
12 s. 24(a), Art. I of the State Constitution. However, any state
13 or federal agency that is authorized to have access to such
14 information by any provision of law shall be granted such
15 access in the furtherance of its statutory duties,
16 notwithstanding the provisions of this subsection. The
17 Department of Financial Services, or an agent, employee, or
18 independent contractor of the department who is auditing for
19 unclaimed property pursuant to chapter 717, shall be granted
20 access to the name, address, and social security number of any
21 employee owed unclaimed property. This subsection is subject
22 to the Open Government Sunset Review Act of 1995 in accordance
23 with s. 119.15, and shall stand repealed on October 2, 2004,
24 unless reviewed and saved from repeal through reenactment by
25 the Legislature.

26 Section 145. Section 732.103, Florida Statutes, is
27 amended to read:

28 732.103 Share of other heirs.--The part of the
29 intestate estate not passing to the surviving spouse under s.
30 732.102, or the entire intestate estate if there is no
31 surviving spouse, descends as follows:

1 (1) To the lineal descendants of the decedent.

2 (2) If there is no lineal descendant, to the
3 decedent's father and mother equally, or to the survivor of
4 them.

5 (3) If there is none of the foregoing, to the
6 decedent's brothers and sisters and the descendants of
7 deceased brothers and sisters.

8 (4) If there is none of the foregoing, the estate
9 shall be divided, one-half of which shall go to the decedent's
10 paternal, and the other half to the decedent's maternal,
11 kindred in the following order:

12 (a) To the grandfather and grandmother equally, or to
13 the survivor of them.

14 (b) If there is no grandfather or grandmother, to
15 uncles and aunts and descendants of deceased uncles and aunts
16 of the decedent.

17 (c) If there is either no paternal kindred or no
18 maternal kindred, the estate shall go to the other kindred who
19 survive, in the order stated above.

20 (5) If there is no kindred of either part, the whole
21 of the property shall go to the kindred of the last deceased
22 spouse of the decedent as if the deceased spouse had survived
23 the decedent and then died intestate entitled to the estate.

24 (6) If none of the foregoing, and if any of the
25 descendants of the decedent's great-grandparents were
26 holocaust victims as defined in s. 626.9543(3)(b), including
27 such victims in countries cooperating with the discriminatory
28 policies of Nazi Germany then to the lineal descendants of the
29 great grandparents. The court shall allow any such descendent
30 to meet a reasonable, not unduly restrictive, standard of
31 proof to substantiate his or her lineage. This subsection only

1 applies to escheated property and shall cease to be effective
2 for proceedings filed after December 31, 2004.

3 Section 146. Section 627.4554, Florida Statutes, is
4 created to read:

5 627.4554 Annuity investments by seniors.--

6 (1) PURPOSE; CONSTRUCTION.--

7 (a) The purpose of this section is to set forth
8 standards and procedures for recommendations to senior
9 consumers which result in a transaction involving annuity
10 products to appropriately address the insurance needs and
11 financial objectives of senior consumers at the time of the
12 transaction.

13 (b) Nothing in this section shall be construed to
14 create or imply a private cause of action for a violation of
15 this section.

16 (2) APPLICATION.--This section applies to any
17 recommendation to purchase or exchange an annuity made to a
18 senior consumer by an insurance agent, or an insurer where no
19 agent is involved, that results in the purchase or exchange
20 recommended.

21 (3) DEFINITIONS.--For purposes of this section:

22 (a) "Annuity" means a fixed annuity or variable
23 annuity that is individually solicited, whether the product is
24 classified as an individual annuity or a group annuity.

25 (b) "Recommendation" means advice provided by an
26 insurance agent, or an insurer if no insurance agent is
27 involved, to an individual senior consumer which results in a
28 purchase or exchange of an annuity in accordance with that
29 advice.

30 (c) "Senior consumer" means a person 65 years of age
31 or older. In the event of a joint purchase by more than one

1 party, a purchaser is considered to be a senior consumer if
2 any of the parties is age 65 or older.

3 (4) DUTIES OF INSURERS AND INSURANCE AGENTS.--

4 (a) In recommending to a senior consumer the purchase
5 of an annuity or the exchange of an annuity that results in
6 another insurance transaction or series of insurance
7 transactions, an insurance agent, or an insurer if no
8 insurance agent is involved, shall have reasonable grounds for
9 believing that the recommendation is suitable for the senior
10 consumer on the basis of the facts disclosed by the senior
11 consumer as to his or her investments and other insurance
12 products and as to his or her financial situation and needs.

13 (b) Before executing a purchase or exchange of an
14 annuity resulting from a recommendation to a senior consumer,
15 an insurance agent, or an insurer if no insurance agent is
16 involved, shall make reasonable efforts to obtain information
17 concerning the senior consumer's financial status, tax status,
18 and investment objectives and such other information used or
19 considered to be reasonable by the insurance agent, or the
20 insurer if no agent is involved, in making the recommendation.

21 (c)1. Except as provided under subparagraph 2., an
22 insurance agent, or an insurer if no insurance agent is
23 involved, shall not have any obligation to a senior consumer
24 under paragraph (a) related to any recommendation if the
25 senior consumer:

26 a. Refuses to provide relevant information requested
27 by the insurer or insurance agent;

28 b. Decides to enter into an insurance transaction that
29 is not based on a recommendation of the insurer or insurance
30 agent; or

31 c. Fails to provide complete or accurate information.

1 2. An insurer or insurance agent's recommendation
2 subject to subparagraph 1. shall be reasonable under all the
3 circumstances actually known to the insurer or insurance agent
4 at the time of the recommendation.

5 (d)1. An insurer or insurance agent shall ensure that
6 a system to supervise recommendations which is reasonably
7 designed to achieve compliance with this section is
8 established and maintained by complying with subparagraphs 3.,
9 4., and 5., or shall establish and maintain such a system,
10 including, but not limited to:

11 a. Maintaining written procedures.

12 b. Conducting periodic reviews of its records that are
13 reasonably designed to assist in detecting and preventing
14 violations of this section.

15 2. A managing general agent and an insurance agency
16 shall adopt a system established by an insurer to supervise
17 recommendations of its insurance agents which is reasonably
18 designed to achieve compliance with this section or shall
19 establish and maintain such a system, including, but not
20 limited to:

21 a. Maintaining written procedures.

22 b. Conducting periodic reviews of records that are
23 reasonably designed to assist in detecting and preventing
24 violations of this section.

25 3. An insurer may contract with a third party,
26 including a managing general agent or an insurance agency, to
27 establish and maintain a system of supervision as required by
28 subparagraph 1. with respect to insurance agents under
29 contract with or employed by the third party.

30 4. An insurer shall make reasonable inquiry to ensure
31 that such third party contracting under subparagraph 3. is

1 performing the functions required under subparagraph 1. and
2 shall take such action as is reasonable under the
3 circumstances to enforce the contractual obligation to perform
4 the functions. An insurer may comply with its obligation to
5 make reasonable inquiry by:

6 a. Annually obtaining a certification from a third
7 party senior manager who has responsibility for the delegated
8 functions that the manager has a reasonable basis to
9 represent, and does represent, that the third party is
10 performing the required functions.

11 b. Based on reasonable selection criteria,
12 periodically selecting third parties contracting under
13 subparagraph 3. for a review to determine whether the third
14 parties are performing the required functions. The insurer
15 shall perform any procedures necessary to conduct the review
16 which are reasonable under the circumstances.

17 5. An insurer that contracts with a third party
18 pursuant to subparagraph 3. and complies with the requirements
19 specified in subparagraph 4. is deemed to have fulfilled its
20 responsibilities under subparagraph 1.

21 6. An insurer, managing general agent, or insurance
22 agency is not required by subparagraph 1. or subparagraph 2.
23 to:

24 a. Review or provide for review of all transactions
25 solicited by an insurance agent; or

26 b. Include in its system of supervision an insurance
27 agent's recommendations to senior consumers of products other
28 than the annuities offered by the insurer, managing general
29 agent, or insurance agency.

30 7. A managing general agent or insurance agency
31 contracting with an insurer pursuant to subparagraph 3. shall

1 promptly, when requested by the insurer pursuant to
2 subparagraph 4., provide a certification as described in
3 subparagraph 4. or provide a clear statement that the managing
4 general agent or insurance agency is unable to meet the
5 certification criteria.

6 8. A person may not provide a certification under
7 sub-subparagraph 4.a. unless the person is a senior manager
8 with responsibility for the delegated functions and has a
9 reasonable basis for making the certification.

10 (5) MITIGATION OF RESPONSIBILITY.--

11 (a) The office may order an insurer to take reasonably
12 appropriate corrective action for any senior consumer harmed
13 by a violation of this section by the insurer or the insurer's
14 insurance agent.

15 (b) The department may order:

16 1. An insurance agent to take reasonably appropriate
17 corrective action for any senior consumer harmed by a
18 violation of this section by the insurance agent.

19 2. A managing general agency or insurance agency that
20 employs or contracts with an insurance agent to sell or
21 solicit the sale of annuities to senior consumers to take
22 reasonably appropriate corrective action for any senior
23 consumer harmed by a violation of this section by the
24 insurance agent.

25 (c) Any applicable penalty under the Florida Insurance
26 Code for a violation of paragraph (4)(a), paragraph (4)(b), or
27 subparagraph (4)(c)2. may be reduced or eliminated, according
28 to a schedule adopted by the office or the department, as
29 appropriate, if corrective action for the senior consumer was
30 taken promptly after a violation was discovered.

31 (6) RECORDKEEPING.--

1 (a) Insurers, managing general agents, insurance
2 agencies, and insurance agents shall maintain or be able to
3 make available to the department or office, as appropriate,
4 records of the information collected from the senior consumer
5 and other information used in making the recommendations that
6 were the basis for insurance transactions for 5 years after
7 the insurance transaction is completed by the insurer. An
8 insurer is permitted, but shall not be required, to maintain
9 documentation on behalf of an insurance agent.

10 (b) Records required to be maintained by this
11 regulation may be maintained in paper, photographic,
12 microprocess, magnetic, mechanical, or electronic media, or by
13 any process that accurately reproduces the actual document.

14 (7) EXEMPTIONS.--Unless otherwise specifically
15 included, this section does not apply to recommendations
16 involving:

17 (a) Direct-response solicitations where there is no
18 recommendation based on information collected from the senior
19 consumer pursuant to this section.

20 (b) Contracts used to fund:

21 1. An employee pension or welfare benefit plan that is
22 covered by the Employee Retirement and Income Security Act;

23 2. A plan described by Sections 401(a), 401(k),
24 403(b), 408(k), or 408(p) of the Internal Revenue Code of
25 1986, as amended, if established or maintained by an employer;

26 3. A government or church plan defined in Section 414
27 of the Internal Revenue Code of 1986, as amended, a government
28 or church welfare benefit plan, or a deferred compensation
29 plan of a state or local government or tax-exempt organization
30 under Section 457 of the Internal Revenue Code of 1986, as
31 amended;

1 4. A nonqualified deferred compensation arrangement
2 established or maintained by an employer or plan sponsor;

3 5. Settlements of or assumptions of liabilities
4 associated with personal injury litigation or any dispute or
5 claim resolution process; or

6 6. Prepaid funeral contracts.

7 (8) APPLICATION TO VARIABLE ANNUITIES.--Compliance
8 with the National Association of Securities Dealers Conduct
9 Rules in effect on January 1, 2004, shall satisfy the
10 requirements under this section for the recommendation of
11 variable annuities. This section does not limit the
12 department's ability to enforce the provisions of this section
13 with respect to insurance agents, insurance agencies, and
14 managing general agents, or the office's ability to enforce
15 the provisions of this section with respect to insurers.

16 Section 147. Paragraph (h) of subsection (2) of
17 section 20.121, Florida Statutes, is amended to read:

18 20.121 Department of Financial Services.--There is
19 created a Department of Financial Services.

20 (2) DIVISIONS.--The Department of Financial Services
21 shall consist of the following divisions:

22 (h) The Division of Consumer Services, which shall
23 include a Bureau of Funeral and Cemetery Services.

24 1. The Division of Consumer Services shall perform the
25 following functions concerning products or services regulated
26 by the Department of Financial Services or by either office of
27 the Financial Services Commission:

- 28 a. Receive inquiries and complaints from consumers.†
29 b. Prepare and disseminate such information as the
30 department deems appropriate to inform or assist consumers.†
31

1 c. Provide direct assistance and advocacy for
2 consumers who request such assistance or advocacy.

3 d. With respect to apparent or potential violations of
4 law or applicable rules by a person or entity licensed by the
5 department or by either office of the commission, report such
6 apparent or potential violation to the appropriate division of
7 the department or office of the commission, which may take
8 such further action as it deems appropriate.

9 e. Designate an employee of the division as primary
10 contact for consumers on issues relating to sinkholes.

11 2. Any person licensed or issued a certificate of
12 authority by the department or by the Office of Insurance
13 Regulation shall respond, in writing, to the Division of
14 Consumer Services within 20 days after receipt of a written
15 request for information from the division concerning a
16 consumer complaint. The response must address the issues and
17 allegations raised in this complaint. The division may, in its
18 discretion, impose an administrative penalty for failure to
19 comply with this subparagraph in an amount up to \$2,500 per
20 violation upon any entity licensed by the department or the
21 Office of Insurance Regulation and \$250 for the first
22 violation, \$500 for the second violation and up to \$1,000 per
23 violation thereafter upon any individual licensed by the
24 department or the Office of Insurance Regulation.

25 3. The department may adopt rules to implement the
26 provisions of this paragraph.

27 4. The powers, duties, and responsibilities expressed
28 or granted in this paragraph shall not limit the powers,
29 duties, and responsibilities of the Department of Financial
30 Services, the Financial Services Commission, the Office of
31

1 Insurance Regulation, or the Office of Financial Regulation
2 set forth elsewhere in the Florida Statutes.

3 Section 148. Paragraph (a) of subsection (7) of
4 section 440.107, Florida Statutes, is amended to read:

5 440.107 Department powers to enforce employer
6 compliance with coverage requirements.--

7 (7)(a) Whenever the department determines that an
8 employer who is required to secure the payment to his or her
9 employees of the compensation provided for by this chapter has
10 failed to secure the payment of workers' compensation required
11 by this chapter or to produce the required business records
12 under subsection (5) within 5 business days after receipt of
13 the written request of the department, such failure shall be
14 deemed an immediate serious danger to public health, safety,
15 or welfare sufficient to justify service by the department of
16 a stop-work order on the employer, requiring the cessation of
17 all business operations. If the department makes such a
18 determination, the department shall issue a stop-work order
19 within 72 hours. The order shall take effect when served upon
20 the employer or, for a particular employer work site, when
21 served at that work site. In addition to serving a stop-work
22 order at a particular work site which shall be effective
23 immediately, the department shall immediately proceed with
24 service upon the employer which shall be effective upon all
25 employer work sites in the state for which the employer is not
26 in compliance. A stop-work order may be served with regard to
27 an employer's work site by posting a copy of the stop-work
28 order in a conspicuous location at the work site. The order
29 shall remain in effect until the department issues an order
30 releasing the stop-work order upon a finding that the employer
31 has come into compliance with the coverage requirements of

1 | this chapter and has paid any penalty assessed under this
2 | section. The department may issue an order of conditional
3 | release from a stop-work order to an employer upon a finding
4 | that the employer has complied with coverage requirements of
5 | this chapter and has agreed to remit periodic payments of the
6 | penalty pursuant to a payment agreement schedule with the
7 | department. If an order of conditional release is issued,
8 | failure by the employer to meet any term or condition of such
9 | penalty payment agreement shall result in the immediate
10 | reinstatement of the stop-work order and the entire unpaid
11 | balance of the penalty shall become immediately due. The
12 | department may require an employer who is found to have failed
13 | to comply with the coverage requirements of s. 440.38 to file
14 | with the department, as a condition of release from a
15 | stop-work order, periodic reports for a probationary period
16 | that shall not exceed 2 years that demonstrate the employer's
17 | continued compliance with this chapter. The department shall
18 | by rule specify the reports required and the time for filing
19 | under this subsection.

20 | Section 149. Section 501.137, Florida Statutes, is
21 | amended to read:

22 | 501.137 Mortgage lenders; tax and insurance payments
23 | from escrow accounts; duties.--

24 | (1) Every lender of money, whether a natural person or
25 | an artificial entity, whose loans are secured by a mortgage on
26 | real estate located within the state and who receives funds
27 | incidental thereto or in connection therewith for the payment
28 | of property taxes or hazard insurance premiums when ~~the such~~
29 | funds are held in escrow by or on behalf of the lender, shall
30 | promptly pay ~~the such~~ taxes or insurance premiums when ~~the~~
31 | ~~such~~ taxes or premiums become due and adequate escrow funds

1 are deposited, so that the maximum tax discount available may
2 be obtained with regard to the taxable property and so that
3 insurance coverage on the property does not lapse.

4 (2) If an escrow account for ~~the such~~ taxes or
5 insurance premiums is deficient, the lender shall notify the
6 property owner within 15 days after the lender receives the
7 notification of taxes due from the county tax collector or
8 receives the notification from the insurer that a premium is
9 due.

10 (3)(a) If the lender, as a result of neglect, fails to
11 pay any tax or insurance premium when the tax or premium is
12 due and there are sufficient escrow funds on deposit to pay
13 the tax or premium, and if the property owner suffers a loss
14 as a result of ~~this such~~ failure, then the lender ~~is will be~~
15 liable for ~~the such~~ loss; except, however, that with respect
16 to any loss which would otherwise have been insured, the
17 extent of ~~the such~~ liability shall not exceed the coverage
18 limits of any insurance policy which has lapsed.

19 (b) If the lender violates paragraph (a) and the
20 premium payment is not more than 90 days overdue, the insurer
21 shall reinstate the insurance policy, retroactive to the date
22 of cancellation, and the lender shall reimburse the property
23 owner for any penalty or fees imposed by the insurer and paid
24 by the property owner for purposes of reinstating the policy.

25 (c) If the lender violates paragraph (a) and the
26 premium payment is more than 90 days overdue or if the insurer
27 refuses to reinstate the insurance policy, the lender shall
28 pay the difference between the cost of the previous insurance
29 policy and a new, comparable insurance policy for a period of
30 2 years.

31

1 (4) At the expiration of the annual accounting period,
2 the lender shall issue to the property owner an annual
3 statement of the escrow account.

4 Section 150. Paragraph (c) of subsection (3) of
5 section 624.610, Florida Statutes, is amended to read:

6 624.610 Reinsurance.--

7 (3)

8 (c)1. Credit must be allowed when the reinsurance is
9 ceded to an assuming insurer that maintains a trust fund in a
10 qualified United States financial institution, as defined in
11 paragraph (5)(b), for the payment of the valid claims of its
12 United States ceding insurers and their assigns and successors
13 in interest. To enable the office to determine the sufficiency
14 of the trust fund, the assuming insurer shall report annually
15 to the office information substantially the same as that
16 required to be reported on the NAIC Annual Statement form by
17 authorized insurers. The assuming insurer shall submit to
18 examination of its books and records by the office and bear
19 the expense of examination.

20 2.a. Credit for reinsurance must not be granted under
21 this subsection unless the form of the trust and any
22 amendments to the trust have been approved by:

23 (I) The insurance regulator of the state in which the
24 trust is domiciled; or

25 (II) The insurance regulator of another state who,
26 pursuant to the terms of the trust instrument, has accepted
27 principal regulatory oversight of the trust.

28 b. The form of the trust and any trust amendments must
29 be filed with the insurance regulator of every state in which
30 the ceding insurer beneficiaries of the trust are domiciled.
31 The trust instrument must provide that contested claims are

1 valid and enforceable upon the final order of any court of
2 competent jurisdiction in the United States. The trust must
3 vest legal title to its assets in its trustees for the benefit
4 of the assuming insurer's United States ceding insurers and
5 their assigns and successors in interest. The trust and the
6 assuming insurer are subject to examination as determined by
7 the insurance regulator.

8 c. The trust remains in effect for as long as the
9 assuming insurer has outstanding obligations due under the
10 reinsurance agreements subject to the trust. No later than
11 February 28 of each year, the trustee of the trust shall
12 report to the insurance regulator in writing the balance of
13 the trust and list the trust's investments at the preceding
14 year end, and shall certify that the trust will not expire
15 prior to the following December 31.

16 3. The following requirements apply to the following
17 categories of assuming insurer:

18 a. The trust fund for a single assuming insurer
19 consists of funds in trust in an amount not less than the
20 assuming insurer's liabilities attributable to reinsurance
21 ceded by United States ceding insurers, and, in addition, the
22 assuming insurer shall maintain a trusteed surplus of not less
23 than \$20 million. Not less than 50 percent of the funds in the
24 trust covering the assuming insurer's liabilities attributable
25 to reinsurance ceded by United States ceding insurers and
26 trusteed surplus shall consist of assets of a quality
27 substantially similar to that required in part II of chapter
28 625. Clean, irrevocable, unconditional, and evergreen letters
29 of credit, issued or confirmed by a qualified United States
30 financial institution, as defined in paragraph (5)(a),
31 effective no later than December 31 of the year for which the

1 filing is made and in the possession of the trust on or before
2 the filing date of its annual statement, may be used to fund
3 the remainder of the trust and trusted surplus.

4 b.(I) In the case of a group including incorporated
5 and individual unincorporated underwriters:

6 (A) For reinsurance ceded under reinsurance agreements
7 with an inception, amendment, or renewal date on or after
8 August 1, 1995, the trust consists of a trustee account in an
9 amount not less than the group's several liabilities
10 attributable to business ceded by United States domiciled
11 ceding insurers to any member of the group;

12 (B) For reinsurance ceded under reinsurance agreements
13 with an inception date on or before July 31, 1995, and not
14 amended or renewed after that date, notwithstanding the other
15 provisions of this section, the trust consists of a trustee
16 account in an amount not less than the group's several
17 insurance and reinsurance liabilities attributable to business
18 written in the United States; and

19 (C) In addition to these trusts, the group shall
20 maintain in trust a trustee surplus of which \$100 million
21 must be held jointly for the benefit of the United States
22 domiciled ceding insurers of any member of the group for all
23 years of account.

24 (II) The incorporated members of the group must not be
25 engaged in any business other than underwriting of a member of
26 the group, and are subject to the same level of regulation and
27 solvency control by the group's domiciliary regulator as the
28 unincorporated members.

29 (III) Within 90 days after its financial statements
30 are due to be filed with the group's domiciliary regulator,
31 the group shall provide to the insurance regulator an annual

1 certification by the group's domiciliary regulator of the
2 solvency of each underwriter member or, if a certification is
3 unavailable, financial statements, prepared by independent
4 public accountants, of each underwriter member of the group.

5 Section 151. Section 625.081, Florida Statutes, is
6 amended to read:

7 625.081 Reserve for health insurance.--For all health
8 insurance policies, the insurer shall maintain an active life
9 reserve which places a sound value on the insurer's
10 liabilities under such policies; is not less than the reserve
11 according to appropriate standards set forth in rules issued
12 by the commission; and, with the exception of credit
13 disability insurance, in no event, is less in the aggregate
14 than the pro rata gross unearned premiums for such policies.

15 Section 152. Paragraphs (a), (e), and (f) of
16 subsection (5) and subsection (13) of section 625.121, Florida
17 Statutes, are amended, and paragraphs (k) and (l) are added to
18 subsection (5) of that section, to read:

19 625.121 Standard Valuation Law; life insurance.--

20 (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND
21 CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD
22 NONFORFEITURE LAW.--Except as otherwise provided in paragraph
23 (h) and subsections (6), (11), and (14), the minimum standard
24 for the valuation of all such policies and contracts issued on
25 or after the operative date of s. 627.476 (Standard
26 Nonforfeiture Law for Life Insurance) shall be the
27 commissioners' reserve valuation method defined in subsections
28 (7), (11), and (14); 5 percent interest for group annuity and
29 pure endowment contracts and 3.5 percent interest for all
30 other such policies and contracts, or in the case of life
31 insurance policies and contracts, other than annuity and pure

1 | endowment contracts, issued on or after July 1, 1973, 4
2 | percent interest for such policies issued prior to October 1,
3 | 1979, and 4.5 percent interest for such policies issued on or
4 | after October 1, 1979; and the following tables:

5 | (a) For all ordinary policies of life insurance issued
6 | on the standard basis, excluding any disability and accidental
7 | death benefits in such policies:

8 | 1. For policies issued prior to the operative date of
9 | s. 627.476(9), the commissioners' 1958 Standard Ordinary
10 | Mortality Table; except that, for any category of such
11 | policies issued on female risks, modified net premiums and
12 | present values, referred to in subsection (7), may be
13 | calculated according to an age not more than 6 years younger
14 | than the actual age of the insured. ~~;~~ ~~and~~

15 | 2. For policies issued on or after the operative date
16 | of s. 627.476(9), the commissioners' 1980 Standard Ordinary
17 | Mortality Table or, at the election of the insurer for any one
18 | or more specified plans of life insurance, the commissioners'
19 | 1980 Standard Ordinary Mortality Table with Ten-Year Select
20 | Mortality Factors.

21 | 3. For policies issued on or after July 1, 2004,
22 | ordinary mortality tables, adopted after 1980 by the National
23 | Association of Insurance Commissioners, adopted by rule by the
24 | commission for use in determining the minimum standard of
25 | valuation for such policies.

26 | (e) For total and permanent disability benefits in or
27 | supplementary to ordinary policies or contracts:

28 | 1. For policies or contracts issued on or after
29 | January 1, 1966, the tables of period 2 disablement rates and
30 | the 1930 to 1950 termination rates of the 1952 disability
31 |

1 study of the Society of Actuaries, with due regard to the type
2 of benefit;

3 2. For policies or contracts issued on or after
4 January 1, 1961, and prior to January 1, 1966, either those
5 tables or, at the option of the insurer, the class three
6 disability table (1926); ~~and~~

7 3. For policies issued prior to January 1, 1961, the
8 class three disability table (1926); ~~and-~~

9 4. For policies or contracts issued on or after July
10 1, 2004, tables of disablement rates and termination rates
11 adopted after 1980 by the National Association of Insurance
12 Commissioners, adopted by rule by the commission for use in
13 determining the minimum standard of valuation for those
14 policies or contracts.

15
16 Any such table for active lives shall be combined with a
17 mortality table permitted for calculating the reserves for
18 life insurance policies.

19 (f) For accidental death benefits in or supplementary
20 to policies:

21 1. For policies issued on or after January 1, 1966,
22 the 1959 Accidental Death Benefits Table;

23 2. For policies issued on or after January 1, 1961,
24 and prior to January 1, 1966, either that table or, at the
25 option of the insurer, the Intercompany Double Indemnity
26 Mortality Table; ~~and~~

27 3. For policies issued prior to January 1, 1961, the
28 Intercompany Double Indemnity Mortality Table; ~~and-~~

29 4. For policies issued on or after July 1, 2004,
30 tables of accidental death benefits adopted after 1980 by the
31 National Association of Insurance Commissioners, adopted by

1 rule by the commission for use in determining the minimum
2 standard of valuation for those policies.

3
4 Either table shall be combined with a mortality table
5 permitted for calculating the reserves for life insurance
6 policies.

7 (k) For individual annuity and pure endowment
8 contracts issued on or after July 1, 2004, excluding any
9 disability and accidental death benefits purchased under those
10 contracts, individual annuity mortality tables adopted after
11 1980 by the National Association of Insurance Commissioners,
12 adopted by rule by the commission for use in determining the
13 minimum standard of valuation for those contracts.

14 (l) For all annuities and pure endowments purchased on
15 or after July 1, 2004, under group annuity and pure endowment
16 contracts, excluding any disability and accidental death
17 benefits purchased under those contracts, group annuity
18 mortality tables adopted after 1980 by the National
19 Association of Insurance Commissioners, adopted by rule by the
20 commission for use in determining the minimum standard of
21 valuation for those contracts.

22 (13) ~~APPLICABILITY TO CREDIT LIFE AND DISABILITY~~
23 ~~INSURANCE POLICIES.--~~

24 (a) For policies issued prior to January 1, 2004:

25 1. The minimum reserve for single-premium credit
26 disability insurance, monthly premium credit life insurance
27 and monthly premium credit disability insurance shall be the
28 unearned gross premium.

29 2. As to single-premium credit life insurance
30 policies, the insurer shall establish and maintain reserves
31 that are not less than the value, at the valuation date, of

1 the risk for the unexpired portion of the period for which the
2 premium has been paid as computed on the basis of the
3 commissioners' 1980 Standard Ordinary Mortality Table and 3.5
4 percent interest. At the discretion of the office, the insurer
5 may make a reasonable assumption as to the ages at which net
6 premiums are to be determined. In lieu of the foregoing basis,
7 reserves based upon unearned gross premiums may be used at the
8 option of the insurer.

9 (b) For policies issued on or after January 1, 2004:

10 1. The minimum reserve for single-premium credit
11 disability insurance shall be either:

12 a. The unearned gross premium, or

13 b. Based upon a morbidity table that is adopted by the
14 National Association of Insurance Commissioners and is
15 specified in a rule the commission adopts pursuant to
16 subsection (14).

17 2. The minimum reserve for monthly premium credit
18 disability insurance shall be the unearned gross premium.

19 3. The minimum reserve for monthly premium credit life
20 insurance shall be the unearned gross premium.

21 4. As to single-premium credit life insurance
22 policies, the insurer shall establish and maintain reserves
23 that are not less than the value, at the valuation date, of
24 the risk for the unexpired portion of the period for which the
25 premium has been paid as computed on the basis of the
26 commissioners' 1980 Standard Ordinary Mortality Table or any
27 ordinary mortality table, adopted after 1980 by the National
28 Association of Insurance Commissioners, that is approved by
29 rule adopted by the commission for use in determining the
30 minimum standard of valuation for such policies; and an
31 interest rate determined in accordance with subsection (6). At

1 the discretion of the office, the insurer may make a
2 reasonable assumption as to the ages at which net premiums are
3 to be determined. In lieu of the foregoing basis, reserves
4 based upon unearned gross premiums may be used at the option
5 of the insurer. This section does not apply as to those credit
6 life insurance policies for which reserves are computed and
7 maintained as required under s. 625.131.

8 Section 153. Paragraphs (c) and (d) of subsection (1)
9 of section 626.321, Florida Statutes, are amended to read:

10 626.321 Limited licenses.--

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

5 Section 154. Section 626.9743, Florida Statutes, is
6 created to read:

7 626.9743 Claim settlement practices relating to motor
8 vehicle insurance.--

9 (1) This section shall apply to the adjustment and
10 settlement of personal and commercial motor vehicle insurance
11 claims.

12 (2) An insurer may not, when liability and damages
13 owed under the policy are reasonably clear, recommend that a
14 third-party claimant make a claim under his or her own policy
15 solely to avoid paying the claim under the policy issued by
16 that insurer. However, the insurer may identify options to a
17 third-party claimant relative to the repair of his or her
18 vehicle.

19 (3) An insurer that elects to repair a motor vehicle
20 and specifically requires a particular repair shop for vehicle
21 repairs shall cause the damaged vehicle to be restored to its
22 physical condition as to performance and appearance
23 immediately prior to the loss at no additional cost to the
24 insured or third-party claimant other than as stated in the
25 policy.

26 (4) An insurer may not require the use of replacement
27 parts in the repair of a motor vehicle which are not at least
28 equivalent in kind and quality to the damaged parts prior to
29 the loss in terms of fit, appearance, and performance.

30 (5) When the insurance policy provides for the
31 adjustment and settlement of first-party motor vehicle total

1 losses on the basis of actual cash value or replacement with
2 another of like kind and quality, the insurer shall use one of
3 the following methods:

4 (a) The insurer may elect a cash settlement based upon
5 the actual cost to purchase a comparable motor vehicle,
6 including sales tax, if applicable pursuant to subsection (9).

7 Such cost may be derived from:

8 1. When comparable motor vehicles are available in the
9 local market area, the cost of two or more such comparable
10 motor vehicles available within the preceding 90 days;

11 2. The retail cost as determined from a generally
12 recognized used motor vehicle industry source such as:

13 a. An electronic database if the pertinent portions of
14 the valuation documents generated by the database are provided
15 by the insurer to the first-party insured upon request; or

16 b. A guidebook that is generally available to the
17 general public if the insurer identifies the guidebook used as
18 the basis for the retail cost to the first-party insured upon
19 request; or

20 3. The retail cost using two or more quotations
21 obtained by the insurer from two or more licensed dealers in
22 the local market area.

23 (b) The insurer may elect to offer a replacement motor
24 vehicle that is a specified comparable motor vehicle available
25 to the insured, including sales tax if applicable pursuant to
26 subsection (9), paid for by the insurer at no cost other than
27 any deductible provided in the policy and betterment as
28 provided in subsection (6). The offer must be documented in
29 the insurer's claim file. For purposes of this subsection, a
30 comparable motor vehicle is one that is made by the same
31 manufacturer, of the same or newer model year, and of similar

1 body type and that has similar options and mileage as the
2 insured vehicle. Additionally, a comparable motor vehicle must
3 be in as good or better overall condition than the insured
4 vehicle and available for inspection within a reasonable
5 distance of the insured's residence.

6 (c) When a motor vehicle total loss is adjusted or
7 settled on a basis that varies from the methods described in
8 paragraph (a) or paragraph (b), the determination of value
9 must be supported by documentation, and any deductions from
10 value must be itemized and specified in appropriate dollar
11 amounts. The basis for such settlement shall be explained to
12 the claimant in writing, if requested, and a copy of the
13 explanation shall be retained in the insurer's claim file.

14 (d) Any other method agreed to by the claimant.

15 (6) When the amount offered in settlement reflects a
16 reduction by the insurer because of betterment or
17 depreciation, information pertaining to the reduction shall be
18 maintained with the insurer's claim file. Deductions shall be
19 itemized and specific as to dollar amount and shall accurately
20 reflect the value assigned to the betterment or depreciation.
21 The basis for any deduction shall be explained to the claimant
22 in writing, if requested, and a copy of the explanation shall
23 be maintained with the insurer's claim file.

24 (7) Every insurer shall, if partial losses are settled
25 on the basis of a written estimate prepared by or for the
26 insurer, supply the insured a copy of the estimate upon which
27 the settlement is based.

28 (8) Every insurer shall provide notice to an insured
29 before termination of payment for previously authorized
30 storage charges, and the notice shall provide 72 hours for the
31

1 insured to remove the vehicle from storage before terminating
2 payment of the storage charges.

3 (9) If sales tax will necessarily be incurred by a
4 claimant upon replacement of a total loss or upon repair of a
5 partial loss, the insurer may defer payment of the sales tax
6 unless and until the obligation has actually been incurred.

7 (10) Nothing in this section shall be construed to
8 authorize or preclude enforcement of policy provisions
9 relating to settlement disputes.

10 Section 155. Section 626.9744, Florida Statutes, is
11 created to read:

12 626.9744 Claim settlement practices relating to
13 property insurance.--Unless otherwise provided by the policy,
14 when a homeowner's insurance policy provides for the
15 adjustment and settlement of first-party losses based on
16 repair or replacement cost, the following requirements apply:

17 (1) When a loss requires repair or replacement of an
18 item or part, any physical damage incurred in making such
19 repair or replacement which is covered and not otherwise
20 excluded by the policy shall be included in the loss to the
21 extent of any applicable limits. The insured may not be
22 required to pay for betterment required by ordinance or code
23 except for the applicable deductible, unless specifically
24 excluded or limited by the policy.

25 (2) When a loss requires replacement of items and the
26 replaced items do not match in quality, color, or size, the
27 insurer shall make reasonable repairs or replacement of items
28 in adjoining areas. In determining the extent of the repairs
29 or replacement of items in adjoining areas, the insurer may
30 consider the cost of repairing or replacing the undamaged
31 portions of the property, the degree of uniformity that can be

1 achieved without such cost, the remaining useful life of the
2 undamaged portion, and other relevant factors.

3 (3) This section shall not be construed to make the
4 insurer a warrantor of the repairs made pursuant to this
5 section.

6 (4) Nothing in this section shall be construed to
7 authorize or preclude enforcement of policy provisions
8 relating to settlement disputes.

9 Section 156. Effective July 1, 2004, and applicable to
10 cancellation requests and notices received on or after that
11 date, subsection (3) of section 627.311, Florida Statutes, is
12 amended to read:

13 627.311 Joint underwriters and joint reinsurers;
14 public records and public meetings exemptions.--

15 (3) The office may, after consultation with insurers
16 licensed to write automobile insurance in this state, approve
17 a joint underwriting plan for purposes of equitable
18 apportionment or sharing among insurers of automobile
19 liability insurance and other motor vehicle insurance, as an
20 alternate to the plan required in s. 627.351(1). All insurers
21 authorized to write automobile insurance in this state shall
22 subscribe to the plan and participate therein. The plan shall
23 be subject to continuous review by the office which may at any
24 time disapprove the entire plan or any part thereof if it
25 determines that conditions have changed since prior approval
26 and that in view of the purposes of the plan changes are
27 warranted. Any disapproval by the office shall be subject to
28 the provisions of chapter 120. The Florida Automobile Joint
29 Underwriting Association is created under the plan. The plan
30 and the association:

31

1 (a) Must be subject to all provisions of s.
2 627.351(1), except apportionment of applicants.

3 (b) May provide for one or more designated insurers,
4 able and willing to provide policy and claims service, to act
5 on behalf of all other insurers to provide insurance for
6 applicants who are in good faith entitled to, but unable to,
7 procure insurance through the voluntary insurance market at
8 standard rates.

9 (c) Must provide that designated insurers will issue
10 policies of insurance and provide policyholder and claims
11 service on behalf of all insurers for the joint underwriting
12 association.

13 (d) Must provide for the equitable apportionment among
14 insurers of losses and expenses incurred.

15 (e) Must provide that the joint underwriting
16 association will operate subject to the supervision and
17 approval of a board of governors consisting of 11 individuals,
18 including 1 who will be elected as chair. Five members of the
19 board must be appointed by the Chief Financial Officer. Two of
20 the Chief Financial Officer's appointees must be chosen from
21 the insurance industry. Any board member appointed by the
22 Chief Financial Officer may be removed and replaced by her or
23 him at any time without cause. Six members of the board must
24 be appointed by the participating insurers, two of whom must
25 be from the insurance agents' associations. All board members,
26 including the chair, must be appointed to serve for 2-year
27 terms beginning annually on a date designated by the plan.

28 (f) Must provide that an agent appointed to a
29 servicing carrier must be a licensed general lines agent of an
30 insurer which is authorized to write automobile liability and
31 physical damage insurance in the state and which is actively

1 writing such coverage in the county in which the agent is
2 located, or the immediately adjoining counties, or an agent
3 who places a volume of other property and casualty insurance
4 in an amount equal to the premium volume placed with the
5 Florida Joint Underwriting Association. The office may,
6 however, determine that an agent may be appointed to a
7 servicing carrier if, after public hearing, the office finds
8 that consumers in the agent's operating area would not have
9 adequate and reasonable access to the purchase of automobile
10 insurance if the agent were not appointed to a servicing
11 carrier.

12 (g) Must make available noncancelable coverage as
13 provided in s. 627.7275(2).

14 (h) Must provide for the furnishing of a list of
15 insureds and their mailing addresses upon the request of a
16 member of the association or an insurance agent licensed to
17 place business with an association member. The list must
18 indicate whether the insured is currently receiving a good
19 driver discount from the association. The plan may charge a
20 reasonable fee to cover the cost incurred in providing the
21 list.

22 (i) Must not provide a renewal credit or discount or
23 any other inducement designed to retain a risk.

24 (j) Must not provide any other good driver credit or
25 discount that is not actuarially sound. In addition to other
26 criteria that the plan may specify, to be eligible for a good
27 driver credit, an insured must not have any criminal traffic
28 violations within the most recent 36-month period preceding
29 the date the discount is received.

30 (k)1. Shall have no liability, and no cause of action
31 of any nature shall arise against any member insurer or its

1 agents or employees, agents or employees of the association,
2 members of the board of governors of the association, the
3 Chief Financial Officer, or the office or its representatives
4 for any action taken by them in the performance of their
5 duties or responsibilities under this subsection. Such
6 immunity does not apply to actions for or arising out of
7 breach of any contract or agreement pertaining to insurance,
8 or any willful tort.

9 2. Notwithstanding the requirements of s.
10 624.155(3)(a), as a condition precedent to bringing an action
11 against the plan under s. 624.155, the department and the plan
12 must have been given 90 days' written notice of the violation.
13 If the department returns a notice for lack of specificity,
14 the 90-day time period shall not begin until a proper notice
15 is filed. This notice must comply with the information
16 requirements of s. 624.155(3)(b). Effective October 1, 2007,
17 this subparagraph shall expire unless reenacted by the
18 Legislature prior to that date.

19 (1) May require from the insured proof that he or she
20 has obtained the mandatory types and amounts of insurance from
21 another admitted carrier prior to the cancellation of a policy
22 the insured obtained from the plan and prior to the return of
23 any unearned premium the insured paid for such coverage from
24 the plan. This paragraph does not apply to any person who
25 provides proof of sale or inoperability of the vehicle covered
26 under the policy purchased from the plan or relocation outside
27 the state.

28 Section 157. Subsection (5) is added to section
29 627.4091, Florida Statutes, to read:

30 627.4091 Specific reasons for denial, cancellation, or
31 nonrenewal.--

1 (5) When an insurer refuses to provide private
2 passenger automobile insurance or personal lines residential
3 property insurance, including, but not limited to,
4 homeowner's, mobile home owner's, condominium unit owner's, or
5 other insurance covering a personal residential structure, to
6 an applicant due to adverse underwriting information, the
7 insurer shall:

8 (a) Provide to the applicant specific information
9 regarding the reasons for the refusal to insure.

10 (b) If the reason for the refusal to insure is based
11 on a loss underwriting history or report from a consumer
12 reporting agency, to the extent applicable identify the loss
13 underwriting history and notify the applicant of his or her
14 right under the federal Fair and Accurate Credit Transactions
15 Act to obtain a copy of the report from the consumer reporting
16 agency.

17 Section 158. Effective upon this act becoming a law,
18 subsections (5) and (6) are added to section 627.4133, Florida
19 Statutes, to read:

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

22 (5) An insurer that cancels a property insurance
23 policy on property secured by a mortgage due to the failure of
24 the lender to timely pay the premium when due shall reinstate
25 the policy as required by s. 501.137.

26 (6) A single claim on a property insurance policy
27 which is the result of water damage may not be used as the
28 sole cause for cancellation or nonrenewal unless the insurer
29 can demonstrate that the insured has failed to take action
30 reasonably requested by the insurer to prevent a future
31 similar occurrence of damage to the insured property.

1 Section 159. Paragraph (h) of subsection (9) of
2 section 627.476, Florida Statutes, is amended to read:

3 627.476 Standard Nonforfeiture Law for Life
4 Insurance.--

5 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT
6 VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS
7 SUBSECTION.--

8 (h) All adjusted premiums and present values referred
9 to in this section shall for all policies of ordinary
10 insurance be calculated on the basis of the Commissioners'
11 1980 Standard Ordinary Mortality Table or, at the election of
12 the insurer for any one or more specified plans of life
13 insurance, the Commissioners' 1980 Standard Ordinary Mortality
14 Table with Ten-Year Select Mortality Factors; shall for all
15 policies of industrial insurance be calculated on the basis of
16 the Commissioners' 1961 Standard Industrial Mortality Table;
17 and shall for all policies issued in a particular calendar
18 year be calculated on the basis of a rate of interest not
19 exceeding the nonforfeiture interest rate as defined in this
20 subsection for policies issued in that calendar year. However:

21 1. At the option of the insurer, calculations for all
22 policies issued in a particular calendar year may be made on
23 the basis of a rate of interest not exceeding the
24 nonforfeiture interest rate, as defined in this subsection,
25 for policies issued in the immediately preceding calendar
26 year.

27 2. Under any paid-up nonforfeiture benefit, including
28 any paid-up dividend additions, any cash surrender value
29 available, whether or not required by subsection (2), shall be
30 calculated on the basis of the mortality table and rate of
31

1 interest used in determining the amount of such paid-up
2 nonforfeiture benefit and paid-up dividend additions, if any.

3 3. An insurer may calculate the amount of any
4 guaranteed paid-up nonforfeiture benefit, including any
5 paid-up additions under the policy, on the basis of an
6 interest rate no lower than that specified in the policy for
7 calculating cash surrender values.

8 4. In calculating the present value of any paid-up
9 term insurance with accompanying pure endowment, if any,
10 offered as a nonforfeiture benefit, the rates of mortality
11 assumed may be not more than those shown in the Commissioners'
12 1980 Extended Term Insurance Table for policies of ordinary
13 insurance and not more than the Commissioners' 1961 Industrial
14 Extended Term Insurance Table for policies of industrial
15 insurance.

16 5. In lieu of the mortality tables specified in this
17 section, at the option of the insurance company and subject to
18 rules adopted by the commission, the insurance company may
19 substitute:

20 a. The 1958 CSO or CET Smoker and Nonsmoker Mortality
21 Tables, whichever is applicable, for policies issued on or
22 after the operative date of this subsection and before January
23 1, 1989;

24 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality
25 Tables, whichever is applicable, for policies issued on or
26 after the operative date of this subsection;

27 c. A mortality table that is a blend of the
28 sex-distinct 1980 CSO or CET mortality table standard,
29 whichever is applicable, or a mortality table that is a blend
30 of the sex-distinct 1980 CSO or CET smoker and nonsmoker
31 mortality table standards, whichever is applicable, for

1 policies that are subject to the United States Supreme Court
2 decision in Arizona Governing Committee v. Norris to prevent
3 unfair discrimination in employment situations.

4 6. Ordinary mortality tables, adopted after 1980 by
5 the National Association of Insurance Commissioners, adopted
6 by rule by the commission for use in determining the minimum
7 nonforfeiture standard may be substituted for the
8 Commissioners' 1980 Standard Ordinary Mortality Table with or
9 without Ten-Year Select Mortality Factors or for the
10 Commissioners' 1980 Extended Term Insurance Table.

11 ~~7.6.~~ For insurance issued on a substandard basis, the
12 calculation of any such adjusted premiums and present values
13 may be based on appropriate modifications of the
14 aforementioned tables.

15 Section 160. Section 627.7077, Florida Statutes, is
16 created to read:

17 627.7077 Florida Sinkhole Insurance Facility and other
18 matters related to affordability and availability of sinkhole
19 insurance; feasibility study.--

20 (1) The Florida State University College of Business
21 Department of Risk Management and Insurance shall, under the
22 direction of the office, conduct a feasibility and
23 cost-benefit study of a potential Florida Sinkhole Insurance
24 Facility and of other matters related to affordability and
25 availability of sinkhole insurance. The study shall be
26 conducted in consultation with the State Board of
27 Administration and the Florida Geological Survey. The
28 university shall provide a preliminary report of its analysis,
29 findings, and recommendations to the Financial Services
30 Commission and the presiding officers of the Legislature no
31

1 later than February 1, 2005, and shall provide a final report
2 no later than April 1, 2005.

3 (2) The potential functions of the facility to be
4 analyzed include:

5 (a) Serving as the direct insurer or the reinsurer for
6 all or some sinkhole losses.

7 (b) Providing training, communication, and other
8 educational services to the public, engineers, the
9 construction industry, insurance professionals, or others.

10 (c) Providing uniform standards for use by insurers in
11 evaluating sinkhole loss claims.

12 (d) Providing consulting services for insurers.

13 (e) Maintaining a public database of all confirmed
14 sinkholes and paid sinkhole loss claims, for use by consumers
15 and by the insurance, building construction, banking, and real
16 estate industries.

17 (3) The feasibility study shall, at a minimum, address
18 the following issues:

19 (a) Where the facility should be housed, including,
20 but not limited to, the options of creating a separate
21 facility or using the Citizens Property Insurance Corporation
22 or the Florida Hurricane Catastrophe Fund.

23 (b) Federal income taxation implications.

24 (c) Funding options and costs associated with
25 operating the facility, including means of funding sinkhole
26 insurance through premiums that are adequate to fund covered
27 losses.

28 (d) Applicability of the experience of similar
29 facilities of other states.

30 (e) Other economic impact considerations pertinent to
31 a facility.

1 (f) Alternative dispute resolution mechanisms.

2 (g) The impact of all present requirements in the
3 Florida Insurance Code on affordability and availability of
4 sinkhole insurance and recommendations to address such
5 impacts.

6 (4) The study shall be funded from a budget of no more
7 than \$300,000, which will be funded by assessments on insurers
8 issuing property insurance in this state. Such assessments
9 shall be collected by the office and shall be prorated among
10 such insurers according to a formula whereby each insurer
11 shall pay a fraction of such budget, the numerator of which
12 shall be such insurer's direct earned premiums for property
13 insurance in this state and the denominator of which shall be
14 the total direct earned premiums for property insurance in
15 this state for calendar year 2003.

16 Section 161. Section 627.838, Florida Statutes, is
17 amended to read:

18 627.838 Filing and approval of forms; service
19 charges.--

20 (1) No premium finance agreement form or related form
21 shall be used in this state by a premium finance company
22 unless it has been filed with and approved by the office.
23 Every filing shall be made within 30 days of issuance or use.

24 (2) Each premium finance company shall file with the
25 office the service charge and interest rate plan, including
26 all modifications thereto, for informational purposes only.
27 Every filing shall be made within 30 days of its effective
28 date.

29 ~~(3) Each filing shall be accompanied by the filing fee~~
30 ~~specified in s. 627.849.~~

31

1 Section 162. Paragraph (e) of subsection (1) of
2 section 627.848, Florida Statutes, is amended to read:

3 627.848 Cancellation of insurance contract upon
4 default.--

5 (1) When a premium finance agreement contains a power
6 of attorney or other authority enabling the premium finance
7 company to cancel any insurance contract listed in the
8 agreement, the insurance contract shall not be canceled unless
9 cancellation is in accordance with the following provisions:

10 (e) Whenever a financed ~~an~~ insurance contract is
11 canceled ~~in accordance with this section~~, the insurer shall,
12 within 30 days of the cancellation date, promptly return the
13 unpaid balance due under the finance contract, up to the gross
14 amount available upon the cancellation of the policy, to the
15 premium finance company and any remaining unearned premium to
16 the agent or the insured, or both, for the benefit of the
17 insured or insureds. The insurer shall, within 30 days of the
18 cancellation date, notify the insured and the agent of the
19 amount of unearned premium returned to the premium finance
20 company and the amount of unearned commission held by the
21 agent. The premium finance company shall, within 15 days after
22 the account has been overpaid, either refund to the insured
23 for the insured's benefit any refund due on his or her account
24 or, if the refund is sent or credited to the agent, return or
25 credit to the agent the amount of the overpayment and notify
26 the insured of the refunded amount. ~~The premium finance~~
27 ~~company within 15 days shall notify the insured and the agent~~
28 ~~of the amount of unearned premium.~~ Within 15 days of receipt
29 of notification from the premium finance company, the agent
30 shall return such amount including any unearned commission to
31 the insured or with the written approval of the insured apply

1 such amount to the purchase of other insurance products
2 regulated by the office. The commission may adopt rules
3 necessary to implement the provisions of this subsection.

4 Section 163. Subsection (1) of section 627.849,
5 Florida Statutes, is amended to read:

6 627.849 Fees.--

7 (1) The office shall collect in advance, and the
8 persons so served shall pay to it in advance, the following
9 fees:

- 10 (a) Annual license fee.....\$250
- 11 (b) Investigation fee.....100
- 12 (c) Annual report filing fee.....25
- 13 ~~(d) Form filing fee.....10~~

14 Section 164. Analysis of factors affecting premium
15 levels and availability of personal lines property and
16 casualty insurance to consumers in Florida.--

17 (1) The Legislative Auditing Committee shall enter
18 into a contract with the Florida State University College of
19 Business Department of Risk Management and Insurance to
20 provide, no later than February 1, 2005, a detailed analysis
21 of factors affecting costs and potential assessments on
22 consumers, and availability, of personal lines property and
23 casualty insurance in Florida generally and in those areas in
24 which coverage is underwritten by the Citizens Property and
25 Casualty Insurance Company. The analysis shall include an
26 evaluation of such factors and recommendations appropriate to
27 moderate or enhance their impact on premiums potential
28 assessments and availability of such insurance. Such factors
29 shall include, but are not limited to:

30 (a) The factors affecting the level of competition and
31 premium levels specifically, including the impact of rate

1 regulation and possible rating law reforms, and including
2 reforms that have succeeded or failed in other states.

3 (b) The cost and benefits of required coverages and of
4 restrictions on optional coverages that could otherwise be
5 made available to consumers.

6 (c) Such other information as may be useful to the
7 Legislature in determining how to increase availability and,
8 over the short and long term, to moderate costs and potential
9 consumer assessments.

10 (2) The study shall be funded from a budget of no more
11 than \$250,000, which shall be funded by assessments on
12 insurers issuing personal lines property and casualty
13 insurance in the state. Such assessments shall be collected by
14 the Office of Insurance Regulation and shall be prorated among
15 such insurers according to a formula whereby each insurer
16 shall pay a fraction of such budget, the numerator of which
17 shall be such insurer's direct earned premiums for personal
18 lines property and casualty insurance in the state and the
19 denominator of which shall be the total direct earned premiums
20 for personal lines property and casualty insurance in the
21 state for calendar year 2003.

22 (3) The Department of Financial Services, the Office
23 of Insurance Regulation, and insurers shall cooperate with the
24 Florida State University College of Business Department of
25 Risk Management and Insurance conducting the analysis and
26 shall provide such information as the Florida State University
27 College of Business Department of Risk Management and
28 Insurance may request in the format requested by the
29 university.

30 Section 165. Section 625.131, Florida Statutes, is
31 repealed.

1 Section 166. Nothing in this act shall be construed to
2 create or be the basis of a civil action. Nothing in this act
3 shall be construed as limiting settlement or adjustment of
4 claims by methods that are otherwise permissible under Florida
5 law.

6 Section 167. Except as otherwise expressly provided in
7 this act and except for this section, which shall take effect
8 upon becoming a law, this act shall take effect July 1, 2004.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31