

1                   A bill to be entitled  
2           An act relating to title insurance; amending s. 20.121,  
3           F.S.; creating the Division of Title Insurance in the  
4           Department of Financial Services; creating part I of ch.  
5           637, F.S.; providing for administration of title insurance  
6           and general provisions; providing a short title; providing  
7           legislative findings, purposes, and intent; creating the  
8           Division of Title Insurance within the Department of  
9           Financial Services; providing powers and duties; providing  
10          for appointment of a division director; establishing the  
11          Bureau of Title Insurance Premium Rates and Forms and the  
12          Bureau of Title Insurance Licensing and Education within  
13          the division; providing definitions; preempting to the  
14          state the regulation of title insurance, title insurers,  
15          and title insurance agencies; providing for nonapplication  
16          of certain chapters; duplicating in ch. 637, F.S., certain  
17          provisions of chs. 624, 625, 626, and 628, F.S., relating  
18          to insurance and making such provisions applicable to  
19          title insurance, title insurers, title insurance agents,  
20          and title insurance agencies; creating s. 637.10335, F.S.;  
21          providing for civil remedies against title insurers;  
22          providing procedures, requirements, and limitations;  
23          providing for award of damages, court costs, and attorney  
24          fees; prohibiting punitive damages under certain  
25          circumstances; providing construction prohibitions;  
26          preserving certain remedies and causes of action; creating  
27          s. 637.10435, F.S.; providing a Policyholders Bill of  
28          Rights; specifying principles; providing a construction

29 prohibition; creating s. 637.10445, F.S.; providing  
30 procedures, requirements, and limitations for documents  
31 claimed as trade secrets; creating part II of ch. 637,  
32 F.S.; providing for licensing and administration of title  
33 insurers; duplicating in ch. 637, F.S., and making  
34 applicable to title insurers certain provisions of ch.  
35 624, F.S.; transferring to ch. 637, F.S., certain  
36 provisions of chs. 625 and 627, F.S., relating to title  
37 insurance; creating s. 637.20035, F.S.; providing for  
38 structure of title insurers; creating s. 637.20635, F.S.;  
39 prohibiting title insurers, title insurance agencies, and  
40 title insurance agents from rebating portions of premiums;  
41 providing exceptions; specifying rebate prohibitions;  
42 creating s. 637.2091, F.S.; specifying that title  
43 insurance business is exclusive; creating part III of ch.  
44 637, F.S.; providing for licensure and administration of  
45 title insurance agents and agencies; duplicating in ch.  
46 637, F.S., and making applicable to title insurance agents  
47 and agencies certain provisions of ch. 626, F.S.;  
48 transferring to ch. 637, F.S., certain provisions of ch.  
49 626, F.S., relating to title insurance agents and  
50 agencies; creating s. 637.30125, F.S.; providing  
51 requirements for agents in charge; providing for  
52 authority, duties, and responsibilities of agents in  
53 charge; transferring regulation, administration, and  
54 enforcement of title insurers from the Office of Insurance  
55 Regulation and the Financial Services Commission to the  
56 Department of Financial Services and the Division of Title

57 Insurance; deleting references to the office and  
58 commission to conform; amending ss. 624.5105 and 624.5107,  
59 F.S.; including references to applicable sections of ch.  
60 637, F.S., under the community contribution tax credit  
61 program and the child care tax credit program; specifying  
62 rules of the Financial Services Commission and the Office  
63 of Insurance Regulation as rules of the department;  
64 transferring certain powers, duties, functions, records,  
65 personnel, property, and unexpended balances of  
66 appropriations, allocations, and other funds relating to  
67 title insurance to the department; preserving the validity  
68 of certain judicial and administrative actions relating to  
69 title insurance; providing for transfer of certain orders  
70 relating to title insurance to the department; requiring  
71 the Division of Statutory Revision to assist substantive  
72 legislative committees in developing conforming  
73 legislation; creating s. 689.263, F.S.; prohibiting title  
74 insurance agents or title insurance agencies from  
75 disbursing certain funds under certain circumstances;  
76 providing requirements for a statement of settlement  
77 costs; creating s. 717.1121, F.S.; providing construction  
78 of certain payments from escrow related to real estate  
79 transactions; amending s. 877.101, F.S.; providing an  
80 additional prohibition against transacting escrow business  
81 by unauthorized persons; revising cross-references for  
82 purposes of nonapplication to licensed title insurance  
83 agents; amending ss. 624.5015, 626.241, and 626.331, F.S.;

84 deleting provisions relating to title insures; amending

85 ss. 197.502, 624.501, 624.604, 624.605, 625.031, 626.207,  
 86 655.005, 701.041, and 721.05, F.S.; conforming a cross-  
 87 reference; repealing s. 624.4031, F.S., relating to church  
 88 benefit plans and church benefits boards; repealing s.  
 89 624.608, F.S., relating to the definition of "title  
 90 insurance"; repealing s. 626.841, F.S., relating to  
 91 definitions of "title insurance agent" and "title  
 92 insurance agency"; repealing s. 626.8411, F.S., relating  
 93 to application of Florida Insurance Code provisions to  
 94 title insurance agents or agencies; repealing s. 626.9531,  
 95 F.S., relating to identification of insurers, agents, and  
 96 insurance contracts; repealing s. 627.7711, F.S., relating  
 97 to definitions; repealing s. 627.776, F.S., relating to  
 98 applicability or inapplicability of Florida Insurance Code  
 99 provisions to title insurers; providing an effective date.

100  
 101 Be It Enacted by the Legislature of the State of Florida:

102  
 103 Section 1. Paragraph (o) is added to subsection (2) of  
 104 section 20.121, Florida Statutes, to read:

105 20.121 Department of Financial Services.—There is created  
 106 a Department of Financial Services.

107 (2) DIVISIONS.—The Department of Financial Services shall  
 108 consist of the following divisions:

109 (o) The Division of Title Insurance.

110 Section 2. Part I of chapter 637, Florida Statutes,  
 111 consisting of sections 637.1001, 637.1002, 637.1003, 637.1004,  
 112 637.10045, 637.1005, 637.1006, 637.1007, 637.1008, 637.1009,

113 637.1011, 637.1012, 637.1013, 637.1014, 637.1015, 637.1016,  
 114 637.1017, 637.1018, 637.1019, 637.1021, 637.1022, 637.1023,  
 115 637.1024, 637.1025, 637.1026, 637.1027, 637.1028, 637.1029,  
 116 637.1031, 637.1032, 637.1033, 637.10335, 637.1034, 637.1035,  
 117 637.1036, 637.1037, 637.1038, 637.1039, 637.1041, 637.1042,  
 118 637.1043, 637.10435, 637.1044, 637.10445, 637.1045, 637.1046,  
 119 637.1047, 637.1048, and 637.1049, is created and entitled  
 120 "ADMINISTRATION AND GENERAL PROVISIONS."

121 Section 3. Sections 637.1001, 637.1002, 637.1003,  
 122 637.1004, 637.10045, 637.1005, 637.1006, 637.1007, 637.1008,  
 123 637.1009, 637.1011, 637.1012, 637.1013, 637.1014, 637.1015,  
 124 637.1016, 637.1017, 637.1018, 637.1019, 637.1021, 637.1022,  
 125 637.1023, 637.1024, 637.1025, 637.1026, 637.1027, 637.1029,  
 126 637.1031, 637.1032, 637.1033, 637.10335, 637.1034, 637.1035,  
 127 637.1036, 637.1037, 637.1038, 637.1039, 637.1041, 637.1042,  
 128 637.1043, 637.10435, 637.1044, 637.10445, 637.1045, 637.1046,  
 129 637.1047, 637.1048, and 637.1049, are created to read:

130 637.1001 Short title.—This chapter may be cited as the  
 131 "Florida Title Insurance Act."

132 637.1002 Legislative findings; purpose; intent.—

133 (1) The Legislature finds that a stable and efficient  
 134 title insurance delivery system is necessary to promote the  
 135 economic wellbeing of the citizens of this state. Title  
 136 insurance is essential to ensure homeowners and landowners of  
 137 the safety of real property transfers in the state. Lienholders  
 138 and investors require the security afforded their business  
 139 interests accorded by a financially stable and regulated title  
 140 insurance industry. A viable title insurance delivery system

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141 requires comprehensive state oversight, including regulation of  
142 title insurers, agents, and agencies. Accordingly, it is the  
143 intent of the Legislature to establish unitary regulation of the  
144 title insurance industry by the creation of a Division of Title  
145 Insurance within the Department of Financial Services. The  
146 division shall have comprehensive authority to regulate insurer  
147 and agent solvency, education, licensing, and discipline and to  
148 establish title insurance premium rates and forms.

149 (2) The Legislature finds that title insurance is a unique  
150 form of insurance unlike any casualty-based insurance.  
151 Accordingly, a separate and distinct chapter of the Florida  
152 Statutes is deemed appropriate.

153 (3) The Legislature recognizes that the title insurance  
154 industry is founded upon a unique structure that requires title  
155 agents and agencies to determine the insurability of titles,  
156 thereby placing the title insurance agent at the cornerstone of  
157 the delivery system. As such, the solvency and viability of  
158 title insurance agents is essential. Therefore, the Legislature  
159 deems it to be in the public interest to establish title  
160 insurance rates that are adequate and to also establish  
161 parameters for rebating portions of the title insurance premium.

162 637.1003 Division of Title Insurance.—

163 (1) The Division of Title Insurance is created within the  
164 Department of Financial Services. The division shall exercise  
165 all powers and duties with respect to title insurance  
166 regulation, including those exercised by the Office of Insurance  
167 Regulation and the Division of Insurance Agents and Agency  
168 Services of the Department of Financial Services prior to July

169 1, 2010. The division director shall be appointed by the Chief  
 170 Financial Officer and shall have experience, education, and  
 171 expertise in the field of title insurance in this state. The  
 172 director may also be known as the Florida Title Insurance  
 173 Coordinator.

174 (2) The Division of Title Insurance shall consist of:

175 (a) The Bureau of Title Insurance Premium Rates and Forms.

176 (b) The Bureau of Title Insurance Licensing and Education.

177 637.1004 Definitions.—For purposes of this chapter, the  
 178 term:

179 (1) "Appointment" means the authority given by an insurer  
 180 or employer to a licensee to transact insurance or adjust claims  
 181 on behalf of an insurer or employer.

182 (2) "Attorney" as used in this part means an individual  
 183 duly admitted to and a member in good standing of the Florida  
 184 Bar.

185 (3) "Agent in charge" of a title insurance agency means an  
 186 attorney or a licensed and appointed title insurance agent who  
 187 is responsible for the overall operation and management of a  
 188 title insurance agency location and whose responsibilities  
 189 include supervising all individuals within that location. An  
 190 attorney or a title insurance agent may be designated as the  
 191 agent in charge for only one location of a single title  
 192 insurance agency. Each location of a title insurance agency  
 193 or insurer at which primary title services as defined in  
 194 subsection (18) are performed shall have a separate agent in  
 195 charge. An agency that has an attorney that is in charge of the  
 196 agency shall designate that attorney to be in charge of only one

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197 location of a single title insurance agency.

198 (4) "Authorized" means provided authority pursuant to  
199 valid a certificate of authority issued by the department to  
200 transact insurance in this state.

201 (5) "Closing services" means services performed by a  
202 licensed title insurer, title insurance agent or agency, or  
203 attorney agent in the agent's or agency's capacity as such,  
204 including, but not limited to, preparing documents necessary to  
205 close the transaction, conducting the closing, or handling the  
206 disbursing of funds related to the closing in a real estate  
207 closing transaction in which a title insurance commitment or  
208 policy is to be issued.

209 (6) "Commercially domiciled insurer" means every foreign  
210 or alien insurer that is authorized to do business in this state  
211 and that, during its 3 preceding fiscal years taken together, or  
212 during any lesser period of time if it has been licensed to  
213 transact its business in this state only for the lesser period  
214 of time, has written an average of 25 percent or more direct  
215 premiums in this state than it has written in its state of  
216 domicile during the same period, and the direct premiums written  
217 constitute more than 55 percent of its total direct premiums  
218 written everywhere in the United States during its 3 preceding  
219 fiscal years taken together, or during any lesser period of time  
220 if it has been authorized to transact its business in this state  
221 only for the lesser period of time, as reported in its most  
222 recent applicable annual or quarterly statements, shall be  
223 deemed a "commercially domiciled insurer" within this state.



224 (7) "Consent" means authorized written agreement to  
 225 supervision by the insurer.

226 (8) "Department" means the Department of Financial  
 227 Services. The term does not mean the Financial Services  
 228 Commission or any office of the Financial Services Commission.

229 (9) "Division" means the Division of Title Insurance of  
 230 the department.

231 (10) "Domestic," "foreign," and "alien" mean:

232 (a) A "domestic" insurer is one formed under the laws of  
 233 this state.

234 (b) A "foreign" insurer is one formed under the laws of  
 235 any state, district, territory, or commonwealth of the United  
 236 States other than this state.

237 (c) An "alien" insurer is an insurer other than a domestic  
 238 or foreign insurer.

239 (11) "Domicile," except as provided in s. 631.011, means:

240 (a) As to Canadian insurers, Canada and the province under  
 241 the laws of which the insurer was formed.

242 (b) As to other alien insurers authorized to transact  
 243 insurance in one or more states, the state designated by the  
 244 insurer in writing filed with the department at the time of  
 245 admission to this state or within 6 months after the effective  
 246 date of this chapter, whichever date is the later, and may be  
 247 any of the following states:

248 1. That in which the insurer was first authorized to  
 249 transact insurance if the insurer is still so authorized.

250 2. That in which is located the insurer's principal place  
 251 of business in the United States.

252 3. That in which is held the larger deposit of trusteeed  
 253 assets of the insurer for the protection of its policyholders  
 254 and creditors in the United States.

255 If the insurer makes no such designation, its domicile shall be  
 256 deemed to be that state in which is located its principal place  
 257 of business in the United States.

258 (c) As to alien insurers not authorized to transact  
 259 insurance in one or more states, the country under the laws of  
 260 which the insurer was formed.

261 (d) As to all other insurers, the state under the laws of  
 262 which the insurer was formed.

263 (12) "Exceeded its powers" means the following conditions:

264 (a) The insurer has refused to permit examination by the  
 265 department of its books, papers, accounts, records, or business  
 266 practices;

267 (b) An insurer organized in this state has unlawfully  
 268 removed from this state books, papers, accounts, or records  
 269 necessary for an examination of the insurer by the department;

270 (c) The insurer has failed to promptly comply with the  
 271 applicable financial reporting statutes and division requests  
 272 relating thereto;

273 (d) The insurer has neglected or refused to observe an  
 274 order of the department to correct a deficiency in its capital  
 275 or surplus; or

276 (e) The insurer has unlawfully or in violation of a  
 277 department order:

278 1. Totally reinsured its entire outstanding business; or

279 2. Merged or consolidated substantially its entire  
 280 property or business with another insurer.

281 (13) "Insurer" means and includes every person as defined  
 282 in subsection (16) and title insurer as defined in subsection  
 283 (23) as limited to any domestic or commercially domiciled  
 284 insurer who is doing business as an insurer, or has transacted  
 285 insurance in this state, and against whom claims arising from  
 286 that transaction may exist now or in the future.

287 (14) "License" means a document issued by the department  
 288 or office authorizing a person to be appointed to transact  
 289 insurance or adjust claims for the kind, line, or class of  
 290 insurance identified in the document.

291 (15) (a) "Managing general agent" means any person managing  
 292 all or part of the insurance business of an insurer, including  
 293 the management of a separate division, department, or  
 294 underwriting office, and acting as an agent for that insurer,  
 295 whether known as a managing general agent, manager, or other  
 296 similar term, who, with or without authority, separately or  
 297 together with affiliates, produces, directly or indirectly, or  
 298 underwrites an amount of gross direct written premium equal to  
 299 or more than 5 percent of the policyholder surplus as reported  
 300 in the last annual statement of the insurer in any single  
 301 quarter or year and also does one or more of the following:

- 302 1. Adjusts or pays claims.
- 303 2. Negotiates reinsurance on behalf of the insurer.

304 (b) The following persons shall not be considered managing  
 305 general agents:

- 306 1. An employee of the insurer.

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307 2. A United States manager of the United States branch of  
308 an alien insurer.

309 3. An underwriting manager managing all the insurance  
310 operations of the insurer pursuant to a contract who is  
311 under the common control of the insurer subject to regulation  
312 and whose compensation is not based on the volume of premiums  
313 written.

314 4. The attorney in fact authorized by and acting for the  
315 subscribers of a reciprocal insurer under powers of attorney.

316 (16) "Person" means an individual, insurer, company,  
317 association, organization, Lloyds, society, reciprocal insurer  
318 or interinsurance exchange, partnership, syndicate, business  
319 trust, corporation, agent, general agent, broker, service  
320 representative, adjuster, and every legal entity.

321 (17) "Premium" means the charge, as specified by rule of  
322 the department, that is made by a title insurer for a title  
323 insurance policy, including the charge for performance of  
324 primary title services by a title insurer or title insurance  
325 agent or agency, and incurring the risks incident to such  
326 policy, under the several classifications of title insurance  
327 contracts and forms, and upon which charge a premium tax is paid  
328 under s. 624.509. As used in this part or in any other law, with  
329 respect to title insurance, the word "premium" does not include  
330 a commission.

331 (18) "Primary title services" means determining  
332 insurability in accordance with sound underwriting practices  
333 based upon evaluation of a reasonable title search or a search  
334 of the records of a Uniform Commercial Code filing office and

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335 such other information as may be necessary, determination and  
336 clearance of underwriting objections and requirements to  
337 eliminate risk, preparation and issuance of a title insurance  
338 commitment setting forth the requirements to insure, and  
339 preparation and issuance of the policy. Such services do not  
340 include closing services or title searches, for which a separate  
341 charge or separate charges may be made.

342 (19) When used in context signifying a jurisdiction other  
343 than the State of Florida, "state" means any state, district,  
344 territory, or commonwealth of the United States.

345 (20) "Title insurance" means:

346 (a) Insurance of owners of real property or others having  
347 an interest in real property or a contractual interest derived  
348 from real property, or liens or encumbrances on real property,  
349 against loss by encumbrance, or defective titles, or invalidity,  
350 or adverse claim to title; or

351 (b) Insurance of owners and secured parties of the  
352 existence, attachment, perfection, and priority of security  
353 interests in personal property under the Uniform Commercial  
354 Code.

355 (21) "Title insurance agent" means a person appointed in  
356 writing by a title insurer to issue and countersign commitments  
357 or policies of title insurance on the title insurer's behalf.

358 (22) "Title insurance agency" means a business at which an  
359 individual, firm, partnership, corporation, association, or  
360 other entity, other than an employee of the individual, firm,  
361 partnership, corporation, association, or other entity, and  
362 under which a title insurance agent or other employee,

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363 determines insurability in accordance with underwriting rules  
 364 and standards prescribed by the title insurer represented by the  
 365 title insurance agency and issues and countersigns commitments,  
 366 endorsements, or policies of title insurance on behalf of the  
 367 appointing title insurer. The term does not include a title  
 368 insurer.

369 (23) "Title insurer" means any domestic company organized  
 370 and authorized to do business under the provisions of this  
 371 chapter, for the purpose of issuing title insurance, or any  
 372 insurer organized under the laws of another state, the District  
 373 of Columbia, or a foreign country and holding a certificate of  
 374 authority to transact business in this state, for the purpose of  
 375 issuing title insurance.

376 (24) "Title search" means the compiling of title  
 377 information from official or public records.

378 (25) "Transact" means, with respect to insurance and in  
 379 addition to other applicable provisions of this chapter:

380 (a) Solicitation or inducement.

381 (b) Preliminary negotiations.

382 (c) Effectuation of a contract of insurance.

383 (d) Transaction of matters subsequent to effectuation of a  
 384 contract of insurance and arising out of it.

385 (26) "Unsound condition" means that the department has  
 386 determined that one or more of the following conditions exist  
 387 with respect to an insurer:

388 (a) The insurer's required surplus, capital, or capital  
 389 stock is impaired to an extent prohibited by law;

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390       (b) The insurer continues to write new business when it  
391 has not maintained the required surplus or capital stock;

392       (c) The insurer attempts to dissolve or liquidate without  
393 first having made provisions, satisfactory to the department,  
394 for liabilities arising from insurance policies issued by the  
395 insurer; or

396       (d) The insurer meets one or more of the grounds in s.  
397 631.051 for the appointment of the department as receiver.

398       637.10045 Preemption to state.—The regulation of title  
399 insurance, title insurers, and title insurance agencies is  
400 preempted to the state.

401       637.1005 General applicability of other chapters.—

402       (1) The provisions of chapters 624, 626, and 627 do not  
403 apply to title insurers or their agents unless specifically  
404 incorporated by reference and made applicable to this chapter by  
405 a provision of this chapter.

406       (2) The provisions of chapters 625, 628, and 631 apply to  
407 title insurance and for purposes of applying such provisions to  
408 title insurance, the term "department" shall be interpreted to  
409 mean office and the term "Director of the Division of Insurance  
410 Regulation" shall be interpreted to mean the "Florida Title  
411 Insurance Coordinator," "Director of the Division of Title  
412 Insurance," or "division director."

413       637.1006 General powers; duties.—

414       (1) The powers and duties of the Chief Financial Officer  
415 and the department specified in this chapter apply only with  
416 respect to title insurance agents and title insurance agencies.

417       (2) The department shall enforce the provisions of this  
418 chapter and shall execute the duties imposed upon the department  
419 by this chapter, as provided by law.

420       (3) The department shall have the powers and authority  
421 expressly conferred upon it by, or reasonably implied from, the  
422 provisions of this chapter.

423       (4) The department may conduct such investigations of  
424 insurance matters, in addition to investigations expressly  
425 authorized, as it may deem proper to determine whether any  
426 person has violated any provision of this chapter within its  
427 respective regulatory jurisdiction or to secure information  
428 useful in the lawful administration of any such provision. The  
429 cost of such investigations shall be borne by the state.

430       (5) The department may each collect, propose, publish, and  
431 disseminate information relating to the subject matter of any  
432 duties imposed upon it by law.

433       (6) The department shall each have such additional powers  
434 and duties as may be provided by other laws of this state.

435       (7) The department may employ actuaries who shall be at-  
436 will employees and who shall serve at the pleasure of the Chief  
437 Financial Officer, in the case of department employees.  
438 Actuaries employed pursuant to this subsection shall be members  
439 of the Society of Actuaries or the Casualty Actuarial Society  
440 and shall be exempt from the Career Service System established  
441 under chapter 110. The salaries of the actuaries employed  
442 pursuant to this paragraph shall be set in accordance with s.  
443 216.251(2)(a)5. and shall be set at levels which are



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444 commensurate with salary levels paid to actuaries by the  
445 insurance industry.

446 (8) The department shall, within existing resources,  
447 develop and implement an outreach program for the purpose of  
448 encouraging the entry of additional insurers into the Florida  
449 market.

450 (9) Upon receiving service of legal process issued in any  
451 civil action or proceeding in this state against any regulated  
452 person required to appoint the Chief Financial Officer as its  
453 attorney to receive service of all legal process, the Chief  
454 Financial Officer, as attorney, may, in lieu of sending the  
455 process by registered or certified mail, send the process by any  
456 other verifiable means to the person last designated by the  
457 regulated person to receive the process.

458 (10) This section does not limit the authority of the  
459 department and the Division of Insurance Fraud, as specified in  
460 s. 637.1046.

461 (11) The division may enforce violations of the Real  
462 Estate Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.  
463 637.1007 Rules.-

464 (1) The department may adopt rules pursuant to ss.  
465 120.536(1) and 120.54 to implement provisions of this chapter  
466 and interpret the specific powers and duties provided in this  
467 chapter, which rules may:

468 (a) Define the license and appointment requirements for  
469 title insurance agents and agencies.

470 (b) Establish penalty guidelines for enforcing the  
471 requirements of this chapter.

472 (c) Describe the fiduciary responsibilities of title  
473 insurance agents and agencies, including, but not limited to,  
474 duties related to escrow accounts.

475 (d) Identify the responsibilities, duties, and  
476 designations of the agent in charge of the title insurance  
477 agency or the attorney in charge of an attorney-owned title  
478 insurance agency.

479 (e) Enable the collection of information from agents and  
480 agencies relating to title insurance business.

481 (f) Set reasonable requirements for the timely recording  
482 of documents and the delivery of final title policies.

483 (g) Establish rules for the protection, calculation, and  
484 timely remittance of premiums that are owed to title insurers.

485 (h) Prohibit the markup of the cost of any third-party  
486 services by the closing agent without adding value.

487 (2) In addition to any other penalty provided, willful  
488 violation of any such rule shall subject the violator to such  
489 suspension or revocation of certificate of authority or license  
490 as may be applicable under this chapter as for violation of the  
491 provision as to which such rule relates.

492 637.1008 General penalty.—

493 (1) Each willful violation of this chapter or rule of the  
494 department as to which a greater penalty is not provided by  
495 another provision of this chapter or rule of the department or  
496 by other applicable laws of this state is a misdemeanor of the  
497 second degree and is, in addition to any prescribed applicable  
498 denial, suspension, or revocation of certificate of authority,  
499 license, or permit, punishable as provided in s. 775.082 or s.

500 775.083. Each instance of such violation shall be considered a  
 501 separate offense.

502 (2) Each willful violation of an emergency rule or order  
 503 of the department by a person who is not licensed, authorized,  
 504 or eligible to engage in business in accordance with this  
 505 chapter is a felony of the third degree, punishable as provided  
 506 in s. 775.082, s. 775.083, or s. 775.084. Each instance of such  
 507 violation is a separate offense. This subsection does not apply  
 508 to licensees or affiliated parties of licensees.

509 637.1009 Enforcement; cease and desist orders; removal of  
 510 certain persons; fines.—

511 (1) DEFINITIONS.—For the purposes of this section, the  
 512 term:

513 (a) "Affiliated party" means any person who directs or  
 514 participates in the conduct of the affairs of a licensee and who  
 515 is:

516 1. A director, officer, employee, trustee, committee  
 517 member, or controlling stockholder of a licensee or a subsidiary  
 518 or service corporation of the licensee, other than a controlling  
 519 stockholder which is a holding company, or an agent of a  
 520 licensee or a subsidiary or service corporation of the licensee;

521 2. A person who has filed or is required to file a  
 522 statement or any other information required to be filed under s.  
 523 628.461 or s. 628.4615;

524 3. A stockholder, other than a stockholder that is a  
 525 holding company of the licensee, who participates in the conduct  
 526 of the affairs of the licensee; or

527 4. An independent contractor who:

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528 a. Renders a written opinion required by the laws of this  
529 state under her or his professional credentials on behalf of the  
530 licensee, which opinion is reasonably relied on by the  
531 department in the performance of its duties; or

532 b. Affirmatively and knowingly conceals facts, through a  
533 written misrepresentation to the department, with knowledge that  
534 such misrepresentation:

535 (I) Constitutes a violation of this chapter or a lawful  
536 rule or order of the department; and

537 (II) Directly and materially endangers the ability of the  
538 licensee to meet its obligations to policyholders.

539  
540 For the purposes of this subparagraph, any representation of  
541 fact made by an independent contractor on behalf of a licensee,  
542 affirmatively communicated as a representation of the licensee  
543 to the independent contractor, shall not be considered a  
544 misrepresentation by the independent contractor.

545 (b) "Licensee" means a person issued a license or  
546 certificate of authority or approval under this chapter or a  
547 person registered under a provision of this chapter.

548 (2) ENFORCEMENT GENERALLY.—

549 (a) The powers granted by this section to the department  
550 apply only with respect to licensees of the department and their  
551 affiliated parties and to unlicensed persons subject to  
552 regulatory jurisdiction of the department.

553 (b) The department may institute such suits or other legal  
554 proceedings as may be required to enforce any provision of this  
555 chapter within the department's regulatory jurisdiction. If it

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556 appears that any person has violated any provision of this  
557 chapter for which criminal prosecution is provided, the  
558 department shall provide the appropriate state attorney or other  
559 prosecuting agency having jurisdiction with respect to such  
560 prosecution with the relevant information in its possession.

561 (3) CEASE AND DESIST ORDERS.—

562 (a) The department may issue and serve a complaint stating  
563 charges upon any licensee or upon any affiliated party, whenever  
564 the department has reasonable cause to believe that the person  
565 or individual named therein is engaging in or has engaged in  
566 conduct that is:

567 1. An act that demonstrates a lack of fitness or  
568 trustworthiness to engage in the business of insurance, is  
569 hazardous to the insurance buying public, or constitutes  
570 business operations that are a detriment to policyholders,  
571 stockholders, investors, creditors, or the public;

572 2. A violation of any provision of this chapter;

573 3. A violation of any rule of the department;

574 4. A violation of any order of the department; or

575 5. A breach of any written agreement with the department.

576 (b) The complaint shall contain a statement of facts and  
577 notice of opportunity for a hearing pursuant to ss. 120.569 and  
578 120.57.

579 (c) If no hearing is requested within the time allowed by  
580 ss. 120.569 and 120.57, or if a hearing is held and the  
581 department finds that any of the charges are proven, the  
582 department may enter an order directing the licensee or the  
583 affiliated party named in the complaint to cease and desist from

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584 engaging in the conduct complained of and take corrective action  
585 to remedy the effects of past improper conduct and assure future  
586 compliance.

587 (d) If the licensee or affiliated party named in the order  
588 fails to respond to the complaint within the time allotted by  
589 ss. 120.569 and 120.57, the failure constitutes a default and  
590 justifies the entry of a cease and desist order.

591 (e) A contested or default cease and desist order is  
592 effective when reduced to writing and served upon the licensee  
593 or affiliated party named therein. An uncontested cease and  
594 desist order is effective as agreed.

595 (f) Whenever the department finds that conduct described  
596 in paragraph (a) is likely to cause insolvency, substantial  
597 dissipation or misvaluation of assets or earnings of the  
598 licensee, substantial inability to pay claims on a timely basis,  
599 or substantial prejudice to prospective or existing insureds,  
600 policyholders, subscribers, or the public, it may issue an  
601 emergency cease and desist order requiring the licensee or any  
602 affiliated party to immediately cease and desist from engaging  
603 in the conduct complained of and to take corrective and remedial  
604 action. The emergency order is effective immediately upon  
605 service of a copy of the order upon the licensee or affiliated  
606 party named therein and remains effective for 90 days. If the  
607 department begins nonemergency cease and desist proceedings  
608 under this subsection, the emergency order remains effective  
609 until the conclusion of the proceedings under ss. 120.569 and  
610 120.57.

611 (4) REMOVAL OF AFFILIATED PARTIES.—

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612 (a) The department may issue and serve a complaint stating  
613 charges upon any affiliated party and upon the licensee  
614 involved, whenever the department has reason to believe that an  
615 affiliated party is engaging in or has engaged in conduct that  
616 constitutes:

617 1. An act that demonstrates a lack of fitness or  
618 trustworthiness to engage in the business of insurance through  
619 engaging in illegal activity or mismanagement of business  
620 activities;

621 2. A willful violation of any law relating to the business  
622 of insurance; however, if the violation constitutes a  
623 misdemeanor, no complaint shall be served as provided in this  
624 section until the affiliated party is notified in writing of the  
625 matter of the violation and has been afforded a reasonable  
626 period of time, as set forth in the notice, to correct the  
627 violation and has failed to do so;

628 3. A violation of any other law involving fraud or moral  
629 turpitude that constitutes a felony;

630 4. A willful violation of any rule of the department;

631 5. A willful violation of any order of the department;

632 6. A material misrepresentation of fact, made knowingly  
633 and willfully or made with reckless disregard for the truth of  
634 the matter; or

635 7. An act of commission or omission or a practice which is  
636 a breach of trust or a breach of fiduciary duty.

637 (b) The complaint shall contain a statement of facts and  
638 notice of opportunity for a hearing pursuant to ss. 120.569 and  
639 120.57.

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640 (c) If no hearing is requested within the time allotted by  
641 ss. 120.569 and 120.57, or if a hearing is held and the  
642 department finds that any of the charges in the complaint are  
643 proven true and that:

644 1. The licensee has suffered or will likely suffer loss or  
645 other damage;

646 2. The interests of the policyholders, creditors, or  
647 public are, or could be, seriously prejudiced by reason of the  
648 violation or act or breach of fiduciary duty;

649 3. The affiliated party has received financial gain by  
650 reason of the violation, act, or breach of fiduciary duty; or

651 4. The violation, act, or breach of fiduciary duty is one  
652 involving personal dishonesty on the part of the affiliated  
653 party or the conduct jeopardizes or could reasonably be  
654 anticipated to jeopardize the financial soundness of the  
655 licensee,

656  
657 The department may enter an order removing the affiliated party  
658 or restricting or prohibiting participation by the person in the  
659 affairs of that particular licensee or of any other licensee.

660 (d) If the affiliated party fails to respond to the  
661 complaint within the time allotted by ss. 120.569 and 120.57,  
662 the failure constitutes a default and justifies the entry of an  
663 order of removal, suspension, or restriction.

664 (e) A contested or default order of removal, restriction,  
665 or prohibition is effective when reduced to writing and served  
666 on the licensee and the affiliated party. An uncontested order  
667 of removal, restriction, or prohibition is effective as agreed.



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668       (f)1. The chief executive officer, or the person holding  
669 the equivalent office, of a licensee shall promptly notify the  
670 department that issued the license if she or he has actual  
671 knowledge that any affiliated party is charged with a felony in  
672 a state or federal court.

673       2. Whenever any affiliated party is charged with a felony  
674 in a state or federal court or with the equivalent of a felony  
675 in the courts of any foreign country with which the United  
676 States maintains diplomatic relations, and the charge alleges  
677 violation of any law involving fraud, theft, or moral turpitude,  
678 the department may enter an emergency order suspending the  
679 affiliated party or restricting or prohibiting participation by  
680 the affiliated party in the affairs of the particular licensee  
681 or of any other licensee upon service of the order upon the  
682 licensee and the affiliated party charged. The order shall  
683 contain notice of opportunity for a hearing pursuant to ss.  
684 120.569 and 120.57, where the affiliated party may request a  
685 postsuspension hearing to show that continued service to or  
686 participation in the affairs of the licensee does not pose a  
687 threat to the interests of the licensee's policyholders or  
688 creditors and does not threaten to impair public confidence in  
689 the licensee. In accordance with applicable rules, the  
690 department shall notify the affiliated party whether the order  
691 suspending or prohibiting the person from participation in the  
692 affairs of a licensee will be rescinded or otherwise modified.  
693 The emergency order remains in effect, unless otherwise modified  
694 by the department, until the criminal charge is disposed of. The  
695 acquittal of the person charged, or the final, unappealed

696 dismissal of all charges against the person, dissolves the  
 697 emergency order, but does not prohibit the department from  
 698 instituting proceedings under paragraph (a). If the person  
 699 charged is convicted or pleads guilty or nolo contendere,  
 700 whether or not an adjudication of guilt is entered by the court,  
 701 the emergency order shall become final.

702 (g) Any affiliated party removed from office pursuant to  
 703 this section is not eligible for reelection or appointment to  
 704 the position or to any other official position in any licensee  
 705 in this state except upon the written consent of the department.  
 706 Any affiliated party who is removed, restricted, or prohibited  
 707 from participation in the affairs of a licensee pursuant to this  
 708 section may petition the department for modification or  
 709 termination of the removal, restriction, or prohibition.

710 (h) Resignation or termination of an affiliated party does  
 711 not affect the department's jurisdiction to proceed under this  
 712 subsection.

713 (5) ADMINISTRATIVE FINES; ENFORCEMENT.—

714 (a) The department, in a proceeding initiated pursuant to  
 715 chapter 120, impose an administrative fine against any person  
 716 found in the proceeding to have violated any provision of this  
 717 chapter, a cease and desist order of the department, or any  
 718 written agreement with the department. A proceeding may not be  
 719 initiated and a fine may not accrue until after the person has  
 720 been notified in writing of the nature of the violation and has  
 721 been afforded a reasonable period of time, as set forth in the  
 722 notice, to correct the violation and has failed to do so.

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723 (b) A fine imposed under this subsection may not exceed  
724 the amounts specified in s. 637.2021, per violation.

725 (c) In addition to the imposition of an administrative  
726 fine under this subsection, the department may also suspend or  
727 revoke the license or certificate of authority of the licensee  
728 fined under this subsection.

729 (d) Any administrative fine levied by the department under  
730 this subsection may be enforced by the department by appropriate  
731 proceedings in the circuit court of the county in which the  
732 person resides or in which the principal office of a licensee is  
733 located, or, in the case of a foreign insurer or person not  
734 residing in this state, in Leon County. In any administrative or  
735 judicial proceeding arising under this section, a party may  
736 elect to correct the violation asserted by the department, and,  
737 upon doing so, any fine shall cease to accrue; however, the  
738 election to correct the violation does not render any  
739 administrative or judicial proceeding moot. All fines collected  
740 under this section shall be paid to the Title Insurance  
741 Regulatory Trust Fund.

742 (e) In imposing any administrative penalty or remedy  
743 provided for under this section, the department shall take into  
744 account the appropriateness of the penalty with respect to the  
745 size of the financial resources and the good faith of the person  
746 charged, the gravity of the violation, the history of previous  
747 violations, and other matters as justice may require.

748 (f) The imposition of an administrative fine under this  
749 subsection may be in addition to any other penalty or  
750 administrative fine authorized under this chapter.

751           (6) ADMINISTRATIVE PROCEDURES.—All administrative  
 752 proceedings under subsections (3), (4), and (5) shall be  
 753 conducted in accordance with chapter 120. Any service required  
 754 or authorized to be made by the department under this chapter  
 755 shall be made by certified mail, return receipt requested,  
 756 delivered to the addressee only; by personal delivery; or in  
 757 accordance with chapter 48. The service provided for herein  
 758 shall be effective from the date of delivery.

759           (7) CRIMINAL ENFORCEMENT.—It is unlawful for any  
 760 affiliated party who is removed or prohibited from participation  
 761 in the affairs of a licensee pursuant to this section, or for  
 762 any licensee whose rights or privileges under such license have  
 763 been suspended or revoked pursuant to this chapter, to knowingly  
 764 act as an affiliated party as defined in this section or to  
 765 knowingly transact insurance until expressly authorized to do so  
 766 by the department. Such authorization by the department may not  
 767 be provided unless the affiliated party or the licensee has made  
 768 restitution, if applicable, to all parties damaged by the  
 769 actions of the affiliated party or the licensee which served as  
 770 the basis for the removal or prohibition of the affiliated party  
 771 or the suspension or revocation of the rights and privileges of  
 772 the licensee. Any person who violates the provisions of this  
 773 subsection commits a felony of the third degree, punishable as  
 774 provided in s. 775.082, s. 775.083 or s. 775.084.

775           637.1011 Immunity from civil liability for providing  
 776 department with information about condition of insurer.—A  
 777 person, other than a person filing a required report or other  
 778 required information, who provides the department with

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779 information about the financial condition of an insurer is  
780 immune from civil liability arising out of the provision of the  
781 information unless the person acted with knowledge that the  
782 information was false or with reckless disregard for the truth  
783 or falsity of the information.

784 637.1012 Records; reproductions; destruction.-

785 (1) Except as provided in this section, the department  
786 shall each preserve in permanent form records of its  
787 proceedings, hearings, investigations, and examinations and  
788 shall file such records in its department.

789 (2) The department may photograph, microphotograph, or  
790 reproduce on film, or maintain in an electronic recordkeeping  
791 system, all financial records, financial statements of domestic  
792 insurers, reports of business transacted in this state by  
793 foreign insurers and alien insurers, reports of examination of  
794 domestic insurers, and such other records and documents on file  
795 in the department as the department may in its discretion  
796 select.

797 (3) To facilitate the efficient use of floor space and  
798 filing equipment in its offices, the department may destroy the  
799 following records and documents pursuant to chapter 257:

800 (a) General closed correspondence files over 3 years old.

801 (b) Title insurance and similar license files, over 2  
802 years old; except that the department shall preserve by  
803 reproduction or otherwise a copy of the original records upon  
804 the basis of which each such licensee qualified for her or his  
805 initial license, except a competency examination, and of any  
806 disciplinary proceeding affecting the licensee.

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807 (c) All title insurance agent and similar license files  
808 and records, including original license qualification records  
809 and records of disciplinary proceedings 5 years after a licensee  
810 has ceased to be qualified for a license.

811 (d) Insurer certificate of authority files over 2 years  
812 old, except that the department shall preserve by reproduction  
813 or otherwise a copy of the initial certificate of authority of  
814 each insurer.

815 (e) All documents and records which have been photographed  
816 or otherwise reproduced as provided in subsection (2), if such  
817 reproductions have been filed and an audit of the department has  
818 been completed for the period embracing the dates of such  
819 documents and records.

820 (f) All other records, documents, and files not expressly  
821 provided for in paragraphs (a)-(e).

822 637.1013 Reproductions and certified copies of records as  
823 evidence.—

824 (1) Photographs or microphotographs in the form of film or  
825 prints, or other reproductions from an electronic recordkeeping  
826 system, of documents and records made under s. 637.1012(2), or  
827 made under former s. 624.311(3) before October 1, 1982, shall  
828 have the same force and effect as the originals thereof and  
829 shall be treated as originals for the purpose of their  
830 admissibility in evidence. Duly certified or authenticated  
831 reproductions of such photographs, microphotographs, or other  
832 reproductions from an electronic recordkeeping system shall be  
833 as admissible in evidence as the originals.

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834       (2) Upon the request of any person and payment of the  
835 applicable fee, the department shall give a certified copy of  
836 any record in its department which is then subject to public  
837 inspection.

838       (3) Copies of original records or documents in its  
839 department certified by the department shall be received in  
840 evidence in all courts as if they were originals.

841       637.1014 Publications.—

842       (1) As early as reasonably possible, the department shall  
843 annually have printed and made available a statistical report  
844 which must include all of the following information on either a  
845 calendar year or fiscal year basis:

846       (a) The total amount of premiums written and earned for  
847 title insurance.

848       (b) The total amount of losses paid and losses incurred  
849 for title insurance.

850       (c) The ratio of premiums written to losses paid by title  
851 insurance.

852       (d) The ratio of premiums earned to losses incurred by  
853 title insurance.

854       (e) The market share of the 10 largest insurers or insurer  
855 groups of title insurance and of each insurer or insurer group  
856 that has a market share of at least 1 percent of a line of  
857 insurance in this state.

858       (f) The profitability of title insurance.

859       (g) An analysis of the impact of the insurance industry on  
860 the economy of the state.

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861 (h) A complaint ratio by line of insurance for the  
862 insurers referred to in paragraph (e), based upon information  
863 provided to the department by the department. The department  
864 shall determine the most appropriate ratio or ratios for  
865 quantifying complaints.

866 (i) A summary of the findings of market examinations  
867 performed by the department under s. 637.1018 during the  
868 preceding year.

869 (j) Such other information as the department deems  
870 relevant.

871 (2) The department may prepare and have printed and  
872 published in pamphlet or book form, as needed, questions and  
873 answers for the use of persons applying for an examination for  
874 licensing as title insurance agents.

875 (3) The department shall sell the publications mentioned  
876 in subsections (1) and (2) to purchasers at a price fixed by the  
877 department at not less than the cost of printing and binding  
878 such publications, plus packaging and postage costs for mailing;  
879 except that the department may deliver copies of such  
880 publications free of cost to state agencies and officers;  
881 insurance supervisory authorities of other states and  
882 jurisdictions; institutions of higher learning located in  
883 Florida; the Library of Congress; insurance officers of Naval,  
884 Military, and Air Force bases located in this state; and to  
885 persons serving as advisers to the department in preparation of  
886 the publications.

887 (4) The department may contract with outside vendors, in  
888 accordance with chapter 287, to compile data in an electronic



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889 data processing format that is compatible with the systems of  
890 the department.

891 637.1015 Sale of publications; deposit of proceeds.—The  
892 department shall deposit all moneys received from the sale of  
893 publications under s. 637.1014 in the Title Insurance Regulatory  
894 Trust Fund for the purpose of paying costs for the preparation,  
895 printing, and delivery of the publications required in s.  
896 637.1014(2), packaging and mailing costs, and banking,  
897 accounting, and incidental expenses connected with the sale and  
898 delivery of such publications. All moneys deposited into and all  
899 funds transferred to the Title Insurance Regulatory Trust Fund  
900 are appropriated for such uses and purposes.

901 637.1016 Department; annual report.—

902 (1) As early as reasonably possible, the department shall  
903 annually prepare a report to the Speaker and Minority Leader of  
904 the House of Representatives, the President and Minority Leader  
905 of the Senate, the chairs of the legislative committees with  
906 jurisdiction over matters of insurance, and the Governor  
907 showing, with respect to the preceding calendar year:

908 (a) Names of the authorized insurers transacting insurance  
909 in this state, with abstracts of their financial statements  
910 including assets, liabilities, and net worth.

911 (b) Names of insurers whose business was closed during the  
912 year, the cause thereof, and amounts of assets and liabilities  
913 as ascertainable.

914 (c) Names of insurers against which delinquency or similar  
915 proceedings were instituted, and a concise statement of the  
916 circumstances and results of each such proceeding.

917 (d) The receipts and estimated expenses of the department  
918 for the year.

919 (e) Such other pertinent information and matters as the  
920 department deems to be in the public interest.

921 (f) Annually after each regular session of the  
922 Legislature, a compilation of the laws of this state relating to  
923 insurance. Any such publication may be printed, revised, or  
924 reprinted upon the basis of the original low bid.

925 (g) An analysis and summary report of the state of the  
926 insurance industry in this state evaluated as of the end of the  
927 most recent calendar year.

928 (2) The department shall maintain the following  
929 information and make such information available upon request:

930 (a) Calendar year profitability, including investment  
931 income from loss reserves (Florida and countrywide).

932 (b) Aggregate Florida loss reserves.

933 (c) Premiums written (Florida and countrywide).

934 (d) Premiums earned (Florida and countrywide).

935 (e) Incurred losses (Florida and countrywide).

936 (f) Paid losses (Florida and countrywide).

937 (g) Allocated Florida loss adjustment expenses.

938 (h) Variation of premiums charged by the industry as  
939 compared to rates promulgated by the Insurance Services Office  
940 (Florida and countrywide).

941 (i) An analysis of policy size limits (Florida and  
942 countrywide).

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943 (j) Trends; emerging trends as exemplified by the  
944 percentage change in frequency and severity of both paid and  
945 incurred claims, and pure premium (Florida and countrywide).

946 (3) The department may contract with outside vendors, in  
947 accordance with chapter 287, to compile data in an electronic  
948 data processing format that is compatible with the systems of  
949 the department.

950 637.1017 Examination of insurers.—

951 (1) (a) The department shall examine the affairs,  
952 transactions, accounts, records, and assets of each authorized  
953 insurer as to its transactions affecting the insurer as often as  
954 it deems advisable, except as provided in this section. The  
955 examination may include examination of the affairs,  
956 transactions, accounts, and records relating directly or  
957 indirectly to the insurer and of the assets of the insurer's  
958 managing general agents and controlling or controlled person, as  
959 defined in s. 625.012. The examination shall be pursuant to a  
960 written order of the department. Such order shall expire upon  
961 receipt by the department of the written report of the  
962 examination.

963 (b) The department shall examine each insurer according to  
964 accounting procedures designed to fulfill the requirements of  
965 generally accepted insurance accounting principles and practices  
966 and good internal control and in keeping with generally accepted  
967 accounting forms, accounts, records, methods, and practices  
968 relating to insurers. To facilitate uniformity in examinations,  
969 the department may adopt, by rule, the Market Conduct Examiners  
970 Handbook and the Financial Condition Examiners Handbook of the

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971 National Association of Insurance Commissioners, 2002, and may  
972 adopt subsequent amendments thereto, if the examination  
973 methodology remains substantially consistent.

974 (2) (a) Except as provided in paragraph (f), the department  
975 may examine each insurer as often as may be warranted for the  
976 protection of the policyholders and in the public interest, and  
977 shall examine each domestic insurer not less frequently than  
978 once every 5 years. The examination shall cover the preceding 5  
979 fiscal years of the insurer and shall be commenced within 12  
980 months after the end of the most recent fiscal year being  
981 covered by the examination. The examination may cover any period  
982 of the insurer's operations since the last previous examination.  
983 The examination may include examination of events subsequent to  
984 the end of the most recent fiscal year and the events of any  
985 prior period that affect the present financial condition of the  
986 insurer.

987 (b) The department shall examine each insurer applying for  
988 an initial certificate of authority to transact insurance in  
989 this state before granting the initial certificate.

990 (c) In lieu of making its own examination, the department  
991 may accept a full report of the last recent examination of a  
992 foreign insurer, certified to by the insurance supervisory  
993 official of another state.

994 (d) The examination by the department of an alien insurer  
995 shall be limited to the alien insurer's insurance transactions  
996 and affairs in the United States, except as otherwise required  
997 by the department.

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998           (e) The department shall adopt rules providing that an  
999 examination under this section may be conducted by independent  
1000 certified public accountants, actuaries, investment specialists,  
1001 information technology specialists, and reinsurance specialists  
1002 meeting criteria specified by rule. The rules shall provide:

1003           1. That the rates charged to the insurer being examined  
1004 are consistent with rates charged by other firms in a similar  
1005 profession and are comparable with the rates charged for  
1006 comparable examinations.

1007           2. That the firm selected by the department to perform the  
1008 examination has no conflicts of interest that might affect its  
1009 ability to independently perform its responsibilities on the  
1010 examination.

1011           3. That the insurer being examined must make payment for  
1012 the examination pursuant to s. 637.1023(1) in accordance with  
1013 the rates and terms established by the department and the firm  
1014 performing the examination.

1015           (f) An examination under this section must be conducted at  
1016 least once every year with respect to a domestic insurer that  
1017 has continuously held a certificate of authority for less than 3  
1018 years. The examination must cover the preceding fiscal year or  
1019 the period since the last examination of the insurer. The  
1020 department may limit the scope of the examination.

1021           637.1018 Market conduct examinations.—

1022           (1) As often as it deems necessary, the department shall  
1023 examine each licensed rating organization, each advisory  
1024 organization, each group, association, carrier, as defined in s.  
1025 440.02, or other organization of insurers which engages in joint

1026 underwriting or joint reinsurance, and each authorized insurer  
 1027 transacting in this state any class of insurance to which the  
 1028 provisions of this chapter are applicable. The examination shall  
 1029 be for the purpose of ascertaining compliance by the person  
 1030 examined with the applicable provisions of this chapter.

1031 (2) In lieu of any such examination, the department may  
 1032 accept the report of a similar examination made by the insurance  
 1033 supervisory official of another state.

1034 (3) The examination may be conducted by an independent  
 1035 professional examiner under contract to the department, in which  
 1036 case payment shall be made directly to the contracted examiner  
 1037 by the insurer examined in accordance with the rates and terms  
 1038 agreed to by the department and the examiner.

1039 (4) The reasonable cost of the examination shall be paid  
 1040 by the person examined, and such person shall be subject, as  
 1041 though an insurer, to the provisions of s. 637.1023.

1042 (5) Such examinations shall also be subject to the  
 1043 applicable provisions of chapter 440 and ss. 637.1021, 637.1022,  
 1044 637.1024, and 637.1025.

1045 637.1019 Investigation of title insurance agents and  
 1046 others.—If the department has reason to believe that any title  
 1047 insurance agent has violated or is violating any provision of  
 1048 this chapter, or upon the written complaint signed by any  
 1049 interested person indicating that any such violation may exist:

1050 (1) The department shall conduct such investigation as it  
 1051 deems necessary of the accounts, records, documents, and  
 1052 transactions pertaining to or affecting the insurance affairs of  
 1053 any title insurance agent, title insurance agency, customer

1054 representative, service representative, or other person subject  
 1055 to its jurisdiction.

1056 (2) The department shall conduct such investigation as it  
 1057 deems necessary of the accounts, records, documents, and  
 1058 transactions pertaining to or affecting the insurance affairs of  
 1059 any:

1060 (a) Administrator, service company, or other person  
 1061 subject to its jurisdiction.

1062 (b) Person having a contract or power of attorney under  
 1063 which she or he enjoys in fact the exclusive or dominant right  
 1064 to manage or control an insurer.

1065 (c) Person engaged in or proposing to be engaged in the  
 1066 promotion or formation of:

- 1067 1. A domestic insurer;
- 1068 2. An insurance holding corporation; or
- 1069 3. A corporation to finance a domestic insurer or in the  
 1070 production of the domestic insurer's business.

1071 (3) In the investigation by the department of the alleged  
 1072 misconduct, the licensee shall, whenever required by the  
 1073 department, cause his or her books and records to be open for  
 1074 inspection for the purpose of such inquiries.

1075 (4) A complaint against any licensee may be informally  
 1076 alleged and need not be in any language necessary to charge a  
 1077 crime on an indictment or information.

1078 (5) The expense for any hearings or investigations under  
 1079 this section, as well as the fees and mileage of witnesses, may  
 1080 be paid out of the appropriate fund.

1081 (6) If the department, after investigation, has reason to

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1082 believe that a licensee may have been found guilty of or pleaded  
 1083 guilty or nolo contendere to a felony or a crime related to the  
 1084 business of insurance in this or any other state or jurisdiction,  
 1085 the department or office may require the licensee to file with  
 1086 the department or office a complete set of his or her  
 1087 fingerprints, which shall be accompanied by the fingerprint  
 1088 processing fee set forth in s. 637.2031. The fingerprints shall  
 1089 be taken by an authorized law enforcement agency or other  
 1090 department-approved entity.

1091 637.1021 Conduct of examination or investigation; access  
 1092 to records; correction of accounts; appraisals.-

1093 (1) The examination or investigation may be conducted by  
 1094 the accredited examiners or investigators of the department at  
 1095 the offices wherever located of the person being examined or  
 1096 investigated and at such other places as may be required for  
 1097 determination of matters under examination or investigation. In  
 1098 the case of alien insurers, the examination may be so conducted  
 1099 in the insurer's offices and places in the United States, except  
 1100 as otherwise required by the department.

1101 (2) Every person being examined or investigated, and its  
 1102 officers, attorneys, employees, agents, and representatives,  
 1103 shall make freely available to the department or its examiners  
 1104 or investigators the accounts, records, documents, files,  
 1105 information, assets, and matters in their possession or control  
 1106 relating to the subject of the examination or investigation. An  
 1107 agent who provides other products or services or maintains  
 1108 customer information not related to insurance must maintain  
 1109 records relating to insurance products and transactions



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1110 separately if necessary to give the department access to such  
1111 records. If records relating to the insurance transactions are  
1112 maintained by an agent on premises owned or operated by a third  
1113 party, the agent and the third party must provide access to the  
1114 records by the department.

1115 (3) If the department finds any accounts or records to be  
1116 inadequate, or inadequately kept or posted, it may employ  
1117 experts to reconstruct, rewrite, post, or balance them at the  
1118 expense of the person being examined if such person has failed  
1119 to maintain, complete, or correct such records or accounting  
1120 after the department has given her or him notice and a  
1121 reasonable opportunity to do so.

1122 (4) If the department deems it necessary to value any  
1123 asset involved in such an examination of an insurer, it may make  
1124 written request of the insurer to designate one or more  
1125 competent appraisers acceptable to the department, who shall  
1126 promptly make an appraisal of the asset and furnish a copy  
1127 thereof to the department. If the insurer fails to designate  
1128 such an appraiser or appraisers within 20 days after the request  
1129 of the department, the department may designate the appraiser or  
1130 appraisers. The reasonable expense of any such appraisal shall  
1131 be a part of the expense of examination, to be borne by the  
1132 insurer.

1133 (5) Neither the department nor any examiner shall remove  
1134 any record, account, document, file, or other property of the  
1135 person being examined from the offices of such person except  
1136 with the written consent of such person given in advance of such  
1137 removal or pursuant to an order of court duly obtained.

1138           (6) Any individual who willfully obstructs the department  
 1139 or the examiner in the examinations or investigations authorized  
 1140 by this part is guilty of a misdemeanor and upon conviction  
 1141 shall be punished as provided in s. 624.15.

1142           (7) The department or its examiners or investigators may  
 1143 electronically scan accounts, records, documents, files, and  
 1144 information, relating to the subject of the examination or  
 1145 investigation, in the possession or control of the person being  
 1146 examined or investigated.

1147           637.1022 Examination and investigation reports.-

1148           (1) The department or its examiner shall make a full and  
 1149 true written report of each examination. The examination report  
 1150 shall contain only information obtained from examination of the  
 1151 records, accounts, files, and documents of or relative to the  
 1152 insurer examined or from testimony of individuals under oath,  
 1153 together with relevant conclusions and recommendations of the  
 1154 examiner based thereon. The department shall furnish a copy of  
 1155 the examination report to the insurer examined not less than 30  
 1156 days prior to filing the examination report in its office. If  
 1157 such insurer so requests in writing within such 30-day period,  
 1158 the department shall grant a hearing with respect to the  
 1159 examination report and shall not so file the examination report  
 1160 until after the hearing and after such modifications have been  
 1161 made therein as the department deems proper.

1162           (2) The examination report when so filed shall be  
 1163 admissible in evidence in any action or proceeding brought by  
 1164 the department against the person examined, or against its  
 1165 officers, employees, or agents. In all other proceedings, the

1166 admissibility of the examination report is governed by the  
 1167 evidence code. The department or its examiners may at any time  
 1168 testify and offer other proper evidence as to information  
 1169 secured or matters discovered during the course of an  
 1170 examination, whether or not a written report of the examination  
 1171 has been either made, furnished, or filed with the department.

1172 (3) After the examination report has been filed pursuant  
 1173 to subsection (1), the department may publish the results of any  
 1174 such examination in one or more newspapers published in this  
 1175 state whenever it deems it to be in the public interest.

1176 (4) After the examination report of an insurer has been  
 1177 filed pursuant to subsection (1), an affidavit shall be filed  
 1178 with the department, not more than 30 days after the report has  
 1179 been filed, on a form furnished by the department and signed by  
 1180 the officer of the company in charge of the insurer's business  
 1181 in this state, stating that she or he has read the report and  
 1182 that the recommendations made in the report will be considered  
 1183 within a reasonable time.

1184 637.1023 Examination expenses.-

1185 (1) Each insurer so examined shall pay to the department  
 1186 the expenses of the examination at the rates adopted by the  
 1187 department. Such expenses shall include actual travel expenses,  
 1188 reasonable living expense allowance, compensation of the  
 1189 examiner or other person making the examination, and necessary  
 1190 attendant administrative costs of the department directly  
 1191 related to the examination. Such travel expense and living  
 1192 expense allowance shall be limited to those expenses necessarily  
 1193 incurred on account of the examination and shall be paid by the

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1194 examined insurer together with compensation upon presentation by  
1195 the department to such insurer of a detailed account of such  
1196 charges and expenses after a detailed statement has been filed  
1197 by the examiner and approved by the department.

1198 (2) All moneys collected from insurers for examinations  
1199 shall be deposited into the Title Insurance Regulatory Trust  
1200 Fund, and the department may make deposits from time to time  
1201 into such fund from moneys appropriated for the operation of the  
1202 department.

1203 (3) Notwithstanding the provisions of s. 112.061, the  
1204 department may pay to the examiner or person making the  
1205 examination out of such trust fund the actual travel expenses,  
1206 reasonable living expense allowance, and compensation in  
1207 accordance with the statement filed with the department by the  
1208 examiner or other person, as provided in subsection (1) upon  
1209 approval by the department.

1210 (4) When not examining an insurer, the travel expenses,  
1211 per diem, and compensation for the examiners and other persons  
1212 employed to make examinations, if approved, shall be paid out of  
1213 moneys budgeted for such purpose as regular employees,  
1214 reimbursements for such travel expenses and per diem to be at  
1215 rates no more than as provided in s. 112.061.

1216 (5) The department may pay to regular insurance examiners,  
1217 not residents of Leon County, Florida, per diem for periods not  
1218 exceeding 30 days for each such examiner while at the Department  
1219 of Financial Services in Tallahassee, Florida, for the purpose  
1220 of auditing insurers' annual statements. Such expenses shall be

1221 paid out of moneys budgeted for such purpose, as for regular  
 1222 employees at rates provided in s. 112.061.

1223 (6) The provisions of this section shall apply to rate  
 1224 analysts and rate examiners in the discharge of their duties  
 1225 under s. 637.1018.

1226 637.1024 Witnesses and evidence.-

1227 (1) As to any examination, investigation, or hearing being  
 1228 conducted under this chapter, a person designated by the  
 1229 department:

1230 (a) May administer oaths, examine and cross-examine  
 1231 witnesses, receive oral and documentary evidence.

1232 (b) May subpoena witnesses, compel their attendance and  
 1233 testimony, and require by subpoena the production of books,  
 1234 papers, records, files, correspondence, documents, or other  
 1235 evidence which is relevant to the inquiry.

1236 (2) If any person refuses to comply with any such subpoena  
 1237 or to testify as to any matter concerning which she or he may be  
 1238 lawfully interrogated, the Circuit Court of Leon County or of  
 1239 the county wherein such examination, investigation, or hearing  
 1240 is being conducted, or of the county wherein such person  
 1241 resides, may, on the application of the department, issue an  
 1242 order requiring such person to comply with the subpoena and to  
 1243 testify.

1244 (3) Subpoenas shall be served, and proof of such service  
 1245 made, in the same manner as if issued by a circuit court.  
 1246 Witness fees, cost, and reasonable travel expenses, if claimed,  
 1247 shall be allowed the same as for testimony in a circuit court.

1248 637.1025 Testimony compelled; immunity from prosecution.-

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1249       (1) If any natural person asks to be excused from  
1250 attending or testifying or from producing any books, papers,  
1251 records, contracts, documents, or other evidence in connection  
1252 with any examination, hearing, or investigation being conducted  
1253 by the department or its examiner, on the ground that the  
1254 testimony or evidence required of her or him may tend to  
1255 incriminate the person or subject her or him to a penalty or  
1256 forfeiture, and shall notwithstanding be directed to give such  
1257 testimony or produce such evidence, the person must, if so  
1258 directed by the department and the Department of Legal Affairs,  
1259 nonetheless comply with such direction; but she or he shall not  
1260 thereafter be prosecuted or subjected to any penalty or  
1261 forfeiture for or on account of any transaction, matter, or  
1262 thing concerning which she or he may have so testified or  
1263 produced evidence; and no testimony so given or evidence  
1264 produced shall be received against the person upon any criminal  
1265 action, investigation, or proceeding. However, no such person so  
1266 testifying shall be exempt from prosecution or punishment for  
1267 any perjury committed by her or him in such testimony, and the  
1268 testimony or evidence so given or produced shall be admissible  
1269 against her or him upon any criminal action, investigation, or  
1270 proceeding concerning such perjury. No license or permit  
1271 conferred or to be conferred to such person shall be refused,  
1272 suspended, or revoked based upon the use of such testimony.

1273       (2) Any such individual may execute, acknowledge, and file  
1274 with the department, as appropriate, a statement expressly  
1275 waiving such immunity or privilege in respect to any  
1276 transaction, matter, or thing specified in such statement; and

1277 thereupon the testimony of such individual or such evidence in  
 1278 relation to such transaction, matter, or thing may be received  
 1279 or produced before any judge or justice, court, tribunal, grand  
 1280 jury, or otherwise; and, if so received or produced, such  
 1281 individual shall not be entitled to any immunity or privileges  
 1282 on account of any testimony she or he may so give or evidence so  
 1283 produced.

1284 637.1026 Hearings.—The department may hold hearings for  
 1285 any purpose within the scope of this chapter deemed to be  
 1286 necessary.

1287 637.1027 Authority of Department of Law Enforcement to  
 1288 accept fingerprints of, and exchange criminal history records  
 1289 with respect to, certain persons.—

1290 (1) The Department of Law Enforcement may accept  
 1291 fingerprints of organizers, incorporators, subscribers,  
 1292 officers, stockholders, directors, or any other persons  
 1293 involved, directly or indirectly, in the organization,  
 1294 operation, or management of:

1295 (a) Any insurer or proposed insurer transacting or  
 1296 proposing to transact insurance in this state.

1297 (b) Any other entity which is examined or investigated or  
 1298 which is eligible to be examined or investigated under the  
 1299 provisions of this chapter.

1300 (2) The Department of Law Enforcement may accept  
 1301 fingerprints of individuals who apply for a license as a title  
 1302 insurance agent, service representative, or managing general  
 1303 agent or the fingerprints of the majority owner, sole  
 1304 proprietor, partners, officers, and directors of a corporation

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1305 or other legal entity that applies for licensure with the  
1306 department under the provisions of this chapter.

1307 (3) The Department of Law Enforcement may, to the extent  
1308 provided for by federal law, exchange state, multistate, and  
1309 federal criminal history records with the department for the  
1310 purpose of the issuance, denial, suspension, or revocation of a  
1311 certificate of authority, certification, or license to operate  
1312 in this state.

1313 (4) The Department of Law Enforcement may accept  
1314 fingerprints of any other person required by statute or rule to  
1315 submit fingerprints to the department or any applicant or  
1316 licensee regulated by the department who is required to  
1317 demonstrate that he or she has not been convicted of or pled  
1318 guilty or nolo contendere to a felony or a misdemeanor.

1319 (5) The Department of Law Enforcement shall, upon receipt  
1320 of fingerprints from the department, submit the fingerprints to  
1321 the Federal Bureau of Investigation to check federal criminal  
1322 history records.

1323 (6) Statewide criminal records obtained through the  
1324 Department of Law Enforcement, federal criminal records obtained  
1325 through the Federal Bureau of Investigation, and local criminal  
1326 records obtained through local law enforcement agencies shall be  
1327 used by the department for the purpose of issuance, denial,  
1328 suspension, or revocation of certificates of authority,  
1329 certifications, or licenses issued to operate in this state.

1330 637.1029 Declaration of purpose.—The purpose of ss.  
1331 637.1029-637.1049 is to regulate trade practices relating to the  
1332 business of title insurance in accordance with the intent of



1333 Congress as expressed in the Act of Congress of March 9, 1945  
 1334 (Pub. L. No. 15, 79th Congress), by defining, or providing for  
 1335 the determination of, all such practices in this state which  
 1336 constitute unfair methods of competition or unfair or deceptive  
 1337 acts or practices and by prohibiting the trade practices so  
 1338 defined or determined.

1339 637.1031 Definitions.—When used in ss. 637.1029–637.1049,  
 1340 the term "insurance policy" or "insurance contract" means a  
 1341 written contract of, or a written agreement for or effecting,  
 1342 insurance, or the certificate thereof, by whatever name called,  
 1343 and includes all clauses, riders, endorsements, and papers which  
 1344 are a part thereof.

1345 637.1032 Unfair methods of competition and unfair or  
 1346 deceptive acts or practices prohibited; penalties.—

1347 (1) A person may not engage in this state in any trade  
 1348 practice which is defined in ss. 637.1029–637.1049 as, or  
 1349 determined pursuant to s. 637.1029 or s. 637.1035 to be, an  
 1350 unfair method of competition or an unfair or deceptive act or  
 1351 practice involving the business of insurance.

1352 (2) Any person who violates any provision of ss. 637.1029–  
 1353 637.1049 shall be subject to a fine in an amount not greater  
 1354 than \$2,500 for each nonwillful violation and not greater than  
 1355 \$20,000 for each willful violation. Fines under this subsection  
 1356 may not exceed an aggregate amount of \$10,000 for all nonwillful  
 1357 violations arising out of the same action or an aggregate amount  
 1358 of \$100,000 for all willful violations arising out of the same  
 1359 action. The fines authorized by this subsection may be imposed  
 1360 in addition to any other applicable penalty.

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1361           637.1033 Unfair methods of competition and unfair or  
1362 deceptive acts or practices defined.—The following are defined  
1363 as unfair methods of competition and unfair or deceptive acts or  
1364 practices:

1365           (1) Misrepresentations and false advertising of insurance  
1366 policies.—Knowingly making, issuing, circulating, or causing to  
1367 be made, issued, or circulated, any estimate, illustration,  
1368 circular, statement, sales presentation, omission, or comparison  
1369 which:

1370           (a) Misrepresents the benefits, advantages, conditions, or  
1371 terms of any insurance policy.

1372           (b) Misrepresents the dividends or share of the surplus to  
1373 be received on any insurance policy.

1374           (c) Makes any false or misleading statements as to the  
1375 dividends or share of surplus previously paid on any insurance  
1376 policy.

1377           (d) Is misleading, or is a misrepresentation, as to the  
1378 financial condition of any person or as to the legal reserve  
1379 system upon which any life insurer operates.

1380           (e) Uses any name or title of any insurance policy or  
1381 class of insurance policies misrepresenting the true nature  
1382 thereof.

1383           (f) Is a misrepresentation for the purpose of inducing, or  
1384 tending to induce, the lapse, forfeiture, exchange, conversion,  
1385 or surrender of any insurance policy.

1386           (g) Is a misrepresentation for the purpose of effecting a  
1387 pledge or assignment of, or effecting a loan against, any  
1388 insurance policy.

1389 (h) Misrepresents any insurance policy as being shares of  
 1390 stock or misrepresents ownership interest in the company.

1391 (i) Uses any advertisement that would mislead or otherwise  
 1392 cause a reasonable person to believe mistakenly that the state  
 1393 or the Federal Government is responsible for the insurance sales  
 1394 activities of any person or stands behind any person's credit or  
 1395 that any person, the state, or the Federal Government guarantees  
 1396 any returns on insurance products or is a source of payment of  
 1397 any insurance obligation of or sold by any person.

1398 (2) False information and advertising generally.—Knowingly  
 1399 making, publishing, disseminating, circulating, or placing  
 1400 before the public, or causing, directly or indirectly, to be  
 1401 made, published, disseminated, circulated, or placed before the  
 1402 public:

1403 (a) In a newspaper, magazine, or other publication,

1404 (b) In the form of a notice, circular, pamphlet, letter,  
 1405 or poster,

1406 (c) Over any radio or television station, or

1407 (d) In any other way,

1408  
 1409 an advertisement, announcement, or statement containing any  
 1410 assertion, representation, or statement with respect to the  
 1411 business of insurance, which is untrue, deceptive, or  
 1412 misleading.

1413 (3) Defamation.—Knowingly making, publishing,  
 1414 disseminating, or circulating, directly or indirectly, or  
 1415 aiding, abetting, or encouraging the making, publishing,  
 1416 disseminating, or circulating of, any oral or written statement,

1417 or any pamphlet, circular, article, or literature, which is  
 1418 false or maliciously critical of, or derogatory to, any person  
 1419 and which is calculated to injure such person.

1420 (4) Boycott, coercion, and intimidation.—Entering into any  
 1421 agreement to commit, or by any concerted action committing, any  
 1422 act of boycott, coercion, or intimidation resulting in, or  
 1423 tending to result in, unreasonable restraint of, or monopoly in,  
 1424 the business of insurance.

1425 (5) False statements and entries.—

1426 (a) Knowingly:

1427 1. Filing with any supervisory or other public official,

1428 2. Making, publishing, disseminating, circulating,

1429 3. Delivering to any person,

1430 4. Placing before the public,

1431 5. Causing, directly or indirectly, to be made, published,

1432 disseminated, circulated, delivered to any person, or placed

1433 before the public,

1434  
 1435 any false material statement.

1436 (b) Knowingly making any false entry of a material fact in  
 1437 any book, report, or statement of any person, or knowingly  
 1438 omitting to make a true entry of any material fact pertaining to  
 1439 the business of such person in any book, report, or statement of  
 1440 such person.

1441 (6) Unlawful rebates.—

1442 (a) Except as otherwise expressly provided by law, or in

1443 an applicable filing with the department, knowingly:

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1444 1. Permitting, or offering to make, or making, any  
1445 contract or agreement as to such contract other than as plainly  
1446 expressed in the insurance contract issued thereon; or

1447 2. Paying, allowing, or giving, or offering to pay, allow,  
1448 or give, directly or indirectly, as inducement to such insurance  
1449 contract, any unlawful rebate of premiums payable on the  
1450 contract, any special favor or advantage in the dividends or  
1451 other benefits thereon, or any valuable consideration or  
1452 inducement whatever not specified in the contract.

1453 (b)1. A title insurer, or any member, employee, attorney,  
1454 agent, or agency thereof, may not pay, allow, or give, or offer  
1455 to pay, allow, or give, directly or indirectly, as inducement to  
1456 title insurance, or after such insurance has been effected, any  
1457 rebate or abatement of the premium or any other charge or fee,  
1458 or provide any special favor or advantage, or any monetary  
1459 consideration or inducement whatever.

1460 2. Nothing in this paragraph shall be construed as  
1461 prohibiting the payment of fees to attorneys at law duly  
1462 licensed to practice law in the courts of this state, for  
1463 professional services, or as prohibiting the payment of earned  
1464 portions of the premium to duly appointed agents or agencies who  
1465 actually perform services for the title insurer. Nothing in this  
1466 paragraph shall be construed as prohibiting a rebate or  
1467 abatement of an attorney's fee charged for professional  
1468 services, or that portion of the premium that is not required to  
1469 be retained by the insurer pursuant to s. 637.2064(1), or any  
1470 other agent charge or fee to the person responsible for paying  
1471 the premium, charge, or fee.

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1472       3. An insured named in a policy, or any other person  
1473 directly or indirectly connected with the transaction involving  
1474 the issuance of such policy, including, but not limited to, any  
1475 mortgage broker, real estate broker, builder, or attorney, any  
1476 employee, agent, agency, or representative thereof, or any other  
1477 person whatsoever, may not knowingly receive or accept, directly  
1478 or indirectly, any rebate or abatement of any portion of the  
1479 title insurance premium or of any other charge or fee or any  
1480 monetary consideration or inducement whatsoever, except as set  
1481 forth in subparagraph 2.; provided, in no event shall any  
1482 portion of the attorney's fee, any portion of the premium that  
1483 is not required to be retained by the insurer pursuant to s.  
1484 637.2064(1), any agent charge or fee, or any other monetary  
1485 consideration or inducement be paid directly or indirectly for  
1486 the referral of title insurance business.

1487       (7) Unfair claim settlement practices.—

1488       (a) Attempting to settle claims on the basis of an  
1489 application, when serving as a binder or intended to become a  
1490 part of the policy, or any other material document which was  
1491 altered without notice to, or knowledge or consent of, the  
1492 insured;

1493       (b) A material misrepresentation made to an insured or any  
1494 other person having an interest in the proceeds payable under  
1495 such contract or policy, for the purpose and with the intent of  
1496 effecting settlement of such claims, loss, or damage under such  
1497 contract or policy on less favorable terms than those provided  
1498 in, and contemplated by, such contract or policy; or

1499        (c) Committing or performing with such frequency as to  
 1500 indicate a general business practice any of the following:  
 1501        1. Failing to adopt and implement standards for the proper  
 1502 investigation of claims;  
 1503        2. Misrepresenting pertinent facts or insurance policy  
 1504 provisions relating to coverages at issue;  
 1505        3. Failing to acknowledge and act promptly upon  
 1506 communications with respect to claims;  
 1507        4. Denying claims without conducting reasonable  
 1508 investigations based upon available information;  
 1509        5. Failing to affirm or deny full or partial coverage of  
 1510 claims, and, as to partial coverage, the dollar amount or extent  
 1511 of coverage, or failing to provide a written statement that the  
 1512 claim is being investigated, upon the written request of the  
 1513 insured within 30 days after proof-of-loss statements have been  
 1514 completed;  
 1515        6. Failing to promptly provide a reasonable explanation in  
 1516 writing to the insured of the basis in the insurance policy, in  
 1517 relation to the facts or applicable law, for denial of a claim  
 1518 or for the offer of a compromise settlement;  
 1519        7. Failing to promptly notify the insured of any  
 1520 additional information necessary for the processing of a claim;  
 1521 or  
 1522        8. Failing to clearly explain the nature of the requested  
 1523 information and the reasons why such information is necessary.  
 1524        (8) Failure to maintain complaint-handling procedures.—  
 1525 Failure of any person to maintain a complete record of all the  
 1526 complaints received since the date of the last examination. For

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1527 purposes of this subsection, the term "complaint" means any  
1528 written communication primarily expressing a grievance.

1529 (9) Misrepresentation in insurance applications.—

1530 (a) Knowingly making a false or fraudulent written or oral  
1531 statement or representation on, or relative to, an application  
1532 or negotiation for an insurance policy for the purpose of  
1533 obtaining a fee, commission, money, or other benefit from any  
1534 insurer, agent, broker, or individual.

1535 (b) Knowingly making a material omission in the comparison  
1536 of a life, health, or Medicare supplement insurance replacement  
1537 policy with the policy it replaces for the purpose of obtaining  
1538 a fee, commission, money, or other benefit from any insurer,  
1539 agent, broker, or individual. For the purposes of this  
1540 paragraph, a material omission includes the failure to advise  
1541 the insured of the existence and operation of a preexisting  
1542 condition clause in the replacement policy.

1543 (10) Advertising gifts permitted.—No provision of  
1544 subsection (6) or subsection (7) shall be deemed to prohibit a  
1545 licensed insurer or its agent from giving to insureds,  
1546 prospective insureds, and others, for the purpose of  
1547 advertising, any article of merchandise having a value of not  
1548 more than \$25.

1549 (11) Illegal dealings in premiums; excess or reduced  
1550 charges for insurance.—

1551 (a) Knowingly collecting any sum as a premium or charge  
1552 for insurance, which is not then provided, or is not in due  
1553 course to be provided, subject to acceptance of the risk by the



1554 insurer, by an insurance policy issued by an insurer as  
 1555 permitted by this chapter.

1556 (b) Knowingly collecting as a premium or charge for  
 1557 insurance any sum in excess of or less than the premium or  
 1558 charge applicable to such insurance, in accordance with the  
 1559 applicable classifications and rates as filed with and approved  
 1560 by the department, and as specified in the policy; or, in cases  
 1561 when classifications, premiums, or rates are not required by  
 1562 this chapter to be so filed and approved, premiums and charges  
 1563 collected from a resident of this state in excess of or less  
 1564 than those specified in the policy and as fixed by the insurer.

1565 (12) Interlocking ownership and management.—

1566 (a) Any domestic insurer may retain, invest in, or acquire  
 1567 the whole or any part of the capital stock of any other insurer  
 1568 or insurers, or have a common management with any other insurer  
 1569 or insurers, unless such retention, investment, acquisition, or  
 1570 common management is inconsistent with any other provision of  
 1571 this chapter, or unless by reason thereof the business of such  
 1572 insurers with the public is conducted in a manner which  
 1573 substantially lessens competition generally in the insurance  
 1574 business.

1575 (b) Any person otherwise qualified may be a director of  
 1576 two or more domestic insurers which are competitors, unless the  
 1577 effect thereof is substantially to lessen competition between  
 1578 insurers generally or materially tend to create a monopoly.

1579 (c) Any limitation contained in this subsection does not  
 1580 apply to any person who is a director of two or more insurers  
 1581 under common control or management.

1582           (13) Soliciting or accepting new or renewal insurance  
 1583 risks by insolvent or impaired insurer prohibited; penalty.—

1584           (a) Whether or not delinquency proceedings as to the  
 1585 insurer have been or are to be initiated, but while such  
 1586 insolvency or impairment exists, a director or officer of an  
 1587 insurer, except with the written permission of the department,  
 1588 may not authorize or permit the insurer to solicit or accept new  
 1589 or renewal insurance risks in this state after such director or  
 1590 officer knew, or reasonably should have known, that the insurer  
 1591 was insolvent or impaired. The term "impaired" includes  
 1592 impairment of capital or surplus, as defined in s. 631.011(12)  
 1593 and (13).

1594           (b) Any such director or officer, upon conviction of a  
 1595 violation of this subsection, is guilty of a felony of the third  
 1596 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1597 775.084.

1598           (14) Refusal to insure.—In addition to other provisions of  
 1599 this chapter, the refusal to insure, or continue to insure, any  
 1600 individual or risk solely because of:

1601           (a) Race, color, creed, marital status, sex, or national  
 1602 origin;

1603           (b) The residence, age, or lawful occupation of the  
 1604 individual or the location of the risk, unless there is a  
 1605 reasonable relationship between the residence, age, or lawful  
 1606 occupation of the individual or the location of the risk and the  
 1607 coverage issued or to be issued; or

1608           (c) The insured's or applicant's failure to agree to place  
 1609 collateral business with any insurer.

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1610        (15) Sliding.—Sliding is the act or practice of:  
 1611        (a) Representing to the applicant that a specific  
 1612 ancillary coverage or product is required by law in conjunction  
 1613 with the purchase of insurance when such coverage or product is  
 1614 not required;

1615        (b) Representing to the applicant that a specific  
 1616 ancillary coverage or product is included in the policy applied  
 1617 for without an additional charge when such charge is required;  
 1618 or

1619        (c) Charging an applicant for a specific ancillary  
 1620 coverage or product, in addition to the cost of the insurance  
 1621 coverage applied for, without the informed consent of the  
 1622 applicant.

1623        637.10335 Civil remedies against title insurers.—

1624        (1) (a) Any person may bring a civil action against a title  
 1625 insurer when such person is damaged:

1626        1. By a violation by the insurer of s. 637.1033(7), (11),  
 1627 or (14); or

1628        2. By the commission of any of the following acts by the  
 1629 insurer:

1630        a. Not attempting in good faith to settle claims when,  
 1631 under all the circumstances, it could and should have done so  
 1632 had it acted fairly and honestly toward its insured and with  
 1633 due regard for her or his interests;

1634        b. Making claims payments to insureds or beneficiaries not  
 1635 accompanied by a statement setting forth the coverage under  
 1636 which payments are being made; or

1637        c. Except as to liability coverages, failing to promptly

1638 settle claims, when the obligation to settle a claim has become  
 1639 reasonably clear, under one portion of the insurance policy  
 1640 coverage in order to influence settlements under other portions  
 1641 of the insurance policy coverage.

1642 (b) Notwithstanding paragraph (a), a person pursuing a  
 1643 remedy under this section need not prove that such act was  
 1644 committed or performed with such frequency as to indicate a  
 1645 general business practice.

1646 (2) Any party may bring a civil action against an  
 1647 unauthorized insurer if such party is damaged by a violation of  
 1648 s. 637.1033 by the unauthorized insurer.

1649 (3) (a) As a condition precedent to bringing an action  
 1650 under this section, the department and the authorized insurer  
 1651 must have been given 60 days' written notice of the violation.  
 1652 If the department returns a notice for lack of specificity, the  
 1653 60-day time period shall not begin until a proper notice is  
 1654 filed.

1655 (b) The notice shall be on a form provided by the  
 1656 department and shall state with specificity the following  
 1657 information, and such other information as the department may  
 1658 require:

1659 1. The statutory provision, including the specific  
 1660 language of the statute, which the authorized insurer allegedly  
 1661 violated.

1662 2. The facts and circumstances giving rise to the  
 1663 violation.

1664 3. The name of any individual involved in the violation.

1665 4. A reference to specific policy language that is

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1666 relevant to the violation, if any. If the person bringing the  
1667 civil action is a third-party claimant, she or he shall not be  
1668 required to reference the specific policy language if the  
1669 authorized insurer has not provided a copy of the policy to the  
1670 third-party claimant pursuant to written request.

1671 5. A statement that the notice is given in order to  
1672 perfect the right to pursue the civil remedy authorized by this  
1673 section.

1674 (c) Within 20 days after receipt of the notice, the  
1675 department may return any notice that does not provide the  
1676 specific information required by this section, and the  
1677 department shall indicate the specific deficiencies contained in  
1678 the notice. A determination by the department to return a  
1679 notice for lack of specificity shall be exempt from the  
1680 requirements of chapter 120.

1681 (d) An action may not lie if, within 60 days after filing  
1682 notice, the damages are paid or the circumstances giving rise to  
1683 the violation are corrected.

1684 (e) The authorized insurer that is the recipient of a  
1685 notice filed pursuant to this section shall report to the  
1686 department on the disposition of the alleged violation.

1687 (f) The applicable statute of limitations for an action  
1688 under this section shall be tolled for a period of 65 days by  
1689 the mailing of the notice required by this subsection or the  
1690 mailing of a subsequent notice required by this subsection.

1691 (4) Upon adverse adjudication at trial or upon appeal,  
1692 the authorized insurer shall be liable for damages, together  
1693 with court costs and reasonable attorney's fees incurred by the

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1694 plaintiff.

1695 (5) (a) Punitive damages may not be awarded under this  
 1696 section unless the acts giving rise to the violation occur with  
 1697 such frequency as to indicate a general business practice and  
 1698 these acts are:

- 1699 1. Willful, wanton, and malicious;
- 1700 2. In reckless disregard for the rights of any insured; or
- 1701 3. In reckless disregard for the rights of a beneficiary  
 1702 under a life insurance contract.

1703 (b) Any person who pursues a claim under this subsection  
 1704 shall post in advance the costs of discovery. Such costs shall  
 1705 be awarded to the authorized insurer if no punitive damages are  
 1706 awarded to the plaintiff.

1707 (6) This section shall not be construed to authorize a  
 1708 class action suit against an authorized insurer or a civil  
 1709 action against the commission, the office, or the department or  
 1710 any of their employees, or to create a cause of action when an  
 1711 authorized health insurer refuses to pay a claim for  
 1712 reimbursement on the ground that the charge for a service was  
 1713 unreasonably high or that the service provided was not medically  
 1714 necessary.

1715 (7) In the absence of expressed language to the  
 1716 contrary, this section shall not be construed to authorize a  
 1717 civil action or create a cause of action against an authorized  
 1718 insurer or its employees who, in good faith, release information  
 1719 about an insured or an insurance policy to a law enforcement  
 1720 agency in furtherance of an investigation of a criminal or  
 1721 fraudulent act relating to a motor vehicle theft or a motor

1722 vehicle insurance claim.

1723 (8) The civil remedy specified in this section does not  
 1724 preempt any other remedy or cause of action provided pursuant  
 1725 to any other statute or pursuant to the common law of this  
 1726 state. Any person may obtain a judgment under the common-law  
 1727 remedy of bad faith or the remedy provided under this section  
 1728 but is not entitled to a judgment under both remedies. This  
 1729 section shall not be construed to create a common-law cause of  
 1730 action. The damages recoverable pursuant to this section shall  
 1731 include those damages that are a reasonably foreseeable result  
 1732 of a specified violation of this section by the authorized  
 1733 insurer and may include an award or judgment in an amount  
 1734 that exceeds the policy limits.

1735 637.1034 Favored title insurance agent or title insurer;  
 1736 coercion of debtors.—

1737 (1) A person may not:

1738 (a) Require, as a condition precedent or condition  
 1739 subsequent to the lending of money or extension of credit or any  
 1740 renewal thereof, that the person to whom such money or credit is  
 1741 extended, or whose obligation the creditor is to acquire or  
 1742 finance, negotiate any policy or contract of insurance through a  
 1743 particular insurer or group of insurers or agent or broker or  
 1744 group of agents or brokers.

1745 (b) Reject an insurance policy solely because the policy  
 1746 has been issued or underwritten by any person who is not  
 1747 associated with a financial institution, or with any subsidiary  
 1748 or affiliate thereof, when such insurance is required in  
 1749 connection with a loan or extension of credit; or unreasonably

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1750 disapprove the insurance policy provided by a borrower for the  
1751 protection of the property securing the credit or lien. For  
1752 purposes of this paragraph, such disapproval shall be deemed  
1753 unreasonable if it is not based solely on reasonable standards,  
1754 uniformly applied, relating to the extent of coverage required  
1755 by such lender or person extending credit and the financial  
1756 soundness and the services of an insurer. Such standards shall  
1757 not discriminate against any particular type of insurer, nor  
1758 shall such standards call for the disapproval of an insurance  
1759 policy because such policy contains coverage in addition to that  
1760 required.

1761 (c) Require, directly or indirectly, that any borrower,  
1762 mortgagor, purchaser, insurer, broker, or agent pay a separate  
1763 charge in connection with the handling of any insurance policy  
1764 that is required in connection with a loan or other extension of  
1765 credit or the provision of another traditional banking product,  
1766 or pay a separate charge to substitute the insurance policy of  
1767 one insurer for that of another, unless such charge would be  
1768 required if the person were providing the insurance. This  
1769 paragraph does not include the interest which may be charged on  
1770 premium loans or premium advances in accordance with the  
1771 security instrument.

1772 (d) Use or provide to others insurance information  
1773 required to be disclosed by a customer to a financial  
1774 institution, or a subsidiary or affiliate thereof, in connection  
1775 with the extension of credit for the purpose of soliciting the  
1776 sale of insurance, unless the customer has given express written  
1777 consent or has been given the opportunity to object to such use



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1778 of the information. Insurance information means information  
1779 concerning premiums, terms, and conditions of insurance  
1780 coverage, insurance claims, and insurance history provided by  
1781 the customer. The opportunity to object to the use of insurance  
1782 information must be in writing and must be clearly and  
1783 conspicuously made.

1784 (2) (a) Any person offering the sale of insurance at the  
1785 time of and in connection with an extension of credit or the  
1786 sale or lease of goods or services shall disclose in writing  
1787 that the choice of an insurance provider will not affect the  
1788 decision regarding the extension of credit or sale or lease of  
1789 goods or services, except that reasonable requirements may be  
1790 imposed pursuant to subsection (1).

1791 (b) Federally insured or state-insured depository  
1792 institutions and credit unions shall make clear and conspicuous  
1793 disclosure in writing prior to the sale of any insurance policy  
1794 that such policy is not a deposit, is not insured by the Federal  
1795 Deposit Insurance Corporation or any other entity, is not  
1796 guaranteed by the insured depository institution or any person  
1797 soliciting the purchase of or selling the policy; that the  
1798 financial institution is not obligated to provide benefits under  
1799 the insurance contract; and, where appropriate, that the policy  
1800 involves investment risk, including potential loss of principal.

1801 (c) All documents constituting policies of insurance shall  
1802 be separate and shall not be combined with or be a part of other  
1803 documents. A person may not include the expense of insurance  
1804 premiums in a primary credit transaction without the express  
1805 written consent of the customer.

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1806        (d) A loan officer of a financial institution who is  
1807 involved in the application, solicitation, or closing of a loan  
1808 transaction may not solicit or sell insurance in connection with  
1809 the same loan, but such loan officer may refer the loan customer  
1810 to another insurance agent who is not involved in the  
1811 application, solicitation, or closing of the same loan  
1812 transaction. This paragraph does not apply to an agent located  
1813 on premises having only a single person with lending authority,  
1814 or to a broker or dealer registered under the Federal Securities  
1815 Exchange Act of 1934 in connection with a margin loan secured by  
1816 securities.

1817        (3) A person may not make an extension of credit or the  
1818 sale of any product or service that is the equivalent to an  
1819 extension of credit or lease or sale of property of any kind, or  
1820 furnish any services or fix or vary the consideration for any of  
1821 the foregoing, on the condition or requirement that the customer  
1822 obtain insurance from that person, or a subsidiary or affiliate  
1823 of that person, or a particular insurer, agent, or broker;  
1824 however, this subsection does not prohibit any person from  
1825 engaging in any activity that if done by a financial institution  
1826 would not violate s. 106 of the Bank Holding Company Act  
1827 Amendments of 1970, 12 U.S.C. s. 1972, as interpreted by the  
1828 Board of Governors of the Federal Reserve System.

1829        (4) The department may investigate the affairs of any  
1830 person to whom this section applies to determine whether such  
1831 person has violated this section. If a violation of this section  
1832 is found to have been committed knowingly, the person in

1833 violation shall be subject to the same procedures and penalties  
 1834 as provided in ss. 637.1036, 637.1037, 637.1038 and 637.1039.

1835 637.1035 Power of department.—The department may examine  
 1836 and investigate the affairs of every person involved in the  
 1837 business of insurance in this state in order to determine  
 1838 whether such person has been or is engaged in any unfair method  
 1839 of competition or in any unfair or deceptive act or practice  
 1840 prohibited by s. 637.1032, and shall each have the powers and  
 1841 duties specified in ss. 637.1036–637.1039 in connection  
 1842 therewith.

1843 637.1036 Defined practices; hearings, witnesses,  
 1844 appearances, production of books and service of process.—

1845 (1) Whenever the department has reason to believe that any  
 1846 person has engaged, or is engaging, in this state in any unfair  
 1847 method of competition or any unfair or deceptive act or practice  
 1848 as defined in s. 637.1033 or s. 637.1034 or is engaging in the  
 1849 business of insurance without being properly licensed as  
 1850 required by this chapter and that a proceeding by it in respect  
 1851 thereto would be to the interest of the public, it shall conduct  
 1852 or cause to have conducted a hearing in accordance with chapter  
 1853 120.

1854 (2) The department, a duly empowered hearing officer, or  
 1855 an administrative law judge shall, during the conduct of such  
 1856 hearing, have those powers enumerated in s. 120.569; however,  
 1857 the penalties for failure to comply with a subpoena or with an  
 1858 order directing discovery shall be limited to a fine not to  
 1859 exceed \$1,000 per violation.

1860           (3) Statements of charges, notices, and orders under this  
 1861 act may be served by anyone duly authorized by the department,  
 1862 in the manner provided by law for service of process in civil  
 1863 actions or by certifying and mailing a copy thereof to the  
 1864 person affected by such statement, notice, order, or other  
 1865 process at his or her or its residence or principal office or  
 1866 place of business. The verified return by the person so serving  
 1867 such statement, notice, order, or other process, setting forth  
 1868 the manner of the service, shall be proof of the same, and the  
 1869 return postcard receipt for such statement, notice, order, or  
 1870 other process, certified and mailed as aforesaid, shall be proof  
 1871 of service of the same.

1872           637.1037 Cease and desist and penalty orders.—After the  
 1873 hearing provided in s. 637.1036, the department shall enter a  
 1874 final order in accordance with s. 120.569. If it is determined  
 1875 that the person charged has engaged in an unfair or deceptive  
 1876 act or practice or the unlawful transaction of insurance, the  
 1877 department shall also issue an order requiring the violator to  
 1878 cease and desist from engaging in such method of competition,  
 1879 act, or practice or the unlawful transaction of insurance.  
 1880 Further, if the act or practice is a violation of s. 637.1033 or  
 1881 s. 637.1034, the department may, at its discretion, order any  
 1882 one or more of the following:

1883           (1) Suspension or revocation of the person's certificate  
 1884 of authority, license, or eligibility for any certificate of  
 1885 authority or license, if he or she knew, or reasonably should  
 1886 have known, he or she was in violation of this chapter.

1887           (2) Such other relief as may be provided in this chapter.

1888 637.1038 Appeals from the department.—Any person subject  
 1889 to an order of the department under s. 637.1037 or s. 637.1039  
 1890 may obtain a review of such order by filing an appeal therefrom  
 1891 in accordance with the provisions and procedures for appeal from  
 1892 the orders of the department in general under s. 120.68.

1893 637.1039 Penalty for violation of cease and desist  
 1894 orders.—Any person who violates a cease and desist order of the  
 1895 department under s. 637.1037 while such order is in effect,  
 1896 after notice and hearing as provided in s. 637.1036, shall be  
 1897 subject, at the discretion of the department, to any one or more  
 1898 of the following:

1899 (1) A monetary penalty of not more than \$50,000 as to all  
 1900 matters determined in such hearing.

1901 (2) Suspension or revocation of such person's certificate  
 1902 of authority, license, or eligibility to hold such certificate  
 1903 of authority or license.

1904 (3) Such other relief as may be provided in this chapter.

1905 637.1041 Rules.—

1906 (1) The department may, in accordance with chapter 120,  
 1907 adopt reasonable rules as are necessary or proper to identify  
 1908 specific methods of competition or acts or practices which are  
 1909 prohibited by s. 637.1033 or s. 637.1034, but the rules shall  
 1910 not enlarge upon or extend the provisions of ss. 637.1033 and  
 1911 637.1034.

1912 (2) The department shall, in accordance with chapter 120,  
 1913 adopt rules to protect members of the United States Armed Forces  
 1914 from dishonest or predatory insurance sales practices by  
 1915 insurers and insurance agents. The rules shall identify specific

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1916 false, misleading, deceptive, or unfair methods of competition,  
 1917 acts, or practices which are prohibited by s. 637.1033 or s.  
 1918 637.1034. The rules shall be based upon model rules or model  
 1919 laws adopted by the National Association of Insurance  
 1920 Commissioners which identify certain insurance practices  
 1921 involving the solicitation or sale of insurance and annuities to  
 1922 members of the United States Armed Forces which are false,  
 1923 misleading, deceptive, or unfair.

1924 637.1042 Provisions of chapter additional to existing  
 1925 law.—The powers vested in the department by this chapter shall  
 1926 be additional to any other powers to enforce any penalties,  
 1927 finances, or forfeitures authorized by law.

1928 637.1043 Civil liability.—The provisions of this chapter  
 1929 are cumulative to rights under the general civil and common law,  
 1930 and no action of the department, shall abrogate such rights to  
 1931 damages or other relief in any court.

1932 637.10435 Policyholders Bill of Rights.—

1933 (1) The principles expressed in the following statements  
 1934 shall serve as standards to be followed by the department,  
 1935 commission, and office in exercising their powers and duties,  
 1936 in exercising administrative discretion, in dispensing  
 1937 administrative interpretations of the law, and in adopting rules:

1938 (a) Policyholders have the right to competitive pricing  
 1939 practices and marketing methods that enable them to determine  
 1940 the best value among comparable policies.

1941 (b) Policyholders have the right to obtain comprehensive  
 1942 coverage.

1943 (c) Policyholders have the right to insurance advertising

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1944 and other selling approaches that provide accurate and balanced  
 1945 information on the benefits and limitations of a policy.

1946 (d) Policyholders have a right to an insurance company  
 1947 that is financially stable.

1948 (e) Policyholders have the right to be serviced by a  
 1949 competent, honest insurance agent or broker.

1950 (f) Policyholders have the right to a readable policy.

1951 (g) Policyholders have the right to an insurance company  
 1952 that provides an economic delivery of coverage and that tries to  
 1953 prevent losses.

1954 (h) Policyholders have the right to a balanced and  
 1955 positive regulation by the department, commission, and office.

1956 (2) This section shall not be construed as creating a  
 1957 civil cause of action by any individual policyholder against any  
 1958 individual insurer.

1959 637.1044 Privacy.—The department shall adopt rules  
 1960 consistent with other provisions of this chapter to govern the  
 1961 use of a consumer's nonpublic personal financial and health  
 1962 information. These rules must be based on, consistent with, and  
 1963 not more restrictive than the Privacy of Consumer Financial and  
 1964 Health Information Regulation, adopted September 26, 2000, by  
 1965 the National Association of Insurance Commissioners. In  
 1966 addition, these rules must be consistent with, and not more  
 1967 restrictive than, the standards contained in Title V of the  
 1968 Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.

1969 637.10445 Trade secret documents.—

1970 (1) If any person who is required to submit documents  
 1971 or other information to the department pursuant to this chapter

1972 or by rule or order of the department claims that such  
 1973 submission contains a trade secret, such person may file with  
 1974 the department a notice of trade secret as provided in this  
 1975 section. Failure to do so constitutes a waiver of any claim by  
 1976 such person that the document or information is a trade secret.

1977 (a) Each page of such document or specific portion of a  
 1978 document claimed to be a trade secret must be clearly marked  
 1979 "trade secret."

1980 (b) All material marked as a trade secret must be  
 1981 separated from all non-trade secret material and be submitted in  
 1982 a separate envelope clearly marked "trade secret."

1983 (c) In submitting a notice of trade secret to the  
 1984 department, the submitting party must include an affidavit  
 1985 certifying under oath to the truth of the following  
 1986 statements concerning all documents or information that are  
 1987 claimed to be trade secrets:

1988 1. [I consider/My company considers] this information a  
 1989 trade secret that has value and provides an advantage or an  
 1990 opportunity to obtain an advantage over those who do not know or  
 1991 use it.

1992 2. [I have/My company has] taken measures to prevent the  
 1993 disclosure of the information to anyone other than those who  
 1994 have been selected to have access for limited purposes, and [I  
 1995 intend/my company intends] to continue to take such measures.

1996 3. The information is not, and has not been, reasonably  
 1997 obtainable without [my/our] consent by other persons by use of  
 1998 legitimate means.

1999 4. The information is not publicly available elsewhere.



2000           (d) Any data submitted by a title insurance agent or title  
 2001 insurer pursuant to s. 637.1014 is presumed to be a trade  
 2002 secret under this section whether or not so designated.

2003           (2) If the department receives a public records request for  
 2004 a document or information that is marked and certified as a trade  
 2005 secret, the department shall promptly notify the person that  
 2006 certified the document as a trade secret. The notice shall  
 2007 inform such person that he or she or his or her company has 30  
 2008 days after receipt of such notice to file an action in circuit  
 2009 court seeking a determination whether the document in question  
 2010 contains trade secrets and an order barring public disclosure of  
 2011 the document. If that person or company files an action within  
 2012 30 days after receipt of notice of the public records request,  
 2013 the department may not release the documents pending the outcome  
 2014 of the legal action. The failure to file an action within 30  
 2015 days constitutes a waiver of any claim of confidentiality,  
 2016 and the department shall release the document as requested.

2017           (3) The department may disclose a trade secret, together  
 2018 with the claim that it is a trade secret, to an officer or  
 2019 employee of another governmental agency whose use of the trade  
 2020 secret is within the scope of his or her employment.

2021           637.1045 Financial institutions conducting title insurance  
 2022 transactions.-A financial institution, as defined in s.  
 2023 655.005(1)(g), (h), or (p), may conduct title insurance  
 2024 transactions only through Florida-licensed title insurance  
 2025 agents representing Florida-authorized title insurers.

2026 637.1046 Investigation by department or Division of  
 2027 Insurance Fraud; compliance; immunity; confidential information;  
 2028 reports to division; division investigator's power of arrest.-

2029 (1) For the purposes of this section, a person commits a  
 2030 "fraudulent insurance act" if the person knowingly and with  
 2031 intent to defraud presents, causes to be presented, or prepares  
 2032 with knowledge or belief that it will be presented, to or by a  
 2033 title insurer or any title insurance agent, any written  
 2034 statement as part of, or in support of, an application for the  
 2035 issuance of, or the rating of, any insurance policy, or a claim  
 2036 for payment or other benefit pursuant to any insurance policy,  
 2037 which the person knows to contain materially false information  
 2038 concerning any fact material thereto or if the person conceals,  
 2039 for the purpose of misleading another, information concerning  
 2040 any fact material thereto.

2041 (2) If, by its own inquiries or as a result of complaints,  
 2042 the department or its Division of Insurance Fraud has reason to  
 2043 believe that a person has engaged in, or is engaging in, a  
 2044 fraudulent insurance act, an act or practice that violates s.  
 2045 637.1033 or s. 817.234, or an act or practice punishable under  
 2046 s. 637.1008, it may administer oaths and affirmations, request  
 2047 the attendance of witnesses or proffering of matter, and collect  
 2048 evidence. The department shall not compel the attendance of any  
 2049 person or matter in any such investigation except pursuant to  
 2050 subsection (4).

2051 (3) If matter that the department or its division seeks to  
 2052 obtain by request is located outside the state, the person so  
 2053 requested may make it available to the division or its

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2054 representative to examine the matter at the place where it is  
2055 located. The division may designate representatives, including  
2056 officials of the state in which the matter is located, to  
2057 inspect the matter on its behalf, and it may respond to similar  
2058 requests from officials of other states.

2059 (4) (a) The department or the division may request that an  
2060 individual who refuses to comply with any such request be  
2061 ordered by the circuit court to provide the testimony or matter.  
2062 The court shall not order such compliance unless the department  
2063 or the division has demonstrated to the satisfaction of the  
2064 court that the testimony of the witness or the matter under  
2065 request has a direct bearing on the department of a fraudulent  
2066 insurance act, on a violation of s. 637.1033 or s. 817.234, or  
2067 on an act or practice punishable under s. 637.1008 or is  
2068 pertinent and necessary to further such investigation.

2069 (b) Except in a prosecution for perjury, an individual who  
2070 complies with a court order to provide testimony or matter after  
2071 asserting a privilege against self-incrimination to which the  
2072 individual is entitled by law may not be subjected to a criminal  
2073 proceeding or to a civil penalty with respect to the act  
2074 concerning which the individual is required to testify or  
2075 produce relevant matter.

2076 (c) In the absence of fraud or bad faith, a person is not  
2077 subject to civil liability for libel, slander, or any other  
2078 relevant tort by virtue of filing reports, without malice, or  
2079 furnishing other information, without malice, required by this  
2080 section or required by the department or division under the

2081 authority granted in this section, and no civil cause of action  
 2082 of any nature shall arise against such person:

2083 1. For any information relating to suspected fraudulent  
 2084 insurance acts or persons suspected of engaging in such acts  
 2085 furnished to or received from law enforcement officials, their  
 2086 agents, or employees;

2087 2. For any information relating to suspected fraudulent  
 2088 insurance acts or persons suspected of engaging in such acts  
 2089 furnished to or received from other persons subject to the  
 2090 provisions of this chapter;

2091 3. For any such information furnished in reports to the  
 2092 department, the division, the National Insurance Crime Bureau,  
 2093 the National Association of Insurance Commissioners, or any  
 2094 local, state, or federal enforcement officials or their agents  
 2095 or employees; or

2096 4. For other actions taken in cooperation with any of the  
 2097 agencies or individuals specified in this paragraph in the  
 2098 lawful investigation of suspected fraudulent insurance acts.

2099 (d) In addition to the immunity granted in paragraph (c),  
 2100 persons identified as designated employees whose  
 2101 responsibilities include the investigation and disposition of  
 2102 claims relating to suspected fraudulent insurance acts may share  
 2103 information relating to persons suspected of committing  
 2104 fraudulent insurance acts with other designated employees  
 2105 employed by the same or other insurers whose responsibilities  
 2106 include the investigation and disposition of claims relating to  
 2107 fraudulent insurance acts, provided the department has been  
 2108 given written notice of the names and job titles of such

2109 designated employees prior to such designated employees sharing  
 2110 information. Unless the designated employees of the insurer act  
 2111 in bad faith or in reckless disregard for the rights of any  
 2112 insured, neither the insurer nor its designated employees are  
 2113 civilly liable for libel, slander, or any other relevant tort,  
 2114 and a civil action does not arise against the insurer or its  
 2115 designated employees:

2116 1. For any information related to suspected fraudulent  
 2117 insurance acts provided to an insurer; or

2118 2. For any information relating to suspected fraudulent  
 2119 insurance acts provided to the National Insurance Crime Bureau  
 2120 or the National Association of Insurance Commissioners.

2121  
 2122 Provided, however, that the qualified immunity against civil  
 2123 liability conferred on any insurer or its designated employees  
 2124 shall be forfeited with respect to the exchange or publication  
 2125 of any defamatory information with third persons not expressly  
 2126 authorized by this paragraph to share in such information.

2127 (e) The Chief Financial Officer and any employee or agent  
 2128 of the department, when acting without malice and in the absence  
 2129 of fraud or bad faith, is not subject to civil liability for  
 2130 libel, slander, or any other relevant tort, and no civil cause  
 2131 of action of any nature exists against such person by virtue of  
 2132 the execution of official activities or duties of the department  
 2133 under this section or by virtue of the publication of any report  
 2134 or bulletin related to the official activities or duties of the  
 2135 department under this section.

2136 (f) This section does not abrogate or modify in any way  
 2137 any common-law or statutory privilege or immunity heretofore  
 2138 enjoyed by any person.

2139 (5) Any person, other than an insurer, agent, or other  
 2140 person licensed under this chapter, or an employee thereof,  
 2141 having knowledge or who believes that a fraudulent insurance act  
 2142 or any other act or practice which, upon conviction, constitutes  
 2143 a felony or a misdemeanor under this chapter, or under s.  
 2144 817.234, is being or has been committed may send to the Division  
 2145 of Insurance Fraud a report or information pertinent to such  
 2146 knowledge or belief and such additional information relative  
 2147 thereto as the department may request. Any professional  
 2148 practitioner licensed or regulated by the Department of Business  
 2149 and Professional Regulation, except as otherwise provided by  
 2150 law, any medical review committee as defined in s. 766.101, any  
 2151 title insurer, title insurance agent, or other person licensed  
 2152 under this chapter, or an employee thereof, having knowledge or  
 2153 who believes that a fraudulent insurance act or any other act or  
 2154 practice which, upon conviction, constitutes a felony or a  
 2155 misdemeanor under this chapter, or under s. 817.234, is being or  
 2156 has been committed shall send to the Division of Insurance Fraud  
 2157 a report or information pertinent to such knowledge or belief  
 2158 and such additional information relative thereto as the  
 2159 department may require. The Division of Insurance Fraud shall  
 2160 review such information or reports and select such information  
 2161 or reports as, in its judgment, may require further  
 2162 investigation. It shall then cause an independent examination of  
 2163 the facts surrounding such information or report to be made to

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2164 determine the extent, if any, to which a fraudulent insurance  
2165 act or any other act or practice which, upon conviction,  
2166 constitutes a felony or a misdemeanor under this chapter, or  
2167 under s. 817.234, is being committed. The Division of Insurance  
2168 Fraud shall report any alleged violations of law which its  
2169 investigations disclose to the appropriate licensing agency and  
2170 state attorney or other prosecuting agency having jurisdiction  
2171 with respect to any such violation, as provided in s. 637.302.  
2172 If prosecution by the state attorney or other prosecuting agency  
2173 having jurisdiction with respect to such violation is not begun  
2174 within 60 days of the division's report, the state attorney or  
2175 other prosecuting agency having jurisdiction with respect to  
2176 such violation shall inform the division of the reasons for the  
2177 lack of prosecution.

2178 (6) Division investigators may make arrests for criminal  
2179 violations established as a result of investigations. Such  
2180 investigators shall also be considered state law enforcement  
2181 officers for all purposes and may execute arrest warrants and  
2182 search warrants; serve subpoenas issued for the examination,  
2183 investigation, and trial of all offenses; and arrest upon  
2184 probable cause without warrant any person found in the act of  
2185 violating any of the provisions of applicable laws.  
2186 Investigators empowered to make arrests under this section shall  
2187 be empowered to bear arms in the performance of their duties. In  
2188 such a situation, the investigator must be certified in  
2189 compliance with the provisions of s. 943.1395 or must meet the  
2190 temporary employment or appointment exemption requirements of s.  
2191 943.131 until certified.

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2192       (7) It is unlawful for any person to resist an arrest  
 2193 authorized by this section or in any manner to interfere, either  
 2194 by abetting or assisting such resistance or otherwise  
 2195 interfering, with division investigators in the duties imposed  
 2196 upon them by law or department rule.

2197       637.1047 Insurer anti-fraud investigative units; reporting  
 2198 requirements; penalties for noncompliance.-

2199       (1) Every insurer admitted to do business in this state  
 2200 who in the previous calendar year, at any time during that year,  
 2201 had \$10 million or more in direct premiums written shall:

2202       (a) Establish and maintain a unit or division within the  
 2203 company to investigate possible fraudulent claims by insureds or  
 2204 by persons making claims for services or repairs against  
 2205 policies held by insureds; or

2206       (b) Contract with others to investigate possible  
 2207 fraudulent claims for services or repairs against policies held  
 2208 by insureds.

2209  
 2210 An insurer subject to this subsection shall file with the  
 2211 Division of Insurance Fraud of the department on or before July  
 2212 1, 1996, a detailed description of the unit or division  
 2213 established pursuant to paragraph (a) or a copy of the contract  
 2214 and related documents required by paragraph (b).

2215       (2) Every insurer admitted to do business in this state,  
 2216 which in the previous calendar year had less than \$10 million in  
 2217 direct premiums written, must adopt an anti-fraud plan and file  
 2218 it with the Division of Insurance Fraud of the department on or  
 2219 before July 1, 1996. An insurer may, in lieu of adopting and



2220 filing an anti-fraud plan, comply with the provisions of  
 2221 subsection (1).

2222 (3) Each insurers anti-fraud plans shall include:

2223 (a) A description of the insurer's procedures for  
 2224 detecting and investigating possible fraudulent insurance acts.

2225 (b) A description of the insurer's procedures for the  
 2226 mandatory reporting of possible fraudulent insurance acts to the  
 2227 Division of Insurance Fraud of the department.

2228 (c) A description of the insurer's plan for anti-fraud  
 2229 education and training of its claims adjusters or other  
 2230 personnel.

2231 (d) A written description or chart outlining the  
 2232 organizational arrangement of the insurer's anti-fraud personnel  
 2233 who are responsible for the investigation and reporting of  
 2234 possible fraudulent insurance acts.

2235 (4) Any insurer who obtains a certificate of authority  
 2236 after July 1, 1995, shall have 18 months in which to comply with  
 2237 the requirements of this section.

2238 (5) For purposes of this section, the term "unit or  
 2239 division" includes the assignment of fraud investigation to  
 2240 employees whose principal responsibilities are the investigation  
 2241 and disposition of claims. If an insurer creates a distinct unit  
 2242 or division, hires additional employees, or contracts with  
 2243 another entity to fulfill the requirements of this section, the  
 2244 additional cost incurred must be included as an administrative  
 2245 expense for ratemaking purposes.

2246 (6) If an insurer fails to timely submit a final  
 2247 acceptable anti-fraud plan or anti-fraud investigative unit

2248 description, fails to implement the provisions of a plan or an  
 2249 anti-fraud investigative unit description, or otherwise refuses  
 2250 to comply with the provisions of this section, the department,  
 2251 may:

2252 (a) Impose an administrative fine of not more than \$2,000  
 2253 per day for such failure by an insurer to submit an acceptable  
 2254 anti-fraud plan or anti-fraud investigative unit description,  
 2255 until the department deems the insurer to be in compliance;

2256 (b) Impose an administrative fine for failure by an  
 2257 insurer to implement or follow the provisions of an anti-fraud  
 2258 plan or anti-fraud investigative unit description; or

2259 (c) Impose the provisions of both paragraphs (a) and (b).

2260 (7) The department may adopt rules to administer this  
 2261 section.

2262 637.1048 Anti-Fraud Reward Program; reporting of title  
 2263 insurance fraud.-

2264 (1) The Anti-Fraud Reward Program is hereby established  
 2265 within the department, to be funded from the Title Insurance  
 2266 Regulatory Trust Fund.

2267 (2) The department may pay rewards of up to \$25,000 to  
 2268 persons providing information leading to the arrest and  
 2269 conviction of persons committing crimes investigated by the  
 2270 Division of Insurance Fraud arising from violations of s.  
 2271 440.105, s. 637.1008, s. 637.1033, s. 637.1046, or s. 817.234.

2272 (3) Only a single reward amount may be paid by the  
 2273 department for claims arising out of the same transaction or  
 2274 occurrence, regardless of the number of persons arrested and  
 2275 convicted and the number of persons submitting claims for the

2276 reward. The reward may be disbursed among more than one person  
 2277 in amounts determined by the department.

2278 (4) The department shall adopt rules which set forth the  
 2279 application and approval process, including the criteria against  
 2280 which claims shall be evaluated, the basis for determining  
 2281 specific reward amounts, and the manner in which rewards shall  
 2282 be disbursed. Applications for rewards authorized by this  
 2283 section must be made pursuant to rules established by the  
 2284 department.

2285 (5) Determinations by the department to grant or deny a  
 2286 reward under this section shall not be considered agency action  
 2287 subject to review under s. 120.569 or s. 120.57.

2288 637.1049 Disposition of revenues; criminal or forfeiture  
 2289 proceedings.—

2290 (1) The Division of Insurance Fraud of the Department of  
 2291 Financial Services may deposit revenues received as a result of  
 2292 criminal proceedings or forfeiture proceedings, other than  
 2293 revenues deposited into the Department of Financial Services'  
 2294 Federal Law Enforcement Trust Fund under s. 17.43, into the  
 2295 Title Insurance Regulatory Trust Fund. Moneys deposited pursuant  
 2296 to this section shall be separately accounted for and shall be  
 2297 used solely for the division to carry out its duties and  
 2298 responsibilities.

2299 (2) Moneys deposited into the Title Insurance Regulatory  
 2300 Trust Fund pursuant to this section shall be appropriated by the  
 2301 Legislature, pursuant to the provisions of chapter 216, for the  
 2302 sole purpose of enabling the division to carry out its duties  
 2303 and responsibilities.

2304           (3) Notwithstanding the provisions of s. 216.301 and  
 2305 pursuant to s. 216.351, any balance of moneys deposited into the  
 2306 Title Insurance Regulatory Trust Fund pursuant to this section  
 2307 remaining at the end of any fiscal year shall remain in the  
 2308 trust fund at the end of that year and shall be available for  
 2309 carrying out the duties and responsibilities of the division.

2310           Section 4. Part II of chapter 637, Florida Statutes,  
 2311 consisting of sections 637.2001, 637.2002, 637.2003, 637.20035,  
 2312 637.2004, 637.2005, 637.2006, 637.2007, 637.20073, 637.20075,  
 2313 637.2008, 637.2009, 637.2011, 637.2012, 637.2013, 637.2014,  
 2314 637.2015, 637.2016, 637.2017, 637.2018, 637.2019, 637.2021,  
 2315 637.2022, 637.2023, 637.2024, 637.2025, 637.2026, 637.2027,  
 2316 637.2028, 637.2029, 637.2031, 637.2032, 637.2033, 637.2034,  
 2317 637.2035, 637.2036, 637.2037, 637.2038, 637.2039, 637.2041,  
 2318 637.2042, 637.2043, 637.2046, 637.2047, 637.2048, 637.20485,  
 2319 637.2049, 637.2051, 637.2052, 637.2053, 637.2054, 637.2055,  
 2320 637.2056, 637.2057, 637.2058, 637.2059, 637.2061, 637.2063,  
 2321 637.20635, 637.2064, 637.2065, 637.2066, 637.2067, 637.2068,  
 2322 637.2069, 637.2071, 637.2072, 637.2073, 637.2074, 637.2075,  
 2323 637.2076, 637.2077, 637.2078, 637.2079, 637.2081, 637.2082,  
 2324 637.2083, 637.2084, 637.2085, 637.2086, 637.2087, 637.2088,  
 2325 637.2089, and 637.2091, is created and entitled "ADMINISTRATION  
 2326 OF TITLE INSURERS."

2327           Section 5. Sections 637.2001, 637.2002, 637.2003,  
 2328 637.20035, 637.2004, 637.2005, 637.2006, and 637.2007, Florida  
 2329 Statutes, are created to read:

2330           637.2001 Certificate of authority required.—

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2331       (1) A person may not act as a title insurer, and a title  
2332 insurer or its agents, attorneys, or representatives may not  
2333 directly or indirectly transact title insurance, in this state  
2334 except as authorized by a subsisting certificate of authority  
2335 issued to the title insurer by the department, except as to such  
2336 transactions as are expressly otherwise provided for in this  
2337 chapter.

2338       (2) A title insurer may not, from offices or by personnel  
2339 or facilities located in this state, solicit title insurance  
2340 applications or otherwise transact title insurance in another  
2341 state or country unless it holds a subsisting certificate of  
2342 authority issued to it by the department authorizing it to  
2343 transact the same kind or kinds of title insurance in this  
2344 state.

2345       (3) This state hereby preempts the field of regulating  
2346 title insurers and their agents and representatives; and a  
2347 county, city, municipality, district, school district, or  
2348 political subdivision may not require of any title insurer,  
2349 title insurance agent, or representative regulated under this  
2350 chapter any authorization, permit, or registration of any kind  
2351 for conducting transactions lawful under the authority granted  
2352 by the state under this chapter.

2353       (4) (a) Any person who acts as a title insurer, transacts  
2354 title insurance, or otherwise engages in title insurance  
2355 activities in this state without a certificate of authority in  
2356 violation of this section commits a felony of the third degree,  
2357 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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2358 (b) However, any person acting as a title insurer without  
 2359 a valid certificate of authority who violates this section  
 2360 commits insurance fraud, punishable as provided in this  
 2361 paragraph. If the amount of any insurance premium collected with  
 2362 respect to any violation of this section:

2363 1. Is less than \$20,000, the offender commits a felony of  
 2364 the third degree, punishable as provided in s. 775.082, s.  
 2365 775.083, or s. 775.084, and the offender shall be sentenced to a  
 2366 minimum term of imprisonment of 1 year.

2367 2. Is \$20,000 or more, but less than \$100,000, the  
 2368 offender commits a felony of the second degree, punishable as  
 2369 provided in s. 775.082, s. 775.083, or s. 775.084, and the  
 2370 offender shall be sentenced to a minimum term of imprisonment of  
 2371 18 months.

2372 3. Is \$100,000 or more, the offender commits a felony of  
 2373 the first degree, punishable as provided in s. 775.082, s.  
 2374 775.083, or s. 775.084, and the offender shall be sentenced to a  
 2375 minimum term of imprisonment of 2 years.

2376 637.2002 Exceptions, certificate of authority required.—A  
 2377 certificate of authority shall not be required of a title  
 2378 insurer with respect to:

2379 (1) Investigation, settlement, or litigation of claims  
 2380 under its policies lawfully written in this state, or  
 2381 liquidation of assets and liabilities of the insurer (other than  
 2382 collection of new premiums), all as resulting from its former  
 2383 authorized operations in this state.

2384 (2) Transactions involving a policy, subsequent to  
 2385 issuance thereof, covering only subjects of insurance not

2386 resident, located, or expressly to be performed in this state at  
 2387 the time of issuance, and lawfully solicited, written, or  
 2388 delivered outside this state.

2389 (3) Reinsurance, when transacted as authorized under s.  
 2390 637.2049.

2391 (4) Investment by a foreign insurer of its funds in real  
 2392 estate in this state or in securities secured thereby, if the  
 2393 foreign insurer complies with the laws of this state relating  
 2394 generally to foreign business corporations.

2395 637.2003 General eligibility of title insurers for  
 2396 certificate of authority.—To qualify for and hold authority to  
 2397 transact title insurance in this state, a title insurer must be  
 2398 otherwise in compliance with this chapter and with its charter  
 2399 powers and must be an incorporated stock insurer, an  
 2400 incorporated mutual insurer, or a reciprocal insurer, of the  
 2401 same general type as may be formed as a domestic insurer under  
 2402 this chapter; except that:

2403 (1) A title insurer may not be authorized to transact  
 2404 title insurance in this state which does not maintain reserves  
 2405 as required by part I of chapter 625 applicable to the kind or  
 2406 kinds of insurance transacted by such insurer, wherever  
 2407 transacted in the United States, or which transacts insurance in  
 2408 the United States on the assessment premium plan, stipulated  
 2409 premium plan, cooperative plan, or any similar plan.

2410 (2) A foreign or alien title insurer or exchange may not  
 2411 be authorized to transact title insurance in this state unless  
 2412 it is otherwise qualified therefor under this chapter and has  
 2413 operated satisfactorily for at least 3 years in its state or

2414 country of domicile; however, the department may waive the 3-  
 2415 year requirement if the foreign or alien insurer or exchange:  
 2416 (a) Has operated successfully and has capital and surplus  
 2417 of \$5 million;  
 2418 (b) Is the wholly owned subsidiary of an insurer which is  
 2419 an authorized insurer in this state; or  
 2420 (c) Is the successor in interest through merger or  
 2421 consolidation of an authorized insurer.  
 2422 (3) (a) The department shall not grant or continue  
 2423 authority to transact title insurance in this state as to any  
 2424 title insurer the management, officers, or directors of which  
 2425 are found by it to be incompetent or untrustworthy; or so  
 2426 lacking in insurance company managerial experience as to make  
 2427 the proposed operation hazardous to the insurance-buying public;  
 2428 or so lacking in insurance experience, ability, and standing as  
 2429 to jeopardize the reasonable promise of successful operation; or  
 2430 which it has good reason to believe are affiliated directly or  
 2431 indirectly through ownership, control, reinsurance transactions,  
 2432 or other insurance or business relations, with any person or  
 2433 persons whose business operations are or have been marked, to  
 2434 the detriment of policyholders or stockholders or investors or  
 2435 creditors or of the public, by manipulation of assets, accounts,  
 2436 or reinsurance or by bad faith.  
 2437 (b) The department shall not grant or continue authority  
 2438 to transact title insurance in this state as to any title  
 2439 insurer if any person, including any subscriber, stockholder, or  
 2440 incorporator, who exercises or has the ability to exercise  
 2441 effective control of the insurer, or who influences or has the



2442 ability to influence the transaction of the business of the  
 2443 insurer, does not possess the financial standing and business  
 2444 experience for the successful operation of the insurer.

2445 (c) The department may deny, suspend, or revoke the  
 2446 authority to transact title insurance in this state of any title  
 2447 insurer if any person, including any subscriber, stockholder, or  
 2448 incorporator, who exercises or has the ability to exercise  
 2449 effective control of the insurer, or who influences or has the  
 2450 ability to influence the transaction of the business of the  
 2451 insurer, has been found guilty of, or has pleaded guilty or nolo  
 2452 contendere to, any felony or crime punishable by imprisonment of  
 2453 1 year or more under the law of the United States or any state  
 2454 thereof or under the law of any other country which involves  
 2455 moral turpitude, without regard to whether a judgment of  
 2456 conviction has been entered by the court having jurisdiction in  
 2457 such case. However, in the case of an insurer operating under a  
 2458 subsisting certificate of authority, the insurer shall remove  
 2459 any such person immediately upon discovery of the conditions set  
 2460 forth in this paragraph when applicable to such person or upon  
 2461 the order of the department, and the failure to so act by said  
 2462 insurer shall be grounds for revocation or suspension of the  
 2463 insurer's certificate of authority.

2464 (d) The department may deny, suspend, or revoke the  
 2465 authority of a title insurer to transact title insurance in this  
 2466 state if any person, including any subscriber, stockholder, or  
 2467 incorporator, who exercises or has the ability to exercise  
 2468 effective control of the insurer, or who influences or has the  
 2469 ability to influence the transaction of the business of the

2470 insurer, which person the department has good reason to believe  
 2471 is now or was in the past affiliated directly or indirectly,  
 2472 through ownership interest of 10 percent or more, control, or  
 2473 reinsurance transactions, with any business, corporation, or  
 2474 other entity that has been found guilty of or has pleaded guilty  
 2475 or nolo contendere to any felony or crime punishable by  
 2476 imprisonment for 1 year or more under the laws of the United  
 2477 States, any state, or any other country, regardless of  
 2478 adjudication. However, in the case of an insurer operating under  
 2479 a subsisting certificate of authority, the insurer shall  
 2480 immediately remove such person or immediately notify the  
 2481 department of such person upon discovery of the conditions set  
 2482 forth in this paragraph, either when applicable to such person  
 2483 or upon order of the department; the failure to remove such  
 2484 person, provide such notice, or comply with such order  
 2485 constitutes grounds for suspension or revocation of the  
 2486 insurer's certificate of authority.

2487 (4) (a) An authorized title insurer may not act as a  
 2488 fronting company for any unauthorized insurer which is not an  
 2489 approved reinsurer.

2490 (b) A "fronting company" is an authorized insurer which by  
 2491 reinsurance or otherwise generally transfers more than 50  
 2492 percent to one unauthorized insurer which does not meet the  
 2493 requirements of s. 637.604(3) (a), (b), or (c), or more than 75  
 2494 percent to two or more unauthorized insurers which do not meet  
 2495 the requirements of s. 637.604(3) (a), (b), or (c), of the entire  
 2496 risk of loss on all of the insurance written by it in this  
 2497 state, or on one or more lines of insurance, on all of the

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2498 business produced through one or more agents or agencies, or on  
2499 all of the business from a designated geographical territory,  
2500 without obtaining the prior approval of the department.

2501 (c) The department may, in its discretion, approve a  
2502 transfer of risk in excess of the limits in paragraph (b) upon  
2503 presentation of evidence, satisfactory to the department, that  
2504 the transfer would be in the best interests of the financial  
2505 condition of the insurer and in the best interests of the  
2506 policyholders.

2507 (5) A title insurer may not be authorized to transact  
2508 title insurance in this state which, during the 3 years  
2509 immediately preceding its application for a certificate of  
2510 authority, has violated any of the insurance laws of this state  
2511 and after being informed of such violation has failed to correct  
2512 the same; except that, if all other requirements are met, the  
2513 department may nevertheless issue a certificate of authority to  
2514 such an insurer upon the filing by the insurer of a sworn  
2515 statement of all such insurance so written in violation of law,  
2516 and upon payment to the department of a sum of money as  
2517 additional filing fee equivalent to all premium taxes and other  
2518 state taxes and fees as would have been payable by the insurer  
2519 if such insurance had been lawfully written by an authorized  
2520 insurer under the laws of this state. This fee, when collected,  
2521 shall be deposited to the credit of the Title Insurance  
2522 Regulatory Trust Fund.

2523 (6) Nothing in this chapter shall be deemed to prohibit  
2524 the granting and continuance of a certificate of authority to a  
2525 domestic title insurer organized as a business trust, if the

2526 declaration of trust of such insurer was filed in the department  
 2527 of the Secretary of State prior to January 1, 1959, and if the  
 2528 insurer otherwise meets the applicable requirements of this  
 2529 chapter. Such an insurer may hereinafter in this chapter be  
 2530 referred to as a "business trust insurer."

2531 (7) For the purpose of satisfying the requirements of ss.  
 2532 637.2004 and 637.2007, the investment portfolio of an insurer  
 2533 applying for an initial certificate of authority to do business  
 2534 in this state shall value its bonds and stocks in accordance  
 2535 with the provisions of the latest edition of the publication  
 2536 "Purposes and Procedures Manual of the NAIC Securities Valuation  
 2537 Office" by the National Association of Insurance Commissioners,  
 2538 July 1, 2002, and subsequent amendments thereto, if the  
 2539 valuation methodology remains substantially unchanged.

2540 637.20035 Structure of title insurers.—Except as to  
 2541 domestic business trust title insurers as referred to in s.  
 2542 637.2003(6) authorized prior to July 1, 2010, a title insurer  
 2543 shall be a stock insurer.

2544 637.2004 Capital funds required; new insurers.—

2545 (1) To receive authority to transact title insurance, an  
 2546 insurer applying for its original certificate of authority in  
 2547 this state after the effective date of this section shall  
 2548 possess surplus as to policyholders not less than the greater of  
 2549 \$2.5 million or 10 percent of the insurer's total liabilities;  
 2550 however, no insurer shall be required under this subsection to  
 2551 have surplus as to policyholders greater than \$100 million.

2552 (2) The requirements of this section shall be based upon  
 2553 all the kinds of insurance actually transacted or to be

2554 transacted by the insurer in any and all areas in which it  
 2555 operates, whether or not only a portion of such kinds are to be  
 2556 transacted in this state.

2557 (3) As to surplus as to policyholders required for  
 2558 qualification to transact one or more kinds of insurance,  
 2559 domestic mutual insurers are governed by chapter 628, and  
 2560 domestic reciprocal insurers are governed by chapter 629.

2561 (4) For the purposes of this section, liabilities shall  
 2562 not include liabilities required under s. 625.041(4). For  
 2563 purposes of computing minimum surplus as to policyholders  
 2564 pursuant to s. 625.305(1), liabilities shall include liabilities  
 2565 required under s. 625.041(4).

2566 (5) The provisions of this section, as amended by this  
 2567 act, shall apply only to insurers applying for a certificate of  
 2568 authority on or after the effective date of this act.

2569 637.2005 Restrictions on insurers that are wholly owned  
 2570 subsidiaries of insurers to do business in state.—Effective  
 2571 December 31, 2010, and notwithstanding any other provision of  
 2572 law:

2573 (1) A new certificate of authority for the transaction of  
 2574 title insurance may not be issued to any insurer domiciled in  
 2575 this state that is a wholly owned subsidiary of an insurer  
 2576 authorized to do business in any other state.

2577 (2) The rate filings of any insurer domiciled in this  
 2578 state that is a wholly owned subsidiary of an insurer authorized  
 2579 to do business in any other state shall include information  
 2580 relating to the profits of the parent company of the insurer  
 2581 domiciled in this state.

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2582           637.2006 Officers and directors of insolvent insurers.—Any  
 2583 person who was an officer or director of an insurer doing  
 2584 business in this state and who served in that capacity within  
 2585 the 2-year period prior to the date the insurer became  
 2586 insolvent, for any insolvency that occurs on or after July 1,  
 2587 2002, may not thereafter serve as an officer or director of an  
 2588 insurer authorized in this state unless the officer or director  
 2589 demonstrates that his or her personal actions or omissions were  
 2590 not a significant contributing cause to the insolvency.

2591           637.2007 Surplus as to policyholders required; new and  
 2592 existing insurers.—

2593           (1) To maintain a certificate of authority to transact  
 2594 title insurance, an insurer in this state shall at all times  
 2595 maintain surplus as to policyholders not less than the greater  
 2596 of \$1.5 million or 10 percent of the insurer's total  
 2597 liabilities.

2598           (2) For purposes of this section, liabilities shall not  
 2599 include liabilities required under s. 625.041(4). For purposes  
 2600 of computing minimum surplus as to policyholders pursuant to s.  
 2601 625.305(1), liabilities shall include liabilities required under  
 2602 s. 625.041(4).

2603           (3) An insurer may not be required under this section to  
 2604 have surplus as to policyholders greater than \$100 million.

2605           Section 6. Section 625.330, Florida Statutes, is  
 2606 transferred, renumbered as section 627.20073, Florida Statutes,  
 2607 and amended to read:

2608           637.20073 ~~625.330~~ Special investments by title insurer.—

2609           (1) In addition to other investments eligible under this

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2610 part, a title insurer may invest and have invested an amount not  
 2611 exceeding the greater of \$300,000 or 50 percent of that part of  
 2612 its surplus as to policyholders which exceeds the minimum  
 2613 surplus required by s. 637.2007 ~~624.408~~ in its abstract plant  
 2614 and equipment, in loans secured by mortgages on abstract plants  
 2615 and equipment, and, with the consent of the office, in stocks of  
 2616 abstract companies. If the insurer transacts kinds of insurance  
 2617 in addition to title insurance, for the purposes of this section  
 2618 its paid-in capital stock shall be prorated between title  
 2619 insurance and such other insurances upon the basis of the  
 2620 reserves maintained by the insurer for the various kinds of  
 2621 insurance; but the capital so assigned to title insurance may  
 2622 not shall in any ~~no~~ event be less than \$100,000.

2623 (2) Subsection (1) does not apply to a business trust  
 2624 insurer. Such an insurer may invest and have invested not  
 2625 exceeding the greater of \$300,000 or 50 percent of its net trust  
 2626 fund in excess of the reserve provided for under s. 637.20075  
 2627 ~~625.111~~ in abstract plants, stock in abstract companies, or  
 2628 corporations controlled by the business trust and created for  
 2629 developing and servicing abstract plants.

2630 (3) Investments authorized by this section shall not be  
 2631 credited against the insurer's required unearned premium or  
 2632 guaranty fund reserve provided for under s. 637.20075 ~~625.111~~.

2633 Section 7. Section 625.111, Florida Statutes, is  
 2634 transferred, renumbered as section 637.20075, Florida Statutes,  
 2635 and amended to read:

2636 637.20075 ~~625.111~~ Title insurance reserve.—

2637 (1) In addition to an adequate reserve as to outstanding

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2638 losses relating to known claims, as required under s. 625.041, a  
 2639 title insurer shall establish, segregate, and maintain a  
 2640 guaranty fund or unearned premium reserve as provided in this  
 2641 section. The sums required under this section to be reserved for  
 2642 unearned premiums on title guarantees and policies at all times  
 2643 and for all purposes shall be considered and constitute unearned  
 2644 portions of the original premiums and shall be charged as a  
 2645 reserve liability of such insurer in determining its financial  
 2646 condition. While such sums are so reserved, they shall be  
 2647 withdrawn from the use of the insurer for its general purposes,  
 2648 impressed with a trust in favor of the holders of title  
 2649 guarantees and policies, and held available for reinsurance of  
 2650 the title guarantees and policies in the event of the insolvency  
 2651 of the insurer. Nothing contained in this section precludes  
 2652 ~~shall preclude~~ such insurer from investing such reserve in  
 2653 investments authorized by law for such an insurer and the income  
 2654 from such invested reserve shall be included in the general  
 2655 income of the insurer to be used by such insurer for any lawful  
 2656 purpose.

2657 (2)~~(1)~~ For unearned premium reserves established on or  
 2658 after July 1, 1999, such unearned premium reserve shall consist  
 2659 of not less than an amount equal to the sum of:

2660 (a) A reserve with respect to unearned premiums for  
 2661 policies written or title liability assumed in reinsurance  
 2662 before July 1, 1999, equal to the reserve established on June  
 2663 30, 1999, for those unearned premiums with such reserve being  
 2664 subsequently released as provided in subsection (3)~~(2)~~. For  
 2665 domestic title insurers subject to this section, such amounts



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2666 shall be calculated in accordance with provisions of law of this  
 2667 state in effect at the time the associated premiums were written  
 2668 or assumed and as amended prior to July 1, 1999.

2669 (b) A total amount equal to 30 cents for each \$1,000 of  
 2670 net retained liability for policies written or title liability  
 2671 assumed in reinsurance on or after July 1, 1999, with such  
 2672 reserve being subsequently released as provided in subsection  
 2673 (3)~~(2)~~. For the purpose of calculating this reserve, the total  
 2674 of the net retained liability for all simultaneous issue  
 2675 policies covering a single risk shall be equal to the liability  
 2676 for the policy with the highest limit covering that single risk,  
 2677 net of any liability ceded in reinsurance.

2678 (c) An additional amount, if deemed necessary by a  
 2679 qualified actuary, which shall be subsequently released as  
 2680 provided in subsection (3)~~(2)~~. Using financial results as of  
 2681 December 31 of each year, all domestic title insurers shall  
 2682 obtain a Statement of Actuarial Opinion from a qualified actuary  
 2683 regarding the insurer's loss and loss adjustment expense  
 2684 reserves, including reserves for known claims, adverse  
 2685 development on known claims, incurred but not reported claims,  
 2686 and unallocated loss adjustment expenses. The actuarial opinion  
 2687 shall conform to the annual statement instructions for title  
 2688 insurers adopted by the National Association of Insurance  
 2689 Commissioners and shall include the actuary's professional  
 2690 opinion of the insurer's reserves as of the date of the annual  
 2691 statement. If the amount of the reserve stated in the opinion  
 2692 and displayed in Schedule P of the annual statement for that  
 2693 reporting date is greater than the sum of the known claim

2694 reserve and unearned premium reserve as calculated under this  
 2695 section, as of the same reporting date and including any  
 2696 previous actuarial provisions added at earlier dates, the  
 2697 insurer shall add to the insurer's unearned premium reserve an  
 2698 actuarial amount equal to the reserve shown in the actuarial  
 2699 opinion, minus the known claim reserve and the unearned premium  
 2700 reserve, as of the current reporting date and calculated in  
 2701 accordance with this section, but in no event calculated as of  
 2702 any date prior to December 31, 1999. The comparison shall be  
 2703 made using that line on Schedule P displaying the Total Net Loss  
 2704 and Loss Adjustment Expense which is comprised of the Known  
 2705 Claim Reserve, and any associated Adverse Development Reserve,  
 2706 the reserve for Incurred But Not Reported Losses, and  
 2707 Unallocated Loss Adjustment Expenses.

2708 (3)~~(2)~~(a) With respect to the reserve established in  
 2709 accordance with paragraph (2)~~(1)~~(a), the domestic title insurer  
 2710 shall release the reserve over a period of 20 subsequent years  
 2711 as provided in this paragraph. The insurer shall release 30  
 2712 percent of the initial aggregate sum during 1999, with one  
 2713 quarter of that amount being released on March 31, June 30,  
 2714 September 30, and December 31, 1999, with the March 31 and June  
 2715 30 releases to be retroactive and reflected on the September 30  
 2716 financial statements. Thereafter, the insurer shall release, on  
 2717 the same quarterly basis as specified for reserves released  
 2718 during 1999, a percentage of the initial aggregate sum as  
 2719 follows: 15 percent during calendar year 2000, 10 percent during  
 2720 each of calendar years 2001 and 2002, 5 percent during each of  
 2721 calendar years 2003 and 2004, 3 percent during each of calendar

2722 | years 2005 and 2006, 2 percent during each of calendar years  
 2723 | 2007-2013, and 1 percent during each of calendar years 2014-  
 2724 | 2018.

2725 |       (b) With respect to reserves established in accordance  
 2726 | with paragraph (2)~~(1)~~(b), the unearned premium for policies  
 2727 | written or title liability assumed during a particular calendar  
 2728 | year shall be earned, and released from reserve, over a period  
 2729 | of 20 subsequent years as provided in this paragraph. The  
 2730 | insurer shall release 30 percent of the initial sum during the  
 2731 | year next succeeding the year the premium was written or  
 2732 | assumed, with one quarter of that amount being released on March  
 2733 | 31, June 30, September 30, and December 31 of such year.  
 2734 | Thereafter, the insurer shall release, on the same quarterly  
 2735 | basis as specified for reserves released during the year first  
 2736 | succeeding the year the premium was written or assumed, a  
 2737 | percentage of the initial sum as follows: 15 percent during the  
 2738 | next succeeding year, 10 percent during each of the next  
 2739 | succeeding 2 years, 5 percent during each of the next succeeding  
 2740 | 2 years, 3 percent during each of the next succeeding 2 years, 2  
 2741 | percent during each of the next succeeding 7 years, and 1  
 2742 | percent during each of the next succeeding 5 years.

2743 |       (c) With respect to reserves established in accordance  
 2744 | with paragraph (2)~~(1)~~(c), any additional amount established in  
 2745 | any calendar year shall be released in the years subsequent to  
 2746 | its establishment as provided in paragraph (b), with the timing  
 2747 | and percentage of releases being in all respects identical to  
 2748 | those of unearned premium reserves that are calculated as  
 2749 | provided in paragraph (b) and established with regard to

2750 premiums written or liability assumed in reinsurance in the same  
 2751 year as the year in which any additional amount was originally  
 2752 established.

2753 (4)~~(3)~~ At any reporting date, the amount of the required  
 2754 releases of existing unearned premium reserves under subsection  
 2755 (3)~~(2)~~ shall be calculated and deducted from the total unearned  
 2756 premium reserve before any additional amount is established for  
 2757 the current calendar year in accordance with the provisions of  
 2758 paragraph (2)~~(1)~~(c).

2759 (5)~~(4)~~ As used in this section:

2760 (a) "Net retained liability" means the total liability  
 2761 retained by a title insurer for a single risk, after taking into  
 2762 account the deduction for ceded liability, if any.

2763 (b) "Qualified actuary" means a person who is, as detailed  
 2764 in the National Association of Insurance Commissioners' Annual  
 2765 Statement Instructions:

2766 1. A member in good standing of the Casualty Actuarial  
 2767 Society;

2768 2. A member in good standing of the American Academy of  
 2769 Actuaries who has been approved as qualified for signing  
 2770 casualty loss reserve opinions by the Casualty Practice Council  
 2771 of the American Academy of Actuaries; or

2772 3. A person who otherwise has competency in loss reserve  
 2773 evaluation as demonstrated to the satisfaction of the insurance  
 2774 regulatory official of the domiciliary state. In such case, at  
 2775 least 90 days prior to the filing of its annual statement, the  
 2776 insurer must request approval that the person be deemed  
 2777 qualified and that request must be approved or denied. The

2778 request must include the National Association of Insurance  
 2779 Commissioners' Biographical Form and a list of all loss reserve  
 2780 opinions issued in the last 3 years by this person.

2781 (c) "Single risk" means the insured amount of any title  
 2782 insurance policy, except that where two or more title insurance  
 2783 policies are issued simultaneously covering different estates in  
 2784 the same real property, "single risk" means the sum of the  
 2785 insured amounts of all such title insurance policies. Any title  
 2786 insurance policy insuring a mortgage interest, a claim payment  
 2787 under which reduces the insured amount of a fee or leasehold  
 2788 title insurance policy, shall be excluded in computing the  
 2789 amount of a single risk to the extent that the insured amount of  
 2790 the mortgage title insurance policy does not exceed the insured  
 2791 amount of the fee or leasehold title insurance policy.

2792 Section 8. Sections 637.2008, 637.2009, 637.2011,  
 2793 637.2012, 637.2013, 637.2014, 637.2015, 637.2016, 637.2017,  
 2794 637.2018, 637.2019, 637.2021, 637.2022, 637.2023, 637.2024,  
 2795 637.2025, 637.2026, 637.2027, 637.2028, 637.2029, 637.2031,  
 2796 637.2032, 637.2033, 637.2034, 637.2035, 637.2036, 637.2037,  
 2797 637.2038, 637.2039, 637.2041, 637.2042, 637.2043, 637.2046,  
 2798 637.2047, and 637.2048, Florida Statutes, are created to read:

2799 637.2008 Premiums written; restrictions.-

2800 (1) Whenever a title insurer's ratio of actual or  
 2801 projected annual written premiums as adjusted in accordance with  
 2802 subsection (4) to current or projected surplus as to  
 2803 policyholders as adjusted in accordance with subsection (6)  
 2804 exceeds 10 to 1 for gross written premiums or exceeds 4 to 1 for  
 2805 net written premiums, the department shall suspend the insurer's

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2806 certificate of authority or establish by order maximum gross or  
2807 net annual premiums to be written by the insurer consistent with  
2808 maintaining the ratios specified herein unless the insurer  
2809 demonstrates to the department's satisfaction that exceeding the  
2810 ratios of this section does not endanger the financial condition  
2811 of the insurer or endanger the interests of the insurer's  
2812 policyholders.

2813 (2) Projected annual net or gross premiums shall be based  
2814 on the actual writings to date for the title insurer's current  
2815 calendar year or the insurer's writings for the previous  
2816 calendar year or both. Ratios shall be computed on an annualized  
2817 basis.

2818 (3) For the purposes of this section, gross premiums  
2819 written means direct premiums written and reinsurance assumed.

2820 (4) For the purposes of this section, for each calendar  
2821 year premiums shall be calculated as the product of the actual  
2822 or projected premiums and 1.00.

2823 637.2009 Deposit requirement; domestic title insurers and  
2824 foreign title insurers.-

2825 (1) As to domestic title insurers, the department shall  
2826 not issue or permit to exist a certificate of authority unless  
2827 such insurer has deposited and maintains deposited in trust for  
2828 the protection of the insurer's policyholders or its  
2829 policyholders and creditors with the department securities  
2830 eligible for such deposit under s. 625.52, having at all times a  
2831 value of not less than \$100,000.

2832 (2) As to foreign title insurers, the department, upon  
2833 issuing or permitting to exist a certificate of authority, may

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2834 require for good cause a deposit and maintenance of the deposit  
 2835 in trust for the protection of the insured's policyholders or  
 2836 its policyholders and creditors with the department securities  
 2837 eligible for such deposit under s. 625.52, having at all times a  
 2838 value of not less than \$100,000 A foreign insurer with surplus  
 2839 as to policyholders of more than \$10 million according to its  
 2840 latest annual statement shall not be required to make a deposit  
 2841 under this subsection.

2842 (3) Whenever the department determines that the financial  
 2843 condition of a title insurer has deteriorated or that the  
 2844 policyholders' best interests are not being preserved by the  
 2845 activities of an insurer, the department may require such  
 2846 insurer to deposit and maintain deposited in trust with the  
 2847 department for the protection of the insurer's policyholders or  
 2848 its policyholders and creditors, for such time as the department  
 2849 deems necessary, securities eligible for such deposit under s.  
 2850 625.52, having a market value of not less than the amount which  
 2851 the department determines is necessary, which amount shall be  
 2852 not less than \$100,000, or more than 25 percent of the insurer's  
 2853 obligations in this state, as determined from the latest annual  
 2854 financial statement of the insured. The deposit required under  
 2855 this subsection shall not exceed \$2 million and is in addition  
 2856 to any other deposits required of an insurer pursuant to  
 2857 subsections (1) and (2) or any other provisions of this chapter.

2858 (4) All such deposits in this state are subject to the  
 2859 applicable provisions of part III of chapter 625.

2860 637.2011 Deposit of alien insurers.-

2861       (1) An alien title insurer may not transact insurance in  
 2862 this state unless it has and maintains within the United States  
 2863 as trust deposits with public officials having supervision over  
 2864 insurers, or with trustees, public depositories, or trust  
 2865 institutions approved by the department, assets available for  
 2866 discharge of its United States insurance obligations, which  
 2867 assets shall be in amount not less than the outstanding reserves  
 2868 and other liabilities of the insurer arising out of its  
 2869 insurance transactions in the United States together with the  
 2870 amount of surplus as to policyholders required by s. 637.2007 of  
 2871 a domestic stock insurer transacting like kinds of insurance.

2872       (2) Any such deposit made in this state shall be held for  
 2873 the protection of the insurer's policyholders or policyholders  
 2874 and creditors in the United States and shall be subject to the  
 2875 applicable provisions of part III of chapter 625 and chapter  
 2876 630.

2877       637.2012 Application for certificate of authority.-

2878       (1) To apply for a certificate of authority, a title  
 2879 insurer shall file its application therefor with the department,  
 2880 upon a form adopted by the department and furnished by the  
 2881 department, showing its name; location of its home office and,  
 2882 if an alien insurer, its principal office in the United States;  
 2883 kinds of insurance to be transacted; state or country of  
 2884 domicile; and such additional information as the department  
 2885 reasonably requires, together with the following documents:

2886       (a) One copy of its corporate charter, articles of  
 2887 incorporation, existing and proposed nonfacultative reinsurance  
 2888 contracts, declaration of trust, or other charter documents,



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2889 with all amendments thereto, certified by the public official  
2890 with whom the originals are on file in the state or country of  
2891 domicile.

2892 (b) If a mutual insurer, a copy of its bylaws, as amended,  
2893 certified by its secretary or other officer having custody  
2894 thereof.

2895 (c) If a foreign or alien reciprocal insurer, a copy of  
2896 the power of attorney of its attorney in fact and of its  
2897 subscribers' agreement, if any, certified by the attorney in  
2898 fact; and, if a domestic reciprocal insurer, the declaration  
2899 provided for in s. 629.081.

2900 (d) A copy of its financial statement as of December 31  
2901 next preceding, containing information generally included in  
2902 insurer financial statements prepared in accordance with  
2903 generally accepted insurance accounting principles and practices  
2904 and in a form generally utilized by insurers for financial  
2905 statements, sworn to by at least two executive officers of the  
2906 insurer, or certified by the public official having supervision  
2907 of insurance in the insurer's state of domicile or of entry into  
2908 the United States. To facilitate uniformity in financial  
2909 statements, the department may by rule adopt the form for  
2910 financial statements approved by the National Association of  
2911 Insurance Commissioners in 2002, and may adopt subsequent  
2912 amendments thereto if the form remains substantially consistent.

2913 (e) Supplemental quarterly financial statements for each  
2914 calendar quarter since the beginning of the year of its  
2915 application for the certificate of authority, sworn to by at  
2916 least two of its executive officers. To facilitate uniformity in

2917 financial statements, the department may by rule adopt the form  
 2918 for quarterly financial statements approved by the National  
 2919 Association of Insurance Commissioners in 2002, and may adopt  
 2920 subsequent amendments thereto if the form remains substantially  
 2921 consistent.

2922 (f) If a foreign or alien insurer, a copy of the report of  
 2923 the most recent examination of the insurer certified by the  
 2924 public official having supervision of insurance in its state of  
 2925 domicile or of entry into the United States. The end of the most  
 2926 recent year covered by the examination must be within the 3-year  
 2927 period preceding the date of application. In lieu of the  
 2928 certified examination report, the department may accept an  
 2929 audited certified public accountant's report prepared on a basis  
 2930 consistent with the insurance laws of the insurer's state of  
 2931 domicile, certified by the public official having supervision of  
 2932 insurance in its state of domicile or of entry into the United  
 2933 States.

2934 (g) If a foreign or alien insurer, a certificate of  
 2935 compliance from the public official having supervision of  
 2936 insurance in its state or country of domicile showing that it is  
 2937 duly organized and authorized to transact insurance therein and  
 2938 the kinds of insurance it is so authorized to transact.

2939 (h) If a foreign or alien insurer, a certificate of the  
 2940 public official having custody of any deposit maintained by the  
 2941 insurer in another state in lieu of a deposit or part thereof  
 2942 required in this state under s. 637.2009 or s. 637.2011, showing  
 2943 the amount of such deposit and the assets or securities of which  
 2944 comprised.

2945 (i) If an alien insurer, a copy of the appointment and  
 2946 authority of its United States manager, certified by its officer  
 2947 having custody of its records.

2948 (2) The application shall be accompanied by the applicable  
 2949 fees and license tax as specified in s. 637.2031.

2950 637.2013 Redomestication.—The department shall adopt rules  
 2951 establishing procedures and forms for a foreign title insurer to  
 2952 apply for a certificate of authority as a domestic title  
 2953 insurer.

2954 637.2014 Issuance or refusal of authority.—The fee for  
 2955 filing application for a certificate of authority shall not be  
 2956 subject to refund. The department shall issue to the applicant  
 2957 title insurer a proper certificate of authority if it finds that  
 2958 the insurer has met the requirements of this chapter, exclusive  
 2959 of the requirements relative to the filing and approval of an  
 2960 insurer's policy forms, riders, endorsements, applications, and  
 2961 rates. If it does not so find, the department shall issue its  
 2962 order refusing the certificate. The certificate, if issued,  
 2963 shall specify the kind or kinds and line or lines of insurance  
 2964 the insurer is authorized to transact in this state. The  
 2965 issuance of a certificate of authority does not signify that an  
 2966 insurer has met the requirements of this chapter relative to the  
 2967 filing and approval of an insurer's policy forms, riders,  
 2968 endorsements, applications, and rates which may be required  
 2969 prior to an insurer actually writing any premiums.

2970 637.2015 Ownership of certificate of authority; return.—  
 2971 Although issued to the insurer, the certificate of authority is  
 2972 at all times the property of this state. Upon any expiration,

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2973 suspension, or termination thereof, the insurer shall promptly  
 2974 deliver the certificate of authority to the department.

2975 637.2016 Continuance, expiration, reinstatement, and  
 2976 amendment of certificate of authority.—

2977 (1) A certificate of authority issued under this chapter  
 2978 shall continue in force as long as the insurer is entitled  
 2979 thereto under this chapter and until suspended, revoked, or  
 2980 terminated at the request of the insurer; subject, however, to  
 2981 continuance of the certificate by the insurer each year by:

2982 (a) Payment prior to June 1 of the annual license tax  
 2983 provided for in s. 637.2031(3);

2984 (b) Due filing by the insurer of its annual statement for  
 2985 the calendar year preceding as required under s. 637.2024; and

2986 (c) Payment by the insurer of applicable taxes with  
 2987 respect to the preceding calendar year as required under this  
 2988 chapter.

2989 (2) If not so continued by the insurer, its certificate of  
 2990 authority shall expire at midnight on the May 31 next following  
 2991 such failure of the insurer so to continue it in force. The  
 2992 department shall promptly notify the insurer of the occurrence  
 2993 of any failure resulting in impending expiration of its  
 2994 certificate of authority.

2995 (3) The department may, in its discretion, reinstate a  
 2996 certificate of authority which the insurer has inadvertently  
 2997 permitted to expire, after the insurer has fully cured all its  
 2998 failures which resulted in the expiration, and upon payment by  
 2999 the insurer of the fee for reinstatement, in the amount provided  
 3000 in s. 637.2031(1)(b). Otherwise, the insurer shall be granted

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3001 another certificate of authority only after filing application  
3002 therefor and meeting all other requirements as for an original  
3003 certificate of authority in this state.

3004 (4) The department may amend a certificate of authority at  
3005 any time to accord with changes in the insurer's charter or  
3006 insuring powers.

3007 637.2017 Suspension, revocation of certificate of  
3008 authority for violations and special grounds.—

3009 (1) The department shall suspend or revoke a title  
3010 insurer's certificate of authority if it finds that the insurer:

3011 (a) Is in unsound financial condition.

3012 (b) Is using such methods and practices in the conduct of  
3013 its business as to render its further transaction of insurance  
3014 in this state hazardous or injurious to its policyholders or to  
3015 the public.

3016 (c) Has failed to pay any final judgment rendered against  
3017 it in this state within 60 days after the judgment became final.

3018 (d) No longer meets the requirements for the authority  
3019 originally granted.

3020 (2) The department may, in its discretion, suspend or  
3021 revoke the certificate of authority of an insurer if it finds  
3022 that the insurer:

3023 (a) Has violated any lawful order or rule of the  
3024 department or any provision of this chapter.

3025 (b) Has refused to be examined or to produce its accounts,  
3026 records, and files for examination, or if any of its officers  
3027 have refused to give information with respect to its affairs or

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3028 to perform any other legal obligation as to such examination,  
3029 when required by the department.

3030 (c) Has for any line, class, or combination thereof, with  
3031 such frequency as to indicate its general business practice in  
3032 this state, without just cause refused to pay proper claims  
3033 arising under its policies, whether any such claim is in favor  
3034 of an insured or is in favor of a third person with respect to  
3035 the liability of an insured to such third person, or without  
3036 just cause compels such insureds or claimants to accept less  
3037 than the amount due them or to employ attorneys or to bring suit  
3038 against the insurer or such an insured to secure full payment or  
3039 settlement of such claims.

3040 (d) Is affiliated with and under the same general  
3041 management or interlocking directorate or ownership as another  
3042 insurer which transacts direct insurance in this state without  
3043 having a certificate of authority therefor, except as permitted  
3044 as to surplus lines insurers under part VIII of chapter 626.

3045 (e) Has been convicted of, or entered a plea of guilty or  
3046 nolo contendere to, a felony relating to the transaction of  
3047 insurance, in this state or in any other state, without regard  
3048 to whether adjudication was withheld.

3049 (f) Has a ratio of net premiums written to surplus as to  
3050 policyholders that exceeds 4 to 1, and the department has reason  
3051 to believe that the financial condition of the insurer endangers  
3052 the interests of the policyholders. The ratio of net premiums  
3053 written to surplus as to policyholders shall be on an annualized  
3054 actual or projected basis. The ratio shall be based on the  
3055 insurer's current calendar year activities and experience to

3056 date or the insurer's previous calendar year activities and  
 3057 experience, or both, and shall be calculated to represent a 12-  
 3058 month period. However, the provisions of this paragraph do not  
 3059 apply to any insurance or insurer exempted from s. 637.2008.

3060 (g) Is under suspension or revocation in another state.

3061 (3) The insolvency or impairment of an insurer constitutes  
 3062 an immediate serious danger to the public health, safety, or  
 3063 welfare; and the department may, at its discretion, without  
 3064 prior notice and the opportunity for hearing immediately suspend  
 3065 the certificate of authority of an insurer upon a determination  
 3066 that:

3067 (a) The insurer is impaired or insolvent; or

3068 (b) Receivership, conservatorship, rehabilitation, or  
 3069 other delinquency proceedings have been initiated against the  
 3070 insurer by the public insurance supervisory official of any  
 3071 state.

3072 637.2018 Order, notice of suspension or revocation of  
 3073 certificate of authority; effect; publication.-

3074 (1) Suspension or revocation of a title insurer's  
 3075 certificate of authority shall be by the order of the  
 3076 department. The department shall promptly also give notice of  
 3077 such suspension or revocation to the insurer's agents in this  
 3078 state of record. The insurer shall not solicit or write any new  
 3079 coverages in this state during the period of any such suspension  
 3080 and may renew coverages only upon a finding by the department  
 3081 that the insurer is capable of servicing the renewal coverage.  
 3082 The insurer shall not solicit or write any new or renewal  
 3083 coverages after any such revocation.

3084 (2) In its discretion, the department may cause notice of  
 3085 any such suspension or revocation to be published in one or more  
 3086 newspapers of general circulation published in this state.

3087 637.2019 Duration of suspension; insurer's obligations  
 3088 during suspension period; reinstatement.—

3089 (1) Suspension of a title insurer's certificate of  
 3090 authority shall be for:

3091 (a) A fixed period of time not to exceed 2 years; or

3092 (b) Until the occurrence of a specific event necessary for  
 3093 remedying the reasons for suspension.

3094

3095 Such suspension may be modified, rescinded, or reversed.

3096 (2) During the period of suspension, the insurer shall  
 3097 file with the department all documents and information and pay  
 3098 all license fees and taxes as required under this chapter as if  
 3099 the certificate had continued in full force.

3100 (3) If the suspension of the certificate of authority is  
 3101 for a fixed period of time and the certificate of authority has  
 3102 not been otherwise terminated, upon expiration of the suspension  
 3103 period the insurer's certificate of authority shall be  
 3104 reinstated unless the department finds that the insurer is not  
 3105 in compliance with the requirements of this chapter. The  
 3106 department shall promptly notify the insurer of such  
 3107 reinstatement, and the insurer shall not consider its  
 3108 certificate of authority reinstated until so notified by the  
 3109 department. If not reinstated, the certificate of authority  
 3110 shall be deemed to have expired as of the end of the suspension  
 3111 period or upon failure of the insurer to continue the



3112 certificate during the suspension period in accordance with  
 3113 subsection (2), whichever event first occurs.

3114 (4) If the suspension of the certificate of authority was  
 3115 until the occurrence of a specific event or events and the  
 3116 certificate of authority has not been otherwise terminated, upon  
 3117 the presentation of evidence satisfactory to the department that  
 3118 the specific event or events have occurred, the insurer's  
 3119 certificate of authority shall be reinstated unless the  
 3120 department finds that the insurer is otherwise not in compliance  
 3121 with the requirements of this chapter. The department shall  
 3122 promptly notify the insurer of such reinstatement, and the  
 3123 insurer shall not consider its certificate of authority  
 3124 reinstated until so notified by the department. If satisfactory  
 3125 evidence as to the occurrence of the specific event or events  
 3126 has not been presented to the department within 2 years of the  
 3127 date of such suspension, the certificate of authority shall be  
 3128 deemed to have expired as of 2 years from the date of suspension  
 3129 or upon failure of the insurer to continue the certificate  
 3130 during the suspension period in accordance with subsection (2),  
 3131 whichever first occurs.

3132 (5) Upon reinstatement of the insurer's certificate of  
 3133 authority, the authority of its agents in this state to  
 3134 represent the insurer shall likewise reinstate. The department  
 3135 shall promptly notify the insurer of such reinstatement.

3136 637.2021 Administrative fine in lieu of suspension or  
 3137 revocation.-

3138 (1) If the department finds that one or more grounds exist  
 3139 for the discretionary revocation or suspension of a certificate

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3140 of authority issued under this chapter, the department may, in  
3141 lieu of such revocation or suspension, impose a fine upon the  
3142 title insurer.

3143 (2) With respect to any nonwillful violation, such fine  
3144 shall not exceed \$2,500 per violation. In no event shall such  
3145 fine exceed an aggregate amount of \$10,000 for all nonwillful  
3146 violations arising out of the same action. When an insurer  
3147 discovers a nonwillful violation, the insurer shall correct the  
3148 violation and, if restitution is due, make restitution to all  
3149 affected persons. Such restitution shall include interest at 12  
3150 percent per year from either the date of the violation or the  
3151 date of inception of the affected person's policy, at the  
3152 insurer's option. The restitution may be a credit against future  
3153 premiums due provided that the interest shall accumulate until  
3154 the premiums are due. If the amount of restitution due to any  
3155 person is \$50 or more and the insurer wishes to credit it  
3156 against future premiums, it shall notify such person that she or  
3157 he may receive a check instead of a credit. If the credit is on  
3158 a policy which is not renewed, the insurer shall pay the  
3159 restitution to the person to whom it is due.

3160 (3) With respect to any knowing and willful violation of a  
3161 lawful order or rule of the department or a provision of this  
3162 chapter, the department may impose a fine upon the insurer in an  
3163 amount not to exceed \$20,000 for each such violation. In no  
3164 event shall such fine exceed an aggregate amount of \$100,000 for  
3165 all knowing and willful violations arising out of the same  
3166 action. In addition to such fines, such insurer shall make

3167 restitution when due in accordance with the provisions of  
 3168 subsection (2).

3169 (4) The failure of an insurer to make restitution when due  
 3170 as required under this section constitutes a willful violation  
 3171 of this chapter. However, if an insurer in good faith is  
 3172 uncertain as to whether any restitution is due or as to the  
 3173 amount of such restitution, it shall promptly notify the  
 3174 department of the circumstances; and the failure to make  
 3175 restitution pending a determination thereof shall not constitute  
 3176 a violation of this chapter.

3177 637.2022 Service of process; appointment of Chief  
 3178 Financial Officer as process agent.—

3179 (1) Each licensed title insurer, whether domestic,  
 3180 foreign, or alien, shall be deemed to have appointed the Chief  
 3181 Financial Officer and her or his successors in department as its  
 3182 attorney to receive service of all legal process issued against  
 3183 it in any civil action or proceeding in this state; and process  
 3184 so served shall be valid and binding upon the insurer.

3185 (2) Prior to its authorization to transact insurance in  
 3186 this state, each insurer shall file with the department  
 3187 designation of the name and address of the person to whom  
 3188 process against it served upon the Chief Financial Officer is to  
 3189 be forwarded. The insurer may change the designation at any time  
 3190 by a new filing.

3191 (3) Service of process upon the Chief Financial Officer as  
 3192 the insurer's attorney pursuant to such an appointment shall be  
 3193 the sole method of service of process upon an authorized  
 3194 domestic, foreign, or alien insurer in this state.

3195 637.2023 Serving process.-

3196 (1) Service of process upon the Chief Financial Officer as  
 3197 process agent of the title insurer under s. 637.2022 shall be  
 3198 made by serving copies in triplicate of the process upon the  
 3199 Chief Financial Officer or upon her or his assistant, deputy, or  
 3200 other person in charge of her or his office. Upon receiving such  
 3201 service, the Chief Financial Officer shall file one copy in her  
 3202 or his office, return one copy with her or his admission of  
 3203 service, and promptly forward one copy of the process by  
 3204 registered or certified mail to the person last designated by  
 3205 the insurer to receive the same, as provided under s.  
 3206 637.2022(2).

3207 (2) When process is served upon the Chief Financial  
 3208 Officer as an insurer's process agent, the insurer shall not be  
 3209 required to answer or plead except within 20 days after the date  
 3210 upon which the Chief Financial Officer mailed a copy of the  
 3211 process served upon her or him as required by subsection (1).

3212 (3) Process served upon the Chief Financial Officer and  
 3213 copy thereof forwarded as in this section provided shall for all  
 3214 purposes constitute valid and binding service thereof upon the  
 3215 insurer.

3216 637.2024 Annual statement and other information.-

3217 (1)(a) Each authorized title insurer shall file with the  
 3218 department full and true statements of its financial condition,  
 3219 transactions, and affairs. An annual statement covering the  
 3220 preceding calendar year shall be filed on or before March 1, and  
 3221 quarterly statements covering the periods ending on March 31,  
 3222 June 30, and September 30 shall be filed within 45 days after

3223 each such date. The department may, for good cause, grant an  
 3224 extension of time for filing of an annual or quarterly  
 3225 statement. The statements shall contain information generally  
 3226 included in insurers' financial statements prepared in  
 3227 accordance with generally accepted insurance accounting  
 3228 principles and practices and in a form generally utilized by  
 3229 insurers for financial statements, sworn to by at least two  
 3230 executive officers of the insurer or, if a reciprocal insurer,  
 3231 by the oath of the attorney in fact or its like officer if a  
 3232 corporation. To facilitate uniformity in financial statements  
 3233 and to facilitate department analysis, the department may by  
 3234 rule adopt the form for financial statements approved by the  
 3235 National Association of Insurance Commissioners in 2002, and may  
 3236 adopt subsequent amendments thereto if the methodology remains  
 3237 substantially consistent, and may by rule require each insurer  
 3238 to submit to the department or such organization as the  
 3239 department may designate all or part of the information  
 3240 contained in the financial statement in a computer-readable form  
 3241 compatible with the electronic data processing system specified  
 3242 by the department.

3243 (b) The department may by rule require reports or filings  
 3244 required under this chapter to be submitted by electronic means  
 3245 in a computer-readable form compatible with the electronic data  
 3246 processing equipment specified by the department.

3247 (2) The statement of an alien insurer shall be verified by  
 3248 the insurer's United States manager or other officer duly  
 3249 authorized. It shall be a separate statement, to be known as its  
 3250 general statement, of its transactions, assets, and affairs

3251 within the United States unless the department requires  
 3252 otherwise. If the department requires a statement as to the  
 3253 insurer's affairs elsewhere, the insurer shall file such  
 3254 statement with the department as soon as reasonably possible.

3255 (3) At the time of filing, the insurer shall pay the fee  
 3256 for filing its annual statement in the amount specified in s.  
 3257 637.2031.

3258 (4) The department may refuse to continue, or may suspend  
 3259 or revoke, the certificate of authority of an insurer failing to  
 3260 file its annual or quarterly statements and accompanying  
 3261 certificates when due.

3262 (5) In addition to information called for and furnished in  
 3263 connection with its annual or quarterly statements, an insurer  
 3264 shall furnish to the department as soon as reasonably possible  
 3265 such information as to its transactions or affairs as the  
 3266 department may from time to time request in writing. All such  
 3267 information furnished pursuant to the department's request shall  
 3268 be verified by the oath of two executive officers of the insurer  
 3269 or, if a reciprocal insurer, by the oath of the attorney in fact  
 3270 or its like officers if a corporation.

3271 (6) The signatures of all such persons when written on  
 3272 annual or quarterly statements or other reports required by this  
 3273 section shall be presumed to have been so written by authority  
 3274 of the person whose signature is affixed thereon. The affixing  
 3275 of any signature by anyone other than the purported signer  
 3276 constitutes a felony of the second degree, punishable as  
 3277 provided in s. 775.082, s. 775.083, or s. 775.084.

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3278       (7) (a) All authorized insurers must have conducted an  
3279 annual audit by an independent certified public accountant and  
3280 must file an audited financial report with the department on or  
3281 before June 1 for the preceding year ending December 31. The  
3282 department may require an insurer to file an audited financial  
3283 report earlier than June 1 upon 90 days' advance notice to the  
3284 insurer. The department may immediately suspend an insurer's  
3285 certificate of authority by order if an insurer's failure to  
3286 file required reports, financial statements, or information  
3287 required by this subsection or rule adopted pursuant thereto  
3288 creates a significant uncertainty as to the insurer's continuing  
3289 eligibility for a certificate of authority.

3290       (b) Any authorized insurer otherwise subject to this  
3291 section having direct premiums written in this state of less  
3292 than \$1 million in any calendar year and fewer than 1,000  
3293 policyholders or certificateholders of directly written policies  
3294 nationwide at the end of such calendar year is exempt from this  
3295 section for such year unless the department makes a specific  
3296 finding that compliance is necessary in order for the department  
3297 to carry out its statutory responsibilities. However, any  
3298 insurer having assumed premiums pursuant to contracts or  
3299 treaties or reinsurance of \$1 million or more is not exempt. Any  
3300 insurer subject to an exemption must submit by March 1 following  
3301 the year to which the exemption applies an affidavit sworn to by  
3302 a responsible officer of the insurer specifying the amount of  
3303 direct premiums written in this state and number of  
3304 policyholders or certificateholders.

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3305       (c) The board of directors of an insurer shall hire the  
3306 certified public accountant that prepares the audit required by  
3307 this subsection and the board shall establish an audit committee  
3308 of three or more directors of the insurer or an affiliated  
3309 company. The audit committee shall be responsible for discussing  
3310 audit findings and interacting with the certified public  
3311 accountant with regard to her or his findings. The audit  
3312 committee shall be comprised solely of members who are free from  
3313 any relationship that, in the opinion of its board of directors,  
3314 would interfere with the exercise of independent judgment as a  
3315 committee member. The audit committee shall report to the board  
3316 any findings of adverse financial conditions or significant  
3317 deficiencies in internal controls that have been noted by the  
3318 accountant. The insurer may request the department to waive this  
3319 requirement of the audit committee membership based upon unusual  
3320 hardship to the insurer.

3321       (d) An insurer may not use the same accountant or partner  
3322 of an accounting firm responsible for preparing the report  
3323 required by this subsection for more than 7 consecutive years.  
3324 Following this period, the insurer may not use such accountant  
3325 or partner for a period of 2 years, but may use another  
3326 accountant or partner of the same firm. An insurer may request  
3327 the department to waive this prohibition based upon an unusual  
3328 hardship to the insurer and a determination that the accountant  
3329 is exercising independent judgment that is not unduly influenced  
3330 by the insurer considering such factors as the number of  
3331 partners, expertise of the partners or the number of insurance  
3332 clients of the accounting firm; the premium volume of the



3333 insurer; and the number of jurisdictions in which the insurer  
 3334 transacts business.

3335 (e) The department shall adopt rules to implement this  
 3336 subsection, which rules must be in substantial conformity with  
 3337 the 1998 Model Rule Requiring Annual Audited Financial Reports  
 3338 adopted by the National Association of Insurance Commissioners,  
 3339 except where inconsistent with the requirements of this  
 3340 subsection. Any exception to, waiver of, or interpretation of  
 3341 accounting requirements of the department must be in writing and  
 3342 signed by an authorized representative of the department. No  
 3343 insurer may raise as a defense in any action, any exception to,  
 3344 waiver of, or interpretation of accounting requirements, unless  
 3345 previously issued in writing by an authorized representative of  
 3346 the department.

3347 637.2025 NAIC filing requirements.—

3348 (1) Each domestic, foreign, and alien title insurer who is  
 3349 authorized to transact title insurance in this state shall file  
 3350 one extra copy of its annual statement convention blank, along  
 3351 with such additional filings as prescribed by the department for  
 3352 the preceding year. Such extra copy shall be for the explicit  
 3353 purpose of allowing the department to forward it to the National  
 3354 Association of Insurance Commissioners.

3355 (2) Coincident with the filing of the documents required  
 3356 in subsection (1), each insurer shall pay to the department a  
 3357 reasonable fee to cover the costs associated with the filing and  
 3358 analysis of the documents by the National Association of  
 3359 Insurance Commissioners and the department.

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3360       (3) The provisions of this section shall not apply to any  
3361 foreign, domestic, or alien insurer which has filed such  
3362 documents directly with the National Association of Insurance  
3363 Commissioners if the National Association of Insurance  
3364 Commissioners has certified receipt of the required documents to  
3365 the department.

3366       637.2026 Change in controlling interest of foreign or  
3367 alien title insurer; report required.—In the event of a change  
3368 in the controlling capital stock or a change of 50 percent or  
3369 more of the assets of a foreign or alien title insurer, such  
3370 insurer shall report such change in writing to the department  
3371 within 30 days of the effective date thereof. The report shall  
3372 contain the name and address of the new owner or owners of the  
3373 controlling stock or assets, the nature and value of the new  
3374 assets, and such other relevant information as the department  
3375 may reasonably require. For the purposes of this section, the  
3376 term "controlling capital stock" means a sufficient number of  
3377 shares of the issued and outstanding capital stock of such  
3378 insurer or person so as to give the owner thereof power to  
3379 exercise a controlling influence over the management or policies  
3380 of such insurer or person.

3381       637.2027 Withdrawal of title insurer or discontinuance of  
3382 writing insurance.—

3383       (1) Any title insurer desiring to surrender its  
3384 certificate of authority, withdraw from this state, or  
3385 discontinue the writing of title insurance in this state shall  
3386 give 90 days' notice in writing to the department setting forth  
3387 its reasons for such action. Any insurer who does not write any

3388 premiums within a calendar year shall have title insurance  
 3389 removed from its certificate of authority; however, such line of  
 3390 insurance shall be restored to the insurer's certificate upon  
 3391 the insurer demonstrating that it has available the expertise  
 3392 necessary and meets the other requirements of this chapter to  
 3393 write that line of insurance.

3394 (2) If the department determines, based upon its review of  
 3395 the notice and other required information, that the plan of an  
 3396 insurer withdrawing from this state makes adequate provision for  
 3397 the satisfaction of the insurer's obligations and is not  
 3398 hazardous to policyholders or the public, the department shall  
 3399 approve the surrender of the insurer's certificate of authority.  
 3400 The department shall, within 45 days from receipt of a complete  
 3401 notice and all required or requested additional information,  
 3402 approve, disapprove, or approve with conditions the plan  
 3403 submitted by the insurer. Failure to timely take action with  
 3404 respect to the notice shall be deemed an approval of the  
 3405 surrender of the certificate of authority.

3406 (3) Any insurer withdrawing from this state or  
 3407 discontinuing the writing of insurance in this state shall  
 3408 surrender its certificate of authority.

3409 (4) This section does not apply to insurers during the  
 3410 calendar year in which they first receive their certificate of  
 3411 authority.

3412 (5) This section does not apply to insurers who have  
 3413 discontinued writing in accordance with an order issued by the  
 3414 department.

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3415 (6) Notwithstanding subsection (5), any insurer desiring  
 3416 to surrender its certificate of authority, withdraw from this  
 3417 state, or discontinue the writing of insurance in this state is  
 3418 expected to have availed itself of all reasonably available  
 3419 reinsurance. Reasonably available reinsurance shall include  
 3420 unrealized reinsurance, which is defined as reinsurance  
 3421 recoverable on known losses incurred and due under valid  
 3422 reinsurance contracts that have not been identified in the  
 3423 normal course of business and have not been reported in  
 3424 financial statements filed with the department. Within 90 days  
 3425 after surrendering its certificate of authority, withdrawing  
 3426 from this state, or discontinuing the writing of any one or  
 3427 multiple kinds or lines of insurance in this state, the insurer  
 3428 shall certify to the department that the insurer has engaged an  
 3429 independent third party to search for unrealized reinsurance,  
 3430 and that the insurer has made all relevant books and records  
 3431 available to such third party. The compensation to such third  
 3432 party may be a percentage of unrealized reinsurance identified  
 3433 and collected.

3434 (7) The department may adopt rules to administer this  
 3435 section.

3436 637.2028 Assets of title insurers; reporting  
 3437 requirements.-

3438 (1) As used in this section, the term "material  
 3439 acquisition of assets" or "material disposition of assets" means  
 3440 one or more transactions occurring during any 30-day period  
 3441 which are nonrecurring and not in the ordinary course of  
 3442 business and involve more than 5 percent of the reporting title

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3443 insurer's total admitted assets as reported in its most recent  
3444 statutory statement filed with the insurance department of the  
3445 insurer's state of domicile.

3446 (2) Each domestic title insurer shall file a report with  
3447 the department disclosing a material acquisition of assets, a  
3448 material disposition of assets, or a material nonrenewal,  
3449 cancellation, or revision of a ceded reinsurance agreement,  
3450 unless the material acquisition or disposition of assets or the  
3451 material nonrenewal, cancellation, or revision of a ceded  
3452 reinsurance agreement has been submitted to the department for  
3453 review, approval, or informational purposes under another  
3454 section of this chapter or a rule adopted thereunder. A copy of  
3455 the report and each exhibit or other attachment must be filed by  
3456 the insurer with the National Association of Insurance  
3457 Commissioners. The report required in this section is due within  
3458 15 days after the end of the calendar month in which the  
3459 transaction occurs.

3460 (3) An immaterial acquisition or disposition of assets  
3461 need not be reported under this section.

3462 (4) (a) Acquisitions of assets which are subject to this  
3463 section include each purchase, lease, exchange, merger,  
3464 consolidation, succession, or other acquisition of assets. Asset  
3465 acquisitions for the construction or development of real  
3466 property by or for the reporting insurer and the acquisition of  
3467 construction materials for this purpose are not subject to this  
3468 section.

3469 (b) Dispositions of assets which are subject to this  
3470 section include each sale, lease, exchange, merger,

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3471 consolidation, mortgage, hypothecation, assignment for the  
3472 benefit of a creditor or otherwise, abandonment, destruction, or  
3473 other disposition of assets.

3474 (5) (a) The following information must be disclosed in any  
3475 report of a material acquisition or disposition of assets:

3476 1. The date of the transaction.

3477 2. The manner of acquisition or disposition.

3478 3. The description of the assets involved.

3479 4. The nature and amount of the consideration given or  
3480 received.

3481 5. The purpose of, or reason for, the transaction.

3482 6. The manner by which the amount of consideration was  
3483 determined.

3484 7. The gain or loss recognized or realized as a result of  
3485 the transaction.

3486 8. The name of the person from whom the assets were  
3487 acquired or to whom they were disposed.

3488 (b) Insurers must report material acquisitions or  
3489 dispositions on a nonconsolidated basis unless the insurer is  
3490 part of a consolidated group of insurers which uses a pooling  
3491 arrangement or a 100-percent reinsurance agreement that affects  
3492 the solvency and integrity of the insurer's reserves and the  
3493 insurer has ceded substantially all of its direct and assumed  
3494 business to the pool. An insurer is deemed to have ceded  
3495 substantially all of its direct and assumed business to a pool  
3496 if the insurer has less than \$1 million in total direct and  
3497 assumed written premiums during a calendar year which are not  
3498 subject to a pooling arrangement and if the net income of the

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3499 business which is not subject to the pooling arrangement  
3500 represents less than 5 percent of the insurer's capital and  
3501 surplus.

3502 (6) (a) The following information must be disclosed in any  
3503 report of a material nonrenewal, cancellation, or revision of a  
3504 ceded reinsurance agreement:

3505 1. The effective date of the nonrenewal, cancellation, or  
3506 revision.

3507 2. The description of the transaction and the  
3508 identification of the initiator of the transaction.

3509 3. The purpose of, or reason for, the transaction.

3510 4. If applicable, the identity of each replacement  
3511 reinsurer.

3512 (b) Insurers shall report the material nonrenewal,  
3513 cancellation, or revision of a ceded reinsurance agreement on a  
3514 nonconsolidated basis unless the insurer is part of a  
3515 consolidated group of insurers which uses a pooling arrangement  
3516 or a 100-percent reinsurance agreement that affects the solvency  
3517 and integrity of the insurer's reserves and the insurer has  
3518 ceded substantially all of its direct and assumed business to  
3519 the pool. An insurer is deemed to have ceded substantially all  
3520 of its direct and assumed business to a pool if the insurer has  
3521 less than \$1 million in total direct and assumed written  
3522 premiums during a calendar year which are not subject to a  
3523 pooling arrangement and if the net income of the business not  
3524 subject to the pooling arrangement represents less than 5  
3525 percent of the insurer's capital and surplus.

3526           637.2029 Participation of financial institutions in  
 3527 reinsurance and in insurance exchanges.—Subject to applicable  
 3528 laws relating to financial institutions and to any other  
 3529 applicable provision of this chapter, any financial institution  
 3530 or aggregation of such institutions may own or control, directly  
 3531 or indirectly, any title insurer which is authorized or approved  
 3532 by the department, which insurer transacts only reinsurance in  
 3533 this state and which actively engages in reinsuring risks  
 3534 located in this state. Nothing in this section shall be deemed  
 3535 to prohibit a financial institution from engaging in any  
 3536 presently authorized insurance activity.

3537           637.2031 Filing, license, appointment, and miscellaneous  
 3538 fees.—The department shall collect in advance, and persons so  
 3539 served shall pay to it in advance, fees, licenses, and  
 3540 miscellaneous charges as follows:

3541           (1) Certificate of authority of title insurer.

3542           (a) Filing application for original certificate of  
 3543 authority or modification thereof as a result of a merger,  
 3544 acquisition, or change of controlling interest due to a sale or  
 3545 exchange of stock, including all documents required to be filed  
 3546 therewith, filing fee....\$1,500.00

3547           (b) Reinstatement fee....\$50.00

3548           (2) Charter documents of insurer.

3549           (a) Filing articles of incorporation or other charter  
 3550 documents, other than at time of application for original  
 3551 certificate of authority, filing fee....\$10.00



3552       (b) Filing amendment to articles of incorporation or  
 3553 charter, other than at time of application for original  
 3554 certificate of authority, filing fee....\$5.00

3555       (c) Filing bylaws, when required, or amendments thereof,  
 3556 filing fee....\$5.00

3557       (3) Annual license tax of insurer, each domestic insurer,  
 3558 foreign insurer, and alien insurer (except that, as to fraternal  
 3559 benefit societies insuring less than 200 members in this state  
 3560 and the members of which as a prerequisite to membership possess  
 3561 a physical handicap or disability, such license tax shall be  
 3562 \$25)....\$1,000.00

3563       (4) Statements of insurer, filing (except when filed as  
 3564 part of application for original certificate of authority),  
 3565 filing fees:

3566       (a) Annual statement....\$250.00

3567       (b) Quarterly statement....\$250.00

3568       (5) All insurance representatives, application for  
 3569 license, each filing, filing fee....\$50.00

3570       (6) Examination—Fee to cover actual cost of examination.

3571       (7) Temporary license and appointment as agent where  
 3572 expressly provided for, rate of fee for each month of the period  
 3573 for which the license and appointment is issued....\$5.00

3574       (8) Issuance, reissuance, reinstatement, modification  
 3575 resulting in a modified license being issued, duplicate copy of  
 3576 any insurance representative license, or an appointment being  
 3577 reinstated....\$5.00

3578       (9) Additional appointment continuation fees as prescribed  
 3579 in chapter 626....\$5.00

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3580           (10) Filing application for permit to form insurer as  
 3581 referred to in chapter 628, filing fee....\$25.00

3582           (11) Annual license fee of rating organization, each  
 3583 domestic or foreign organization....\$25.00

3584           (12) Miscellaneous services:

3585           (a) For copies of documents or records on file with the  
 3586 department,-per page....\$ .50

3587           (b) For each certificate of the department, under its  
 3588 seal, authenticating any document or other instrument (other  
 3589 than a license or certificate of authority)....\$5.00

3590           (c) For preparing lists of agents and other insurance  
 3591 representatives, and for other miscellaneous services, such  
 3592 reasonable charge as may be fixed by the department.

3593           (d) For processing requests for approval of continuing  
 3594 education courses, processing fee....\$100.00

3595           (13) Fingerprinting processing fee-Fee to cover  
 3596 fingerprint processing.

3597           (14) Title insurance agents:

3598           (a) Agent's original appointment or biennial renewal or  
 3599 continuation thereof, each insurer:

3600           Appointment fee....\$42.00

3601           State tax....12.00

3602           County tax....6.00

3603           Total....\$60.00

3604           (b) Agency original appointment or biennial renewal or  
 3605 continuation thereof, each insurer:

3606           Appointment fee....\$42.00

3607           State tax....12.00

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3608        County tax....6.00

3609        Total....\$60.00

3610        (c) Filing for title insurance agent's license:

3611        Application for filing, each filing, filing fee....\$10.00

3612        (d) Additional appointment continuation fee as prescribed

3613        by s. 637.3015....\$5.00

3614        (e) Title insurer and title insurance agency

3615        administrative surcharge:

3616        1. On or before January 30 of each calendar year, each

3617        title insurer shall pay to the department for each licensed

3618        title insurance agency appointed by the title insurer and for

3619        each retail office of the insurer on January 1 of that calendar

3620        year an administrative surcharge of \$200.00.

3621        2. On or before January 30 of each calendar year, each

3622        licensed title insurance agency shall remit to the department an

3623        administrative surcharge of \$200.00.

3624

3625        The administrative surcharge may be used solely to defray the

3626        costs to the department in their examination or audit of title

3627        insurance agencies and retail offices of title insurers and to

3628        gather title insurance data for statistical purposes to be

3629        furnished to and used by the department in its regulation of

3630        title insurance.

3631        (15) Late filing of appointment renewals for agents,

3632        adjusters, and other insurance representatives, each

3633        appointment....\$20.00

3634        637.2032 Advance collection of fees and taxes; title

3635        insurers not to pay without reimbursement.-

3636 (1) The department shall collect in advance from the  
 3637 applicant or licensee fees and taxes as provided in s. 637.2031.

3638 (2) A title insurer shall not pay directly or indirectly  
 3639 without reimbursement from a title insurance agent any  
 3640 appointment fee required under this section. The failure of a  
 3641 title insurance agent to make reimbursement is not a ground for  
 3642 cancellation of the title insurance agent's appointment by the  
 3643 title insurer.

3644 637.2033 Service of process fee.—In all instances as  
 3645 provided in any section of this chapter and s. 48.151(3) in  
 3646 which service of process is authorized to be made upon the Chief  
 3647 Financial Officer , the plaintiff shall pay to the department a  
 3648 fee of \$15 for such service of process, which fee shall be  
 3649 deposited into the Title Insurance Regulatory Trust Fund.

3650 637.2034 Liability for state, county tax.—Each authorized  
 3651 title insurer that uses insurance agents in this state shall be  
 3652 liable for and shall pay the state and county taxes required  
 3653 therefor under s. 637.2031 or s. 637.2035.

3654 637.2035 County tax; determination; additional offices;  
 3655 nonresident agents.—

3656 (1) The county tax provided for under s. 637.2031 as to an  
 3657 agent shall be paid by each title insurer for each agent only  
 3658 for the county where the agent resides, or if such agent's place  
 3659 of business is located in a county other than that of her or his  
 3660 residence, then for the county wherein is located such place of  
 3661 business. If an agent maintains an office or place of business  
 3662 in more than one county, the tax shall be paid for her or him by  
 3663 each such insurer for each county wherein the agent represents

3664 such insurer and has a place of business. When under this  
 3665 subsection an insurer is required to pay county tax for an agent  
 3666 for a county or counties other than the agent's county of  
 3667 residence, the insurer shall designate the county or counties  
 3668 for which the taxes are paid.

3669 (2) A county tax of \$3 per year shall be paid by each  
 3670 insurer for each county in this state in which an agent who  
 3671 resides outside of this state represents and engages in person  
 3672 in the activities of an agent for the insurer. This provision  
 3673 shall not be deemed to authorize any activities by an agent  
 3674 which are otherwise prohibited under this chapter.

3675 637.2036 County tax; deposit and remittance.—

3676 (1) The department shall deposit in the Agents County Tax  
 3677 Trust Fund all moneys accepted as county tax under this chapter.  
 3678 She or he shall keep a separate account for all moneys so  
 3679 collected for each county and, after deducting therefrom the  
 3680 service charges provided for in s. 215.20, shall remit the  
 3681 balance to the counties.

3682 (2) The payment and collection of county tax under this  
 3683 chapter shall be in lieu of collection thereof by the respective  
 3684 county tax collectors.

3685 (3) The Chief Financial Officer shall annually, as of  
 3686 January 1 following the date of collection, and thereafter at  
 3687 such other times as she or he may elect, draw her or his  
 3688 warrants on the State Treasury payable to the respective  
 3689 counties entitled to receive the same for the full net amount of  
 3690 such taxes to each county.

3691        637.2037 Municipal tax.—Municipal corporations may require  
 3692 a tax of title insurance agents not to exceed 50 percent of the  
 3693 state tax specified as to such agents under this chapter, and  
 3694 unless otherwise authorized by law. Such a tax may be required  
 3695 only by a municipal corporation within the boundaries of which  
 3696 is located the agent's business office, or if no such office is  
 3697 required under this chapter, by the municipal corporation of the  
 3698 agent's place of residence.

3699        637.2038 Insurer's license tax; when payable.—

3700        (1) The title insurer's license tax provided for in s.  
 3701 637.2031(3) shall be paid by an insurer newly applying for a  
 3702 certificate of authority to transact insurance in this state  
 3703 prior to and contingent upon the issuance of its original  
 3704 certificate of authority. If the certificate of authority is not  
 3705 issued, the license tax payment shall be refunded to the  
 3706 insurer. The license tax so paid by a newly authorized insurer  
 3707 shall cover the period expiring on the June 1 following the date  
 3708 of its original certificate of authority.

3709        (2) Each authorized title insurer shall pay the license  
 3710 tax annually on or before June 1.

3711        637.2039 Premium tax; rate and computation.—

3712        (1) In addition to the license taxes provided for in this  
 3713 chapter, each title insurer shall also annually, and on or  
 3714 before March 1 in each year, pay to the Department of Revenue a  
 3715 tax on premiums for title insurance received during the  
 3716 preceding calendar year an amount equal to 1.75 percent of the  
 3717 gross amount of such receipts on account of all policies and  
 3718 covering property, subjects, or risks located, resident, or to

3719 be performed in this state, omitting premiums on reinsurance  
 3720 accepted, and less return premiums or assessments, but without  
 3721 deductions:

3722 (a) For reinsurance ceded to other insurers;

3723 (b) For moneys paid upon surrender of policies or  
 3724 certificates for cash surrender value.

3725 (2) Payment by the insurer of the license taxes and  
 3726 premium receipts taxes provided for in this chapter is a  
 3727 condition precedent to doing business within this state.

3728 (3) Notwithstanding other provisions of law, the  
 3729 distribution of the premium tax and any penalties or interest  
 3730 collected thereunder shall be made to the General Revenue Fund  
 3731 in accordance with rules adopted by the Department of Revenue  
 3732 and approved by the Administration Commission.

3733 (4) The income tax imposed under chapter 220 and the  
 3734 emergency excise tax imposed under chapter 221 which are paid by  
 3735 any insurer shall be credited against, and to the extent thereof  
 3736 shall discharge, the liability for tax imposed by this section  
 3737 for the annual period in which such tax payments are made. For  
 3738 purposes of this subsection, payments of estimated income tax  
 3739 under chapter 220 and of estimated emergency excise tax under  
 3740 chapter 221 shall be deemed paid at the time the insurer  
 3741 actually files its annual returns under chapter 220 or at the  
 3742 time such returns are required to be filed, whichever first  
 3743 occurs, and not at such earlier time as such payments of  
 3744 estimated tax are actually made.

3745 (5) (a) 1. There shall be allowed a credit against the net  
 3746 tax imposed by this section equal to 15 percent of the amount

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3747 paid by an insurer in salaries to employees located or based  
3748 within this state and who are covered by the provisions of  
3749 chapter 443.

3750 2. As an alternative to the credit allowed in subparagraph  
3751 1., an affiliated group of corporations which includes at least  
3752 one insurance company writing premiums in this state may elect  
3753 to take a credit against the net tax imposed by this section in  
3754 an amount that may not exceed 15 percent of the salary of the  
3755 employees of the affiliated group of corporations who perform  
3756 insurance-related activities, are located or based within this  
3757 state, and are covered by chapter 443. For purposes of this  
3758 subparagraph, the term "affiliated group of corporations" means  
3759 two or more corporations that are entirely owned directly or  
3760 indirectly by a single corporation and that constitute an  
3761 affiliated group as defined in s. 1504(a) of the Internal  
3762 Revenue Code. The amount of credit allowed under this  
3763 subparagraph is limited to the combined Florida salary tax  
3764 credits allowed for all insurance companies that were members of  
3765 the affiliated group of corporations for the tax year ending  
3766 December 31, 2002, divided by the combined Florida taxable  
3767 premiums written by all insurance companies that were members of  
3768 the affiliated group of corporations for the tax year ending  
3769 December 31, 2002, multiplied by the combined Florida taxable  
3770 premiums of the affiliated group of corporations for the current  
3771 year. An affiliated group of corporations electing this  
3772 alternative calculation method must make such election on or  
3773 before August 1, 2005. The election of this alternative  
3774 calculation method is irrevocable and binding upon successors



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3775 and assigns of the affiliated group of corporations electing  
3776 this alternative. However, if a member of an affiliated group of  
3777 corporations acquires or merges with another insurance company  
3778 after the date of the irrevocable election, the acquired or  
3779 merged company is not entitled to the affiliated group election  
3780 and shall only be entitled to calculate the tax credit under  
3781 subparagraph 1.

3782  
3783 In no event shall the salary paid to an employee by an  
3784 affiliated group of corporations be claimed as a credit by more  
3785 than one insurer or be counted more than once in an insurer's  
3786 calculation of the credit as described in subparagraph 1. or  
3787 subparagraph 2. Only the portion of an employee's salary paid  
3788 for the performance of insurance-related activities may be  
3789 included in the calculation of the premium tax credit in this  
3790 subsection.

3791 (b) For purposes of this subsection:

3792 1. The term "salaries" does not include amounts paid as  
3793 commissions.

3794 2. The term "employees" does not include independent  
3795 contractors or any person whose duties require that the person  
3796 hold a valid license under the Florida Insurance Code, except  
3797 adjusters, managing general agents, and service representatives,  
3798 as defined in s. 626.015.

3799 3. The term "net tax" means the tax imposed by this  
3800 section after applying the calculations and credits set forth in  
3801 subsection (4).

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3802        4. An affiliated group of corporations that created a  
3803 service company within its affiliated group on July 30, 2002,  
3804 shall allocate the salary of each service company employee  
3805 covered by contracts with affiliated group members to the  
3806 companies for which the employees perform services. The salary  
3807 allocation is based on the amount of time during the tax year  
3808 that the individual employee spends performing services or  
3809 otherwise working for each company over the total amount of time  
3810 the employee spends performing services or otherwise working for  
3811 all companies. The total amount of salary allocated to an  
3812 insurance company within the affiliated group shall be included  
3813 as that insurer's employee salaries for purposes of this  
3814 section.

3815        a. Except as provided in subparagraph (a)2., the term  
3816 "affiliated group of corporations" means two or more  
3817 corporations that are entirely owned by a single corporation and  
3818 that constitute an affiliated group of corporations as defined  
3819 in s. 1504(a) of the Internal Revenue Code.

3820        b. The term "service company" means a separate corporation  
3821 within the affiliated group of corporations whose employees  
3822 provide services to affiliated group members and which are  
3823 treated as service company employees for unemployment  
3824 compensation and common law purposes. The holding company of an  
3825 affiliated group may not qualify as a service company. An  
3826 insurance company may not qualify as a service company.

3827        c. If an insurance company fails to substantiate, whether  
3828 by means of adequate records or otherwise, its eligibility to  
3829 claim the service company exception under this section, or its

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3830 salary allocation under this section, no credit shall be  
3831 allowed.

3832 5. A service company that is a subsidiary of a mutual  
3833 insurance holding company, which mutual insurance holding  
3834 company was in existence on or before January 1, 2000, shall  
3835 allocate the salary of each service company employee covered by  
3836 contracts with members of the mutual insurance holding company  
3837 system to the companies for which the employees perform  
3838 services. The salary allocation is based on the ratio of the  
3839 amount of time during the tax year which the individual employee  
3840 spends performing services or otherwise working for each company  
3841 to the total amount of time the employee spends performing  
3842 services or otherwise working for all companies. The total  
3843 amount of salary allocated to an insurance company within the  
3844 mutual insurance holding company system shall be included as  
3845 that insurer's employee salaries for purposes of this section.  
3846 However, this subparagraph does not apply for any tax year  
3847 unless funds sufficient to offset the anticipated salary credits  
3848 have been appropriated to the General Revenue Fund prior to the  
3849 due date of the final return for that year.

3850 a. The term "mutual insurance holding company system"  
3851 means two or more corporations that are subsidiaries of a mutual  
3852 insurance holding company and in compliance with part IV of  
3853 chapter 628.

3854 b. The term "service company" means a separate corporation  
3855 within the mutual insurance holding company system whose  
3856 employees provide services to other members of the mutual  
3857 insurance holding company system and are treated as service

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3858 company employees for unemployment compensation and common-law  
3859 purposes. The mutual insurance holding company may not qualify  
3860 as a service company.

3861 c. If an insurance company fails to substantiate, whether  
3862 by means of adequate records or otherwise, its eligibility to  
3863 claim the service company exception under this section, or its  
3864 salary allocation under this section, no credit shall be  
3865 allowed.

3866 (c) The department may adopt rules pursuant to ss.  
3867 120.536(1) and 120.54 to administer this subsection.

3868 (6) (a) The total of the credit granted for the taxes paid  
3869 by the insurer under chapters 220 and 221 and the credit granted  
3870 by subsection (5) shall not exceed 65 percent of the tax due  
3871 under subsection (1) after deducting therefrom the taxes paid by  
3872 the insurer under ss. 175.101 and 185.08 and any assessments  
3873 pursuant to s. 440.51.

3874 (b) To the extent that any credits granted by subsection  
3875 (5) remain as a result of the limitation set forth in paragraph  
3876 (a), such excess credits related to salaries and wages of  
3877 employees whose place of employment is located within an  
3878 enterprise zone created pursuant to chapter 290 may be  
3879 transferred, in an aggregate amount not to exceed 25 percent of  
3880 such excess salary credits, to any insurer that is a member of  
3881 an affiliated group of corporations, as defined in sub-  
3882 paragraph (5) (b) 4.a., that includes the original insurer  
3883 qualifying for the credits under subsection (5). The amount of  
3884 such excess credits to be transferred shall be calculated by  
3885 multiplying the amount of such excess credits by a fraction, the

3886 numerator of which is the sum of the salaries qualifying for the  
 3887 credit allowed by subsection (5) of employees whose place of  
 3888 employment is located in an enterprise zone and the denominator  
 3889 of which is the sum of the salaries qualifying for the credit  
 3890 allowed by subsection (5). Any such transferred credits shall be  
 3891 subject to the same provisions and limitations set forth within  
 3892 this chapter. The provisions of this paragraph do not apply to  
 3893 an affiliated group of corporations that participate in a common  
 3894 paymaster arrangement as defined in s. 443.1216.

3895 (7) Credits and deductions against the tax imposed by this  
 3896 section shall be taken in the following order: deductions for  
 3897 assessments made pursuant to s. 440.51; credits for taxes paid  
 3898 under ss. 175.101 and 185.08; credits for income taxes paid  
 3899 under chapter 220, the emergency excise tax paid under chapter  
 3900 221 and the credit allowed under subsection (5), as these  
 3901 credits are limited by subsection (6); all other available  
 3902 credits and deductions.

3903 (8) As used in this section "insurer" includes any entity  
 3904 subject to the tax imposed by this section.

3905 637.2041 Retaliatory provision, insurers.-

3906 (1) (a) When by or pursuant to the laws of any other state  
 3907 or foreign country any taxes, licenses, and other fees, in the  
 3908 aggregate, and any fines, penalties, deposit requirements, or  
 3909 other material obligations, prohibitions, or restrictions are or  
 3910 would be imposed upon title insurers in this state or upon the  
 3911 agents or representatives of such insurers, which are in excess  
 3912 of such taxes, licenses, and other fees, in the aggregate, or  
 3913 which are in excess of the fines, penalties, deposit

3914 requirements, or other obligations, prohibitions, or  
 3915 restrictions directly imposed upon similar insurers, or upon the  
 3916 agents or representatives of such insurers, of such other state  
 3917 or country under the statutes of this state, so long as such  
 3918 laws of such other state or country continue in force or are so  
 3919 applied, the same taxes, licenses, and other fees, in the  
 3920 aggregate, or fines, penalties, deposit requirements, or other  
 3921 material obligations, prohibitions, or restrictions of whatever  
 3922 kind shall be imposed by the Department of Revenue upon the  
 3923 insurers, or upon the agents or representatives of such  
 3924 insurers, of such other state or country doing business or  
 3925 seeking to do business in this state. In determining the taxes  
 3926 to be imposed under this section, 80 percent and a portion of  
 3927 the remaining 20 percent as provided in paragraph (b) of the  
 3928 credit provided by s. 637.2039(5), as limited by s. 637.2039(6)  
 3929 and further determined by s. 637.2039(7), shall not be taken  
 3930 into consideration.

3931 (b) As used in this subsection, the term "portion of the  
 3932 remaining 20 percent" shall be calculated by multiplying the  
 3933 remaining 20 percent by a fraction, the numerator of which is  
 3934 the sum of the salaries qualifying for the credit allowed by s.  
 3935 637.2039(5) of employees whose place of employment is located in  
 3936 an enterprise zone created pursuant to chapter 290 and the  
 3937 denominator of which is the sum of the salaries qualifying for  
 3938 the credit allowed by s. 637.2039(5).

3939 (2) Any tax, license, or other obligation imposed by any  
 3940 city, county, or other political subdivision or agency of a  
 3941 state, jurisdiction, or foreign country on Florida title

3942 insurers or their agents or representatives shall be deemed to  
 3943 be imposed by such state, jurisdiction, or foreign country  
 3944 within the meaning of subsection (1).

3945 (3) This section does not apply as to personal income  
 3946 taxes, nor as to sales or use taxes, nor as to ad valorem taxes  
 3947 on real or personal property, nor as to reimbursement premiums  
 3948 paid to the Florida Hurricane Catastrophe Fund, nor as to  
 3949 emergency assessments paid to the Florida Hurricane Catastrophe  
 3950 Fund, nor as to special purpose obligations or assessments  
 3951 imposed in connection with particular kinds of insurance other  
 3952 than property insurance, except that deductions, from premium  
 3953 taxes or other taxes otherwise payable, allowed on account of  
 3954 real estate or personal property taxes paid shall be taken into  
 3955 consideration by the department in determining the propriety and  
 3956 extent of retaliatory action under this section.

3957 (4) For the purposes of this section, a "similar insurer"  
 3958 is an insurer with identical premiums, personnel, and property  
 3959 to that of the alien or foreign insurer's Florida premiums,  
 3960 personnel, and property. The similar insurer's premiums,  
 3961 personnel, and property shall be used to calculate any taxes,  
 3962 licenses, other fees, in the aggregate, or any fines, penalties,  
 3963 deposit requirements, or other material obligations,  
 3964 prohibitions, or restrictions that are or would be imposed under  
 3965 the laws of this state and under the law of the foreign or alien  
 3966 insurer's state of domicile.

3967 (5) The excess amount of all fees, licenses, and taxes  
 3968 collected by the Department of Revenue under this section over  
 3969 the amount of similar fees, licenses, and taxes provided for in

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3970 this part, together with all fines, penalties, or other monetary  
 3971 obligations collected under this section exclusive of such fees,  
 3972 licenses, and taxes, shall be deposited by the Department of  
 3973 Revenue to the credit of the Title Insurance Regulatory Trust  
 3974 Fund; provided that such excess amount shall not exceed \$125,000  
 3975 for 1992, and for any subsequent year shall not exceed \$125,000  
 3976 adjusted annually by the lesser of 20 percent or the growth in  
 3977 the total of such excess amount. The remainder of such excess  
 3978 amount shall be deposited into the General Revenue Fund.

3979 637.2042 Administration of taxes; payments.—

3980 (1) The Department of Revenue shall administer, audit, and  
 3981 enforce the assessment and collection of those taxes to which  
 3982 this section is applicable. The department and division may  
 3983 share information with the Department of Revenue as necessary to  
 3984 verify premium tax or other tax liability arising under such  
 3985 taxes and credits which may apply thereto.

3986 (2) (a) Installments of the taxes to which this section is  
 3987 applicable shall be due and payable on April 15, June 15, and  
 3988 October 15 in each year, based upon the estimated gross amount  
 3989 of receipts of insurance premiums or assessments received during  
 3990 the immediately preceding calendar quarter. A final payment of  
 3991 tax due for the year shall be made at the time the taxpayer  
 3992 files her or his return for such year. On or before March 1 in  
 3993 each year, an annual return shall be filed showing, by quarters,  
 3994 the gross amount of receipts taxable for the preceding year and  
 3995 the installment payments made during that year.

3996 (b) Any taxpayer who fails to report and timely pay any  
 3997 installment of tax, who estimates any installment of tax to be



3998 less than 90 percent of the amount finally shown to be due in  
 3999 any quarter, or who fails to report and timely pay any tax due  
 4000 with the final return is in violation of this section and is  
 4001 subject to a penalty of 10 percent on any underpayment of taxes  
 4002 or delinquent taxes due and payable for that quarter or on any  
 4003 delinquent taxes due and payable with the final return. Any  
 4004 taxpayer paying, for each installment required in this section,  
 4005 27 percent of the amount of the net tax due as reported on her  
 4006 or his return for the preceding year shall not be subject to the  
 4007 penalty provided by this section for underpayment of estimated  
 4008 taxes.

4009 (c) When any taxpayer fails to pay any amount due under  
 4010 this section, or any portion thereof, on or before the day when  
 4011 such tax or installment of tax is required by law to be paid,  
 4012 there shall be added to the amount due interest at the rate of  
 4013 12 percent per year from the date due until paid.

4014 (d) All penalties and interest imposed on those taxes to  
 4015 which this section is applicable shall be payable to and  
 4016 collectible by the Department of Revenue in the same manner as  
 4017 if they were a part of the tax imposed.

4018 (e) The Department of Revenue may settle or compromise any  
 4019 such interest or penalties imposed on those taxes to which this  
 4020 section is applicable pursuant to s. 213.21.

4021 (3) This section is applicable to taxes imposed by ss.  
 4022 629.5100, 637.2039, and 637.2046.

4023 637.2043 Adjustments.-

4024 (1) If a taxpayer is required to amend its corporate  
 4025 income tax liability under chapter 220, or the taxpayer receives

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4026 a refund of its workers' compensation administrative assessment  
 4027 paid under chapter 440, the taxpayer shall file an amended  
 4028 insurance premium tax return not later than 60 days after such  
 4029 an occurrence.

4030 (2) If an amended insurance premium tax return is required  
 4031 under subsection (1), notwithstanding any other provision of s.  
 4032 95.091(3):

4033 (a) A notice of deficiency may be issued at any time  
 4034 within 3 years after the date the amended insurance premium tax  
 4035 return is given; or

4036 (b) If a taxpayer fails to file an amended insurance  
 4037 premium tax return, a notice of deficiency may be issued at any  
 4038 time.

4039  
 4040 The amount of any proposed assessment set forth in such a notice  
 4041 of deficiency shall be limited to the amount of any deficiency  
 4042 resulting under this chapter from recomputation of the  
 4043 taxpayer's insurance premium tax and retaliatory tax for the  
 4044 taxable year after giving effect only to the change in corporate  
 4045 income tax paid and the change in the amount of the workers'  
 4046 compensation administrative assessment paid. Interest in  
 4047 accordance with s. 637.2042 is due on the amount of any  
 4048 deficiency from the date fixed for filing the original insurance  
 4049 premium tax return for the taxable year until the date of  
 4050 payment of the deficiency.

4051 (3) If an amended insurance premium tax return is required  
 4052 by subsection (1), a claim for refund may be filed within 2  
 4053 years after the date on which the amended insurance premium tax

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4054 return was due, regardless of whether such notice was given,  
4055 notwithstanding any other provision of s. 215.26. However, the  
4056 amount recoverable pursuant to such a claim shall be limited to  
4057 the amount of any overpayment resulting under this chapter from  
4058 recomputation of the taxpayer's insurance premium tax and  
4059 retaliatory tax for the taxable year after giving effect only to  
4060 the change in corporate income tax paid and the change in the  
4061 amount of the workers' compensation administrative assessment  
4062 paid.

4063 637.2046 Tax statement; overpayments.-

4064 (1) Tax returns as to taxes mentioned in s. 637.2039 shall  
4065 be made by insurers on forms to be prescribed by the Department  
4066 of Revenue and shall be sworn to by one or more of the executive  
4067 officers or attorney, if a reciprocal insurer, of the insurer  
4068 making the returns.

4069 (2) Notwithstanding the provisions of s. 215.26(1), if any  
4070 insurer makes an overpayment on account of taxes due under s.  
4071 637.2039, a refund of the overpayment of taxes shall be made out  
4072 of the General Revenue Fund. Overpayment of taxes due under s.  
4073 637.2039 shall be refunded no sooner than the first day of the  
4074 state fiscal year following the date the tax was due.

4075 (3) (a) If it appears, upon examination of an insurance  
4076 premium tax return made under this chapter, that an amount of  
4077 insurance premium tax has been paid in excess of the amount due,  
4078 the Department of Revenue may refund the amount of the  
4079 overpayment to the taxpayer by a warrant of the Chief Financial  
4080 Officer. The Department of Revenue may refund the overpayment  
4081 without regard to whether the taxpayer has filed a written claim

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4082 for a refund; however, the Department of Revenue may request  
 4083 that the taxpayer file a statement affirming that the taxpayer  
 4084 made the overpayment.

4085 (b) Notwithstanding paragraph (a), a refund of the  
 4086 insurance premium tax may not be made, and a taxpayer is not  
 4087 entitled to bring an action for a refund of the insurance  
 4088 premium tax, after the period specified in s. 215.26(2) has  
 4089 elapsed.

4090 (c) If a refund issued by the Department of Revenue under  
 4091 this subsection is found to exceed the amount of refund legally  
 4092 due to the taxpayer, the provisions of s. 637.2042 concerning  
 4093 penalties and interest do not apply if the taxpayer reimburses  
 4094 the department for any overpayment within 60 days after the  
 4095 taxpayer is notified that the overpayment was made.

4096 637.2047 Preemption by state.—

4097 (1) This state hereby preempts the field of imposing  
 4098 excise, privilege, franchise, income, license, permit,  
 4099 registration, and similar taxes and fees, measured by premiums,  
 4100 income, or volume of transactions, upon insurers and their  
 4101 agents and other representatives; and a county, city,  
 4102 municipality, district, school district, or other political  
 4103 subdivision or agency in this state may not impose, levy,  
 4104 charge, or require the same, subject however to the provisions  
 4105 of subsection (2).

4106 (2) This section shall not be construed to limit or modify  
 4107 the power of any incorporated city or town to levy the taxes  
 4108 authorized by ss. 175.101 and 185.08 or the power of any special

4109 fire control district to levy the taxes authorized by s.  
 4110 175.101.  
 4111 637.2048 Deposit of certain tax receipts; refund of  
 4112 improper payments.—  
 4113 (1) The Department of Financial Services shall promptly  
 4114 deposit in the State Treasury to the credit of the Title  
 4115 Insurance Regulatory Trust Fund all "state tax" portions of  
 4116 agents' licenses collected under s. 637.2031. All moneys  
 4117 received by the Department of Financial Services or the  
 4118 department not in accordance with the provisions of this chapter  
 4119 or not in the exact amount as specified by the applicable  
 4120 provisions of this chapter shall be returned to the remitter.  
 4121 The records of the department shall show the date and reason for  
 4122 such return.  
 4123 (2) The Department of Revenue shall promptly deposit into  
 4124 the Department of Revenue Premium Tax Clearing Trust Fund all  
 4125 premium taxes collected according to s. 637.2039. Such taxes  
 4126 shall be distributed on an estimated basis within 15 days after  
 4127 receipt by the Department of Revenue. Such distribution shall be  
 4128 adjusted pursuant to an audit by the Department of Revenue.  
 4129 Section 9. Section 627.778, Florida Statutes, is  
 4130 transferred, renumbered as section 637.20485, Florida Statutes,  
 4131 and subsection (2) of that section is amended to read:  
 4132 637.20485 ~~627.778~~ Limit of risk.—  
 4133 (2) Surplus as to policyholders shall be determined from  
 4134 the last annual statement of the insurer filed under s. 637.2024  
 4135 ~~624.424~~.

4136 Section 10. Sections 637.2049, 637.2051, 637.2053,  
 4137 637.2054, 637.2055, 637.2056, and 637.2057, Florida Statutes,  
 4138 are created to read:

4139 637.2049 Reinsurance.—

4140 (1) The purpose of this section is to protect the  
 4141 interests of insureds, claimants, ceding insurers, assuming  
 4142 insurers, and the public. It is the intent of the Legislature to  
 4143 ensure adequate regulation of insurers and reinsurers and  
 4144 adequate protection for those to whom they owe obligations. In  
 4145 furtherance of that state interest, the Legislature requires  
 4146 that upon the insolvency of a non-United States insurer or  
 4147 reinsurer which provides security to fund its United States  
 4148 obligations in accordance with this section, such security shall  
 4149 be maintained in the United States and claims shall be filed  
 4150 with and valued by the state insurance regulator with regulatory  
 4151 oversight, and the assets shall be distributed in accordance  
 4152 with the insurance laws of the state in which the trust is  
 4153 domiciled that are applicable to the liquidation of domestic  
 4154 United States insurance companies. The Legislature declares that  
 4155 the matters contained in this section are fundamental to the  
 4156 business of insurance in accordance with 15 U.S.C. ss. 1011-  
 4157 1012.

4158 (2) Credit for reinsurance must be allowed a ceding  
 4159 insurer as either an asset or a deduction from liability on  
 4160 account of reinsurance ceded only when the reinsurer meets the  
 4161 requirements of paragraph (3) (a), paragraph (3) (b), or paragraph  
 4162 (3) (c). Credit must be allowed under paragraph (3) (a) or  
 4163 paragraph (3) (b) only for cessions of those kinds or lines of

4164 business that the assuming insurer is licensed, authorized, or  
 4165 otherwise permitted to write or assume in its state of domicile  
 4166 or, in the case of a United States branch of an alien assuming  
 4167 insurer, in the state through which it is entered and licensed  
 4168 or authorized to transact insurance or reinsurance.

4169 (3) (a) Credit must be allowed when the reinsurance is  
 4170 ceded to an assuming insurer that is authorized to transact  
 4171 insurance or reinsurance in this state.

4172 (b)1. Credit must be allowed when the reinsurance is ceded  
 4173 to an assuming insurer that is accredited as a reinsurer in this  
 4174 state. An accredited reinsurer is one that:

4175 a. Files with the department evidence of its submission to  
 4176 this state's jurisdiction.

4177 b. Submits to this state's authority to examine its books  
 4178 and records.

4179 c. Is licensed or authorized to transact insurance or  
 4180 reinsurance in at least one state or, in the case of a United  
 4181 States branch of an alien assuming insurer, is entered through,  
 4182 licensed, or authorized to transact insurance or reinsurance in  
 4183 at least one state.

4184 d. Files annually with the department a copy of its annual  
 4185 statement filed with the insurance department of its state of  
 4186 domicile any quarterly statements if required by its state of  
 4187 domicile or such quarterly statements if specifically requested  
 4188 by the department, and a copy of its most recent audited  
 4189 financial statement.

4190 (I) Maintains a surplus as regards policyholders in an  
 4191 amount not less than \$20 million and whose accreditation has not

4192 been denied by the department within 90 days after its  
 4193 submission; or  
 4194 (II) Maintains a surplus as regards policyholders in an  
 4195 amount not less than \$20 million and whose accreditation has  
 4196 been approved by the department.  
 4197 2. The department may deny or revoke an assuming insurer's  
 4198 accreditation if the assuming insurer does not submit the  
 4199 required documentation pursuant to subparagraph 1., if the  
 4200 assuming insurer fails to meet all of the standards required of  
 4201 an accredited reinsurer, or if the assuming insurer's  
 4202 accreditation would be hazardous to the policyholders of this  
 4203 state. In determining whether to deny or revoke accreditation,  
 4204 the department may consider the qualifications of the assuming  
 4205 insurer with respect to all the following subjects:  
 4206 a. Its financial stability.  
 4207 b. The lawfulness and quality of its investments.  
 4208 c. The competency, character, and integrity of its  
 4209 management.  
 4210 d. The competency, character, and integrity of persons who  
 4211 own or have a controlling interest in the assuming insurer.  
 4212 e. Whether claims under its contracts are promptly and  
 4213 fairly adjusted and are promptly and fairly paid in accordance  
 4214 with the law and the terms of the contracts.  
 4215 3. Credit must not be allowed a ceding insurer if the  
 4216 assuming insurer's accreditation has been revoked by the  
 4217 department after notice and the opportunity for a hearing.  
 4218 4. The actual costs and expenses incurred by the  
 4219 department to review a reinsurer's request for accreditation and



4220 subsequent reviews must be charged to and collected from the  
 4221 requesting reinsurer. If the reinsurer fails to pay the actual  
 4222 costs and expenses promptly when due, the department may refuse  
 4223 to accredit the reinsurer or may revoke the reinsurer's  
 4224 accreditation.

4225 (c)1. Credit must be allowed when the reinsurance is ceded  
 4226 to an assuming insurer that maintains a trust fund in a  
 4227 qualified United States financial institution, as defined in  
 4228 paragraph (5) (b), for the payment of the valid claims of its  
 4229 United States ceding insurers and their assigns and successors  
 4230 in interest. To enable the department to determine the  
 4231 sufficiency of the trust fund, the assuming insurer shall report  
 4232 annually to the department information substantially the same as  
 4233 that required to be reported on the NAIC Annual Statement form  
 4234 by authorized insurers. The assuming insurer shall submit to  
 4235 examination of its books and records by the department and bear  
 4236 the expense of examination.

4237 2.a. Credit for reinsurance must not be granted under this  
 4238 subsection unless the form of the trust and any amendments to  
 4239 the trust have been approved by:

4240 (I) The insurance regulator of the state in which the  
 4241 trust is domiciled; or

4242 (II) The insurance regulator of another state who,  
 4243 pursuant to the terms of the trust instrument, has accepted  
 4244 principal regulatory oversight of the trust.

4245 b. The form of the trust and any trust amendments must be  
 4246 filed with the insurance regulator of every state in which the  
 4247 ceding insurer beneficiaries of the trust are domiciled. The

4248 trust instrument must provide that contested claims are valid  
 4249 and enforceable upon the final order of any court of competent  
 4250 jurisdiction in the United States. The trust must vest legal  
 4251 title to its assets in its trustees for the benefit of the  
 4252 assuming insurer's United States ceding insurers and their  
 4253 assigns and successors in interest. The trust and the assuming  
 4254 insurer are subject to examination as determined by the  
 4255 insurance regulator.

4256 c. The trust remains in effect for as long as the assuming  
 4257 insurer has outstanding obligations due under the reinsurance  
 4258 agreements subject to the trust. No later than February 28 of  
 4259 each year, the trustee of the trust shall report to the  
 4260 insurance regulator in writing the balance of the trust and list  
 4261 the trust's investments at the preceding year end, and shall  
 4262 certify that the trust will not expire prior to the following  
 4263 December 31.

4264 3. The following requirements apply to the following  
 4265 categories of assuming insurer:

4266 a. The trust fund for a single assuming insurer consists  
 4267 of funds in trust in an amount not less than the assuming  
 4268 insurer's liabilities attributable to reinsurance ceded by  
 4269 United States ceding insurers, and, in addition, the assuming  
 4270 insurer shall maintain a trusteed surplus of not less than \$20  
 4271 million. Not less than 50 percent of the funds in the trust  
 4272 covering the assuming insurer's liabilities attributable to  
 4273 reinsurance ceded by United States ceding insurers and trusteed  
 4274 surplus shall consist of assets of a quality substantially  
 4275 similar to that required in part II of chapter 625. Clean,

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4276 irrevocable, unconditional, and evergreen letters of credit,  
4277 issued or confirmed by a qualified United States financial  
4278 institution, as defined in paragraph (5) (a), effective no later  
4279 than December 31 of the year for which the filing is made and in  
4280 the possession of the trust on or before the filing date of its  
4281 annual statement, may be used to fund the remainder of the trust  
4282 and trusteed surplus.

4283 b. (I) In the case of a group including incorporated and  
4284 individual unincorporated underwriters:

4285 (A) For reinsurance ceded under reinsurance agreements  
4286 with an inception, amendment, or renewal date on or after August  
4287 1, 1995, the trust consists of a trusteed account in an amount  
4288 not less than the group's several liabilities attributable to  
4289 business ceded by United States domiciled ceding insurers to any  
4290 member of the group.

4291 (B) For reinsurance ceded under reinsurance agreements  
4292 with an inception date on or before July 31, 1995, and not  
4293 amended or renewed after that date, notwithstanding the other  
4294 provisions of this section, the trust consists of a trusteed  
4295 account in an amount not less than the group's several insurance  
4296 and reinsurance liabilities attributable to business written in  
4297 the United States.

4298 (C) In addition to these trusts, the group shall maintain  
4299 in trust a trusteed surplus of which \$100 million must be held  
4300 jointly for the benefit of the United States domiciled ceding  
4301 insurers of any member of the group for all years of account.

4302 (II) The incorporated members of the group must not be  
4303 engaged in any business other than underwriting of a member of

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4304 the group, and are subject to the same level of regulation and  
4305 solvency control by the group's domiciliary regulator as the  
4306 unincorporated members.

4307 (III) Within 90 days after its financial statements are  
4308 due to be filed with the group's domiciliary regulator, the  
4309 group shall provide to the insurance regulator an annual  
4310 certification by the group's domiciliary regulator of the  
4311 solvency of each underwriter member or, if a certification is  
4312 unavailable, financial statements, prepared by independent  
4313 public accountants, of each underwriter member of the group.

4314 (d) Credit must be allowed when the reinsurance is ceded  
4315 to an assuming insurer not meeting the requirements of paragraph  
4316 (a), paragraph (b), or paragraph (c), but only as to the  
4317 insurance of risks located in jurisdictions in which the  
4318 reinsurance is required to be purchased by a particular entity  
4319 by applicable law or regulation of that jurisdiction.

4320 (e) If the reinsurance is ceded to an assuming insurer not  
4321 meeting the requirements of paragraph (a), paragraph (b),  
4322 paragraph (c), or paragraph (d), the department may allow  
4323 credit, but only if the assuming insurer holds surplus in excess  
4324 of \$100 million and has a secure financial strength rating from  
4325 at least two nationally recognized statistical rating  
4326 organizations deemed acceptable by the department. In  
4327 determining whether credit should be allowed, the department  
4328 shall consider the following:

4329 1. The domiciliary regulatory jurisdiction of the assuming  
4330 insurer.

4331           2. The structure and authority of the domiciliary  
 4332 regulator with regard to solvency regulation requirements and  
 4333 the financial surveillance of the reinsurer.

4334           3. The substance of financial and operating standards for  
 4335 reinsurers in the domiciliary jurisdiction.

4336           4. The form and substance of financial reports required to  
 4337 be filed by the reinsurers in the domiciliary jurisdiction or  
 4338 other public financial statements filed in accordance with  
 4339 generally accepted accounting principles.

4340           5. The domiciliary regulator's willingness to cooperate  
 4341 with United States regulators in general and the department in  
 4342 particular.

4343           6. The history of performance by reinsurers in the  
 4344 domiciliary jurisdiction.

4345           7. Any documented evidence of substantial problems with  
 4346 the enforcement of valid United States judgments in the  
 4347 domiciliary jurisdiction.

4348           8. Any other matters deemed relevant by the department.  
 4349 The department shall give appropriate consideration to insurer  
 4350 group ratings that may have been issued. The department may, in  
 4351 lieu of granting full credit under this subsection, reduce the  
 4352 amount required to be held in trust under paragraph (c).

4353           (f) If the assuming insurer is not authorized or  
 4354 accredited to transact insurance or reinsurance in this state  
 4355 pursuant to paragraph (a) or paragraph (b), the credit permitted  
 4356 by paragraph (c) or paragraph (d) must not be allowed unless the  
 4357 assuming insurer agrees in the reinsurance agreements:

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4358       1.a. That in the event of the failure of the assuming  
4359 insurer to perform its obligations under the terms of the  
4360 reinsurance agreement, the assuming insurer, at the request of  
4361 the ceding insurer, shall submit to the jurisdiction of any  
4362 court of competent jurisdiction in any state of the United  
4363 States, will comply with all requirements necessary to give the  
4364 court jurisdiction, and will abide by the final decision of the  
4365 court or of any appellate court in the event of an appeal.

4366       b. To designate the Chief Financial Officer, pursuant to  
4367 s. 48.151, or a designated attorney as its true and lawful  
4368 attorney upon whom may be served any lawful process in any  
4369 action, suit, or proceeding instituted by or on behalf of the  
4370 ceding company.

4371       2. This paragraph is not intended to conflict with or  
4372 override the obligation of the parties to a reinsurance  
4373 agreement to arbitrate their disputes, if this obligation is  
4374 created in the agreement.

4375       (g) If the assuming insurer does not meet the requirements  
4376 of paragraph (a) or paragraph (b), the credit permitted by  
4377 paragraph (c) or paragraph (d) is not allowed unless the  
4378 assuming insurer agrees in the trust agreements, in substance,  
4379 to the following conditions:

4380       1. Notwithstanding any other provisions in the trust  
4381 instrument, if the trust fund is inadequate because it contains  
4382 an amount less than the amount required by paragraph (c), or if  
4383 the grantor of the trust has been declared insolvent or placed  
4384 into receivership, rehabilitation, liquidation, or similar  
4385 proceedings under the laws of its state or country of domicile,

4386 the trustee shall comply with an order of the insurance  
 4387 regulator with regulatory oversight over the trust or with an  
 4388 order of a United States court of competent jurisdiction  
 4389 directing the trustee to transfer to the insurance regulator  
 4390 with regulatory oversight all of the assets of the trust fund.

4391 2. The assets must be distributed by and claims must be  
 4392 filed with and valued by the insurance regulator with regulatory  
 4393 oversight in accordance with the laws of the state in which the  
 4394 trust is domiciled which are applicable to the liquidation of  
 4395 domestic insurance companies.

4396 3. If the insurance regulator with regulatory oversight  
 4397 determines that the assets of the trust fund or any part thereof  
 4398 are not necessary to satisfy the claims of the United States  
 4399 ceding insurers of the grantor of the trust, the assets or part  
 4400 thereof must be returned by the insurance regulator with  
 4401 regulatory oversight to the trustee for distribution in  
 4402 accordance with the trust agreement.

4403 4. The grantor shall waive any right otherwise available  
 4404 to it under United States law which is inconsistent with this  
 4405 provision.

4406 (4) An asset allowed or a deduction from liability taken  
 4407 for the reinsurance ceded by an insurer to an assuming insurer  
 4408 not meeting the requirements of subsections (2) and (3) is  
 4409 allowed in an amount not exceeding the liabilities carried by  
 4410 the ceding insurer. The deduction must be in the amount of funds  
 4411 held by or on behalf of the ceding insurer, including funds held  
 4412 in trust for the ceding insurer, under a reinsurance contract  
 4413 with the assuming insurer as security for the payment of

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4414 obligations thereunder, if the security is held in the United  
4415 States subject to withdrawal solely by, and under the exclusive  
4416 control of, the ceding insurer, or, in the case of a trust, held  
4417 in a qualified United States financial institution, as defined  
4418 in paragraph (5) (b). This security may be in the form of:

4419 (a) Cash in United States dollars;

4420 (b) Securities listed by the Securities Valuation Office  
4421 of the National Association of Insurance Commissioners and  
4422 qualifying as admitted assets pursuant to part II of chapter  
4423 625;

4424 (c) Clean, irrevocable, unconditional letters of credit,  
4425 issued or confirmed by a qualified United States financial  
4426 institution, as defined in paragraph (5) (a), effective no later  
4427 than December 31 of the year for which the filing is made, and  
4428 in the possession of, or in trust for, the ceding company on or  
4429 before the filing date of its annual statement; or

4430 (d) Any other form of security acceptable to the  
4431 department.

4432 (5) (a) For purposes of paragraph (4) (c) regarding letters  
4433 of credit, a "qualified United States financial institution"  
4434 means an institution that:

4435 1. Is organized or, in the case of a United States  
4436 department of a foreign banking organization, is licensed under  
4437 the laws of the United States or any state thereof;

4438 2. Is regulated, supervised, and examined by United States  
4439 or state authorities having regulatory authority over banks and  
4440 trust companies; and



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4441 3. Has been determined by either the department or the  
4442 Securities Valuation Office of the National Association of  
4443 Insurance Commissioners to meet such standards of financial  
4444 condition and standing as are considered necessary and  
4445 appropriate to regulate the quality of financial institutions  
4446 whose letters of credit will be acceptable to the department.

4447 (b) For purposes of those provisions of this law which  
4448 specify institutions that are eligible to act as a fiduciary of  
4449 a trust, a "qualified United States financial institution" means  
4450 an institution that is a member of the Federal Reserve System or  
4451 that has been determined by the department to meet the following  
4452 criteria:

4453 1. Is organized or, in the case of a United States branch  
4454 or agency department of a foreign banking organization, is  
4455 licensed under the laws of the United States or any state  
4456 thereof and has been granted authority to operate with fiduciary  
4457 powers; and

4458 2. Is regulated, supervised, and examined by federal or  
4459 state authorities having regulatory authority over banks and  
4460 trust companies.

4461 (6) For the purposes of this section only, the term  
4462 "ceding insurer" includes any health maintenance organization  
4463 operating under a certificate of authority issued under part I  
4464 of chapter 641.

4465 (7) After notice and an opportunity for a hearing, the  
4466 department may disallow any credit that it finds would be  
4467 contrary to the proper interests of the policyholders or  
4468 stockholders of a ceding domestic insurer.

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4469       (8) Credit must be allowed to any ceding insurer for  
4470 reinsurance otherwise complying with this section only when the  
4471 reinsurance is payable by the assuming insurer on the basis of  
4472 the liability of the ceding insurer under the contract or  
4473 contracts reinsured without diminution because of the insolvency  
4474 of the ceding insurer. Such credit must be allowed to the ceding  
4475 insurer for reinsurance otherwise complying with this section  
4476 only when the reinsurance agreement provides that payments by  
4477 the assuming insurer will be made directly to the ceding insurer  
4478 or its receiver, except when:

4479       (a) The reinsurance contract specifically provides payment  
4480 to the named insured, assignee, or named beneficiary of the  
4481 policy issued by the ceding insurer in the event of the  
4482 insolvency of the ceding insurer; or

4483       (b) The assuming insurer, with the consent of the named  
4484 insured, has assumed the policy obligations of the ceding  
4485 insurer as direct obligations of the assuming insurer in  
4486 substitution for the obligations of the ceding insurer to the  
4487 named insured.

4488       (9) No person, other than the ceding insurer, has any  
4489 rights against the reinsurer which are not specifically set  
4490 forth in the contract of reinsurance or in a specific written,  
4491 signed agreement between the reinsurer and the person.

4492       (10) An authorized insurer may not knowingly accept as  
4493 assuming reinsurer any risk covering subject of insurance which  
4494 is resident, located, or to be performed in this state and which  
4495 is written directly by any insurer not then authorized to

4496 transact such insurance in this state, other than as to surplus  
 4497 lines insurance lawfully written under part VIII of chapter 626.

4498 (11) (a) Any domestic or commercially domiciled insurer  
 4499 ceding directly written risks of loss under this section shall,  
 4500 within 30 days after receipt of a cover note or similar  
 4501 confirmation of coverage, or, without exception, no later than 6  
 4502 months after the effective date of the reinsurance treaty, file  
 4503 with the department one copy of a summary statement containing  
 4504 the following information about each treaty:

- 4505 1. The contract period.
- 4506 2. The nature of the reinsured's business.
- 4507 3. An indication as to whether the treaty is proportional,  
 4508 nonproportional, coinsurance, modified coinsurance, or  
 4509 indemnity, as applicable.
- 4510 4. The ceding company's loss retention per risk.
- 4511 5. The reinsured limits.
- 4512 6. Any special contract restrictions.
- 4513 7. A schedule of reinsurers assuming the risks of loss.
- 4514 8. An indication as to whether payments to the assuming  
 4515 insurer are based on written premiums or earned premiums.
- 4516 9. Identification of any intermediary or broker used in  
 4517 obtaining the reinsurance and the department paid to such  
 4518 intermediary or broker if known.
- 4519 10. Ceding commissions and allowances.

4520 (b) The summary statement must be signed and attested to  
 4521 by either the chief executive officer or the chief financial  
 4522 officer of the reporting insurer. In addition to the summary  
 4523 statement, the department may require the filing of any

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4524 supporting information relating to the ceding of such risks as  
4525 it deems necessary. If the summary statement prepared by the  
4526 ceding insurer discloses that the net effect of a reinsurance  
4527 treaty or treaties, or series of treaties with one or more  
4528 affiliated reinsurers entered into for the purpose of avoiding  
4529 the following threshold amount, at any time results in an  
4530 increase of more than 25 percent to the insurer's surplus as to  
4531 policyholders, then the insurer shall certify in writing to the  
4532 department that the relevant reinsurance treaty or treaties  
4533 comply with the accounting requirements contained in any rule  
4534 adopted by the department under subsection (14). If such  
4535 certificate is filed after the summary statement of such  
4536 reinsurance treaty or treaties, the insurer shall refile the  
4537 summary statement with the certificate. In any event, the  
4538 certificate must state that a copy of the certificate was sent  
4539 to the reinsurer under the reinsurance treaty.

4540 (c) This subsection applies to cessions of directly  
4541 written risk or loss. This subsection does not apply to  
4542 contracts of facultative reinsurance or to any ceding insurer  
4543 with surplus as to policyholders that exceeds \$100 million as of  
4544 the immediately preceding December 31. Additionally, any ceding  
4545 insurer otherwise subject to this section with less than  
4546 \$500,000 in direct premiums written in this state during the  
4547 preceding calendar year or with less than 1,000 policyholders at  
4548 the end of the preceding calendar year is exempt from the  
4549 requirements of this subsection. However, any ceding insurer  
4550 otherwise subject to this section with more than \$250,000 in  
4551 direct premiums written in this state during the preceding

4552 calendar quarter is not exempt from the requirements of this  
 4553 subsection.

4554 (d) An authorized insurer not otherwise exempt from the  
 4555 provisions of this subsection shall provide the information  
 4556 required by this subsection with underlying and supporting  
 4557 documentation upon written request of the department.

4558 (e) The department may, upon a showing of good cause,  
 4559 waive the requirements of this subsection.

4560 (12) If the department finds that a reinsurance agreement  
 4561 creates a substantial risk of insolvency to either insurer  
 4562 entering into the reinsurance agreement, the department may by  
 4563 order require a cancellation of the reinsurance agreement.

4564 (13) No credit shall be allowed for reinsurance with  
 4565 regard to which the reinsurance agreement does not create a  
 4566 meaningful transfer of risk of loss to the reinsurer.

4567 (14) The department may adopt rules implementing the  
 4568 provisions of this section. Rules are authorized to protect the  
 4569 interests of insureds, claimants, ceding insurers, assuming  
 4570 insurers, and the public. These rules shall be in substantial  
 4571 compliance with:

4572 (a) The National Association of Insurance Commissioners  
 4573 model regulations relating to credit for reinsurance.

4574 (b) The National Association of Insurance Commissioners  
 4575 Accounting Practices and Procedures Manual as of March 2002 and  
 4576 subsequent amendments thereto if the methodology remains  
 4577 substantially consistent.

4578 (c) The National Association of Insurance Commissioners  
 4579 model regulation for Credit for Reinsurance and Life and Health  
 4580 Reinsurance Agreements.

4581  
 4582 The department may further adopt rules to provide for transition  
 4583 from existing requirements for the approval of reinsurers to the  
 4584 accreditation of reinsurers pursuant to this section.

4585 637.2051 Notice to comply with written requirements of  
 4586 department; noncompliance.-

4587 (1) If the department determines that the conditions set  
 4588 forth in subsection (2) exist, the department shall issue an  
 4589 order placing the title insurer in administrative supervision,  
 4590 setting forth the reasons giving rise to the determination, and  
 4591 specifying that the department is applying and effectuating the  
 4592 provisions of this chapter. An order issued by the department  
 4593 pursuant to this subsection entitles the insurer to request a  
 4594 proceeding under ss. 120.569 and 120.57, and such a request  
 4595 shall stay the action pending such proceeding.

4596 (2) A title insurer shall be subject to administrative  
 4597 supervision by the department if upon examination or at any  
 4598 other time the department determines that:

4599 (a) The insurer is in unsound condition;

4600 (b) The insurer's methods or practices render the  
 4601 continuance of its business hazardous to the public or to its  
 4602 insureds; or

4603 (c) The insurer has exceeded its powers granted under its  
 4604 certificate of authority and applicable law.

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4605       (3) Within 15 days after receipt of notice of the  
4606 department's determination to proceed under this chapter, an  
4607 insurer shall submit to the department a plan to correct the  
4608 conditions set forth in the notice. For good cause shown, the  
4609 department may extend the 15-day time period for submission of  
4610 the plan. If the department and the insurer agree on a  
4611 corrective plan, a written agreement shall be entered into to  
4612 carry out the plan.

4613       (4) If a title insurer fails to timely submit a plan, the  
4614 department may specify the requirements of a plan to address the  
4615 conditions giving rise to imposition of administrative  
4616 supervision under this chapter. In addition, failure of the  
4617 insurer to timely submit a plan is a violation of the provisions  
4618 of this chapter punishable in accordance with s. 637.2017.

4619       (5) The plan shall address, but shall not be limited to,  
4620 each of the activities of the insurer's business which are set  
4621 forth in s. 637.2053.

4622       (6) Any insurer subject to administrative supervision is  
4623 expected to avail itself of all reasonably available  
4624 reinsurance. Reasonably available reinsurance shall include  
4625 unrealized reinsurance, which is defined as reinsurance  
4626 recoverable on known losses incurred and due under valid  
4627 reinsurance contracts that have not been identified in the  
4628 normal course of business and have not been reported in  
4629 financial statements filed with the department. Within 90 days  
4630 after being placed under administrative supervision, the insurer  
4631 shall certify to the Chief Financial Officer that the insurer  
4632 has engaged an independent third party to search for unrealized

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4633 reinsurance, and that the insurer has made all relevant books  
4634 and records available to the third party. The compensation to  
4635 the third party may be a percentage of unrealized reinsurance  
4636 identified and collected.

4637 (7) If the department and the insurer are unable to agree  
4638 on the provisions of the plan, the department may require the  
4639 insurer to take such corrective action as may be reasonably  
4640 necessary to remove the causes and conditions giving rise to the  
4641 need for administrative supervision.

4642 (8) The insurer shall have 60 days, or a longer period of  
4643 time as designated by the department but not to exceed 120 days,  
4644 after the date of the written agreement or the receipt of the  
4645 department's plan within which to comply with the requirements  
4646 of the department. At the conclusion of the initial period of  
4647 supervision, the department may extend the supervision in  
4648 increments of 60 days or longer, not to exceed 120 days, if  
4649 conditions justifying supervision exist. Each extension of  
4650 supervision shall provide the insurer with a point of entry  
4651 pursuant to chapter 120.

4652 (9) The initiation or pendency of administrative  
4653 proceedings arising from actions taken under this section shall  
4654 not preclude the department from initiating judicial proceedings  
4655 to place an insurer in conservation, rehabilitation, or  
4656 liquidation or initiating other delinquency proceedings however  
4657 designated under the laws of this state.

4658 (10) If it is determined that the conditions giving rise  
4659 to administrative supervision have been remedied so that the  
4660 continuance of its business is no longer hazardous to the public



4661 or to its insureds, the department shall release the insurer  
 4662 from supervision.

4663 (11) The department may adopt rules to define standards of  
 4664 hazardous financial condition and corrective action  
 4665 substantially similar to that indicated in the National  
 4666 Association of Insurance Commissioners' 1997 "Model Regulation  
 4667 to Define Standards and Commissioner's Authority for Companies  
 4668 Deemed to be in Hazardous Financial Condition," which are  
 4669 necessary to implement the provisions of this part.

4670 637.2053 Prohibited acts during period of supervision.—The  
 4671 department may provide that the title insurer may not conduct  
 4672 the following activities during the period of supervision,  
 4673 without prior approval by the department:

4674 (1) Dispose of, convey, or encumber any of its assets or  
 4675 its business in force;

4676 (2) Withdraw any of its bank accounts;

4677 (3) Lend any of its funds;

4678 (4) Invest any of its funds;

4679 (5) Transfer any of its property;

4680 (6) Incur any debt, obligation, or liability;

4681 (7) Merge or consolidate with another company;

4682 (8) Enter into any new reinsurance contract or treaty;

4683 (9) Terminate, surrender, forfeit, convert, or lapse any  
 4684 insurance policy, certificate, or contract of insurance, except  
 4685 for nonpayment of premiums due;

4686 (10) Release, pay, or refund premium deposits, accrued  
 4687 cash or loan values, unearned premiums, or other reserves on any  
 4688 insurance policy or certificate; or

4689           (11) Make any material change in management.  
 4690           637.2054 Review.—During the period of supervision, the  
 4691 title insurer may contest an action taken or proposed to be  
 4692 taken by the supervisor, specifying the manner wherein the  
 4693 action complained of would not result in improving the condition  
 4694 of the insurer. Such request shall not stay the action specified  
 4695 pending reconsideration of the action by the department. Denial  
 4696 of the insurer's request upon reconsideration entitles the  
 4697 insurer to request a proceeding under ss. 120.569 and 120.57.  
 4698           637.2055 Administrative election of proceedings.—If the  
 4699 department determines to act under authority of this chapter,  
 4700 the sequence of its acts and proceedings shall be as set forth  
 4701 herein. However, it is a purpose and substance of this chapter  
 4702 to allow the department administrative discretion in the event  
 4703 of insurer delinquencies and, in furtherance of that purpose,  
 4704 the department may, in respect to insurer delinquencies or  
 4705 suspected delinquencies, proceed and administer under the  
 4706 provisions of this chapter or any other applicable law, or under  
 4707 the provisions of this chapter in conjunction with other  
 4708 applicable law, and it is so provided. Nothing contained in this  
 4709 part or in any other provision of law shall preclude the  
 4710 department from initiating judicial proceedings to place an  
 4711 insurer in conservation, rehabilitation, or liquidation  
 4712 proceedings or other delinquency proceedings however designated  
 4713 under the laws of this state, regardless of whether the  
 4714 department has previously initiated administrative supervision  
 4715 proceedings under this part against the insurer. The entry of an  
 4716 order of seizure, rehabilitation, or liquidation pursuant to

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4717 chapter 631 shall terminate all proceedings pending pursuant to  
4718 this part.

4719 637.2056 Other laws; conflicts; meetings between the  
4720 department and the supervisor.—During the period of  
4721 administrative supervision, the department may meet with a  
4722 supervisor appointed under this chapter and with the attorney or  
4723 other representative of the supervisor and such meetings are  
4724 exempt from the provisions of s. 286.011.

4725 637.2057 Administrative supervision; expenses.—

4726 (1) During the period of supervision the department by  
4727 contract or otherwise may appoint a deputy supervisor to  
4728 supervise the title insurer.

4729 (2) Each insurer which is subject to administrative  
4730 supervision by the department shall pay to the department the  
4731 expenses of its administrative supervision at the rates adopted  
4732 by the department. Expenses shall include actual travel  
4733 expenses, a reasonable living expense allowance, compensation of  
4734 the deputy supervisor or other person employed or appointed by  
4735 the department for purposes of the supervision, and necessary  
4736 attendant administrative costs of the department directly  
4737 related to the supervision. The travel expense and living  
4738 expense allowance shall be limited to those expenses necessarily  
4739 incurred on account of the administrative supervision and shall  
4740 be paid by the insurer together with compensation upon  
4741 presentation by the department to the insurer of a detailed  
4742 account of the charges and expenses after a detailed statement  
4743 has been filed by the deputy supervisor or other person employed  
4744 or appointed by the department and approved by the department.

4745       (3) All moneys collected from insurers for the expenses of  
 4746 administrative supervision shall be deposited into the Title  
 4747 Insurance Regulatory Trust Fund, and the department is  
 4748 authorized to make deposits from time to time into this fund  
 4749 from moneys appropriated for the operation of the department.

4750       (4) Notwithstanding the provisions of s. 112.061, the  
 4751 department is authorized to pay to the deputy supervisor or  
 4752 person employed or appointed by the department for purposes of  
 4753 the supervision out of such trust fund the actual travel  
 4754 expenses, reasonable living expense allowance, and compensation  
 4755 in accordance with the statement filed with the department by  
 4756 the deputy supervisor or other person, as provided in subsection  
 4757 (2), upon approval by the department.

4758       (5) The department may in whole or in part defer payment  
 4759 of expenses due from the insurer pursuant to this section upon a  
 4760 showing that payment would adversely impact on the financial  
 4761 condition of the insurer and jeopardize its rehabilitation. The  
 4762 payment shall be made by the insurer when the condition is  
 4763 removed and the payment would no longer jeopardize the insurer's  
 4764 financial condition.

4765       Section 11. Section 627.777, Florida Statutes, is  
 4766 transferred, renumbered as section 637.2058, Florida Statutes,  
 4767 and amended to read:

4768       637.2058 ~~627.777~~ Approval of forms.—

4769       (1) A title insurer may not issue or agree to issue any  
 4770 form of title insurance commitment, title insurance policy,  
 4771 other contract of title insurance, or related form until it is  
 4772 filed with and approved by the department office. The department

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4773 ~~office~~ may not disapprove a title guarantee or policy form on  
 4774 the ground that it has on it a blank form for an attorney's  
 4775 opinion on the title.

4776 (2) If a form filed for approval is a form recommended by  
 4777 the American Land Title Association at the time of the filing,  
 4778 the department shall approve or disapprove the form within 180  
 4779 days. If a form filed for approval is a form not recommended by  
 4780 the American Land Title Association at the time of the filing,  
 4781 the department shall approve or disapprove the form within 1  
 4782 year.

4783 (3) At the time of the approval of any form, the  
 4784 department shall determine if a rate in effect at that time  
 4785 applies or if the coverages require adoption of a rule pursuant  
 4786 to s. 637.2064.

4787 (4) The department may revoke approval of any form upon  
 4788 180 days' notice.

4789 (5) An insurer may not achieve any competitive advantage  
 4790 over any other insurer or agent as to forms.

4791 Section 12. Section 627.7773, Florida Statutes, is  
 4792 transferred, renumbered as section 637.2059, Florida Statutes,  
 4793 and amended to read:

4794 637.2059 ~~627.7773~~ Accounting and auditing of forms by  
 4795 title insurers.—

4796 (1) Each title insurer authorized to do business in this  
 4797 state shall, at least once during each calendar year, require of  
 4798 each of its title insurance agents or agencies accountings of  
 4799 all outstanding forms in the agent's or agency's possession of  
 4800 the types that are specified in s. 637.2058 ~~627.777~~.

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4801 (2) If the department ~~office~~ has reason to believe that an  
 4802 audit of outstanding forms should be required of any title  
 4803 insurer as to a title insurance agent or agency, the department  
 4804 ~~office~~ may require the title insurer to make a special audit of  
 4805 the forms. The title insurer shall complete the audit not later  
 4806 than 60 days after the request is received from the department  
 4807 ~~office~~, and shall report the results of the special audit to the  
 4808 department ~~office~~ no later than 90 days after the request is  
 4809 received.

4810 Section 13. Section 627.7776, Florida Statutes, is  
 4811 transferred, renumbered as section 637.2061, Florida Statutes,  
 4812 and subsection (1) of that section is amended to read:

4813 637.2061 ~~627.7776~~ Furnishing of supplies; civil  
 4814 liability.—

4815 (1) A title insurer may not furnish to any person any  
 4816 blank forms, applications, stationery, or other supplies to be  
 4817 used in soliciting, negotiating, or effecting contracts of title  
 4818 insurance on its behalf until that person has received from the  
 4819 insurer a contract to act as a title insurance agent or agency  
 4820 and has been licensed by the department, if required by s.  
 4821 637.3006 ~~626.8417~~.

4822 Section 14. Section 627.780, Florida Statutes, is  
 4823 transferred, renumbered as section 637.2063, Florida Statutes,  
 4824 and subsection (1) of that section is amended to read:

4825 637.2063 ~~627.780~~ Illegal dealings in premium.—

4826 (1) A person may not knowingly quote, charge, accept,  
 4827 collect, or receive a premium for title insurance other than the

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4828 premium adopted by the department ~~commission~~, except as provided  
 4829 in s. 637.1033(7)(b). ~~626.9541(1)(h)3.b.~~

4830 Section 15. Section 637.20635, Florida Statutes, is  
 4831 created to read:

4832 637.20635 Rebating; when allowed.-

4833 (1) A title insurer, title insurance agency, or title  
 4834 insurance agent may not rebate any portion of the premium  
 4835 except as follows:

4836 (a) A rebate shall be in accordance with a uniform  
 4837 percentage of the premium established by the insurer issuing  
 4838 the policy to which the rebate applies. Deviations from the  
 4839 approved rebate may not be permitted for any reason, including,  
 4840 but not limited to, the amount of the coverage, the insured,  
 4841 any geographic limitation within this state, or the type of  
 4842 policy.

4843 (b) Any rebates shall be uniformly applied to all policies  
 4844 of whatever kind issued by or on behalf of the insurer. Each  
 4845 person responsible for paying the premium must receive the same  
 4846 rebate regardless of whether the policy is purchased from a  
 4847 title insurance agent or agency, directly from the title  
 4848 insurer, or from an affiliated company. For purposes of this  
 4849 paragraph, the term "affiliated company" means any company of an  
 4850 affiliated group of corporations as defined in s.  
 4851 637.2039(5)(a)(2).

4852 (c) The age, sex, place of residence, nationality,  
 4853 ethnic origin, marital status, or occupation of the insured  
 4854 may not be used in determining the amount of the rebate or  
 4855 whether a rebate is available.

4856           (d) The insurer shall file a copy of the uniform rebate  
 4857 percentage and its effective date quarterly with the  
 4858 department. The insurer may not establish a rebate schedule  
 4859 that has the effect of impairing the financial solvency of the  
 4860 insurer or the title insurance agent or agency. The insurer  
 4861 must obtain department approval of the rebates consistent with  
 4862 s. 637.2064 prior to their implementation.

4863           (2) A rebate may not be:

4864           (a) Withheld or limited in amount based on factors that  
 4865 are unfairly discriminatory.

4866           (b) Given if it is inconsistent with the filed and  
 4867 approved uniform rebate percentage.

4868           (c) Granted or refused based upon the purchase or failure  
 4869 of the insured to purchase additional services.

4870           Section 16. Section 627.782, Florida Statutes, is  
 4871 transferred, renumbered as section 637.2064, Florida Statutes,  
 4872 and amended to read:

4873           637.2064 ~~627.782~~ Adoption of rates.—

4874           (1) Subject to the rating provisions of this chapter ~~code~~,  
 4875 the department ~~commission~~ must adopt a rule specifying the  
 4876 premium to be charged in this state by title insurers for the  
 4877 respective types of title insurance contracts and, for policies  
 4878 issued through agents or agencies, the percentage of such  
 4879 premium required to be retained by the title insurer which shall  
 4880 not be less than 30 percent. However, in a transaction subject  
 4881 to the Real Estate Settlement Procedures Act of 1974, 12 U.S.C.  
 4882 ss. 2601 et seq., as amended, no portion of the premium  
 4883 attributable to providing a primary title service shall be paid



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4884 to or retained by any person who does not actually perform or is  
 4885 not liable for the performance of such service.

4886 (2) In adopting premium rates, the department ~~commission~~  
 4887 must give due consideration to the following:

4888 (a) The title insurers' loss experience and prospective  
 4889 loss experience under closing protection letters and policy  
 4890 liabilities.

4891 (b) A reasonable margin for underwriting profit and  
 4892 contingencies, including contingent liability under s. 637.2075  
 4893 ~~627.7865~~, sufficient to allow title insurers, agents, and  
 4894 agencies to earn a rate of return on their capital that will  
 4895 attract and retain adequate capital investment in the title  
 4896 insurance business and maintain an efficient title insurance  
 4897 delivery system.

4898 (c) Past expenses and prospective expenses for  
 4899 administration and handling of risks.

4900 (d) Liability for defalcation.

4901 (e) Other relevant factors.

4902 (3) Rates may be grouped by classification or schedule and  
 4903 may differ as to class of risk assumed.

4904 (4) Rates may not be excessive, inadequate, or unfairly  
 4905 discriminatory.

4906 (5) The premium applies to each \$100 of insurance issued  
 4907 to an insured.

4908 (6) The premium rates apply throughout this state.

4909 (7) The department ~~commission~~ shall, in accordance with  
 4910 the standards provided in subsection (2), review the premium as  
 4911 needed, but not less frequently than once every 3 years, and

4912 shall, based upon the review required by this subsection, revise  
 4913 the premium if the results of the review so warrant.

4914 (8) The department ~~commission~~ may, by rule, require  
 4915 licensees under this part to annually submit statistical  
 4916 information, including loss and expense data, as the department  
 4917 determines to be necessary to analyze premium rates, retention  
 4918 rates, and the condition of the title insurance industry.

4919 Section 17. Section 627.783, Florida Statutes, is  
 4920 transferred, renumbered as section 637.2065, Florida Statutes,  
 4921 and amended to read:

4922 637.2065 ~~627.783~~ Rate deviation.—

4923 (1) A title insurer may petition the department ~~office~~ for  
 4924 an order authorizing a specific deviation from the adopted  
 4925 premium. The petition shall be in writing and sworn to and shall  
 4926 set forth allegations of fact upon which the petitioner will  
 4927 rely, including the petitioner's reasons for requesting the  
 4928 deviation. Any authorized title insurer, agent, or agency may  
 4929 join in the petition for like authority to deviate or may file a  
 4930 separate petition praying for like authority or opposing the  
 4931 deviation. The department ~~office~~ shall rule on all such  
 4932 petitions simultaneously.

4933 (2) If, in the judgment of the department ~~office~~, the  
 4934 requested deviation is not justified, the department ~~office~~ may  
 4935 enter an order denying the petition. An order granting a  
 4936 petition constitutes an amendment to the adopted premium as to  
 4937 the petitioners named in the order, and is subject to s.

4938 637.2064 ~~627.782~~.

4939           Section 18. Section 627.7831, Florida Statutes, is  
 4940 transferred and renumbered as section 637.2066, Florida  
 4941 Statutes.

4942           Section 19. Section 627.784, Florida Statutes, is  
 4943 transferred and renumbered as section 637.2067, Florida  
 4944 Statutes.

4945           Section 20. Section 627.7841, Florida Statutes, is  
 4946 transferred and renumbered as section 637.2068, Florida  
 4947 Statutes.

4948           Section 21. Section 627.7842, Florida Statutes, is  
 4949 transferred and renumbered as section 637.2069, Florida  
 4950 Statutes.

4951           Section 22. Section 627.7843, Florida Statutes, is  
 4952 transferred and renumbered as section 637.2071, Florida  
 4953 Statutes.

4954           Section 23. Section 627.7845, Florida Statutes, is  
 4955 transferred, renumbered as section 637.2072, Florida Statutes,  
 4956 and amended to read:

4957           637.2072 ~~627.7845~~ Determination of insurability required;  
 4958 preservation of evidence of title search and examination.-

4959           (1) A title insurer may not issue a title insurance  
 4960 commitment, endorsement, or title insurance policy until the  
 4961 title insurer has caused to be made a determination of  
 4962 insurability based upon the evaluation of a reasonable title  
 4963 search or a search of the records of a Uniform Commercial Code  
 4964 filing department ~~office~~, as applicable, has examined such other  
 4965 information as may be necessary, and has caused to be made a  
 4966 determination of insurability of title or the existence,

4967 | attachments, perfection, and priority of a Uniform Commercial  
 4968 | Code security interest, including endorsement coverages, in  
 4969 | accordance with sound underwriting practices.

4970 |       (2) The title insurer shall cause the evidence of the  
 4971 | determination of insurability and the reasonable title search or  
 4972 | search of the records of a Uniform Commercial Code filing  
 4973 | department ~~office~~ to be preserved and retained in its files or  
 4974 | in the files of its title insurance agent or agency for a period  
 4975 | of not less than 7 years after the title insurance commitment,  
 4976 | title insurance policy, or guarantee of title was issued. The  
 4977 | title insurer or agent or agency must produce the evidence  
 4978 | required to be maintained by this subsection at its departments  
 4979 | ~~offices~~ upon the demand of the department ~~office~~. Instead of  
 4980 | retaining the original evidence, the title insurer or the title  
 4981 | insurance agent or agency may, in the regular course of  
 4982 | business, establish a system under which all or part of the  
 4983 | evidence is recorded, copied, or reproduced by any photographic,  
 4984 | photostatic, microfilm, microcard, miniature photographic, or  
 4985 | other process which accurately reproduces or forms a durable  
 4986 | medium for reproducing the original.

4987 |       (3) The title insurer or its agent or agency must maintain  
 4988 | a record of the actual premium charged for issuance of the  
 4989 | policy and any endorsements in its files for a period of not  
 4990 | less than 7 years. The title insurer, agent, or agency must  
 4991 | produce the record at its department ~~office~~ upon demand of the  
 4992 | department ~~office~~.

4993 |       (4) This section does not apply to an insurer assuming no  
 4994 | primary liability in a contract of reinsurance or to an insurer

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4995 acting as a coinsurer if any other coinsuring insurer has  
 4996 complied with this section.

4997 Section 24. Section 627.785, Florida Statutes, is  
 4998 transferred and renumbered as section 637.2073, Florida  
 4999 Statutes.

5000 Section 25. Section 627.786, Florida Statutes, is  
 5001 transferred, renumbered as section 637.2074, Florida Statutes,  
 5002 and subsection (3) of that section is amended to read:

5003 637.2074 ~~627.786~~ Transaction of title insurance and any  
 5004 other kind of insurance prohibited.—

5005 (3) Subsection (1) does not preclude a title insurer from  
 5006 providing instruments to any prospective insured, in the form  
 5007 and content approved by the department ~~office~~, under which the  
 5008 title insurer assumes liability for loss due to the fraud of,  
 5009 dishonesty of, misappropriation of funds by, or failure to  
 5010 comply with written closing instructions by, its contract  
 5011 agents, agencies, or approved attorneys in connection with a  
 5012 real property transaction for which the title insurer is to  
 5013 issue a title insurance policy.

5014 Section 26. Section 627.7865, Florida Statutes, is  
 5015 transferred, renumbered as section 637.2075, Florida Statutes,  
 5016 and amended to read:

5017 637.2075 ~~627.7865~~ Title insurer assessments.—As a  
 5018 condition of doing business in this state, each title insurer  
 5019 shall be liable for an assessment to pay all unpaid title  
 5020 insurance claims on real property in this state for any title  
 5021 insurer which is liquidated with unpaid outstanding claims. The  
 5022 department ~~office~~ shall assess all title insurers on a pro rata

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5023 basis determined by their writings in this state for amounts  
 5024 necessary to pay the claims. A title insurer is not required to  
 5025 pay an amount in excess of one-tenth of its surplus as to  
 5026 policyholders.

5027 Section 27. Section 627.791, Florida Statutes, is  
 5028 transferred, renumbered as section 637.2076, Florida Statutes,  
 5029 and amended to read:

5030 637.2076 ~~627.791~~ Penalties against title insurers for  
 5031 violations by persons or entities not licensed.—A title insurer  
 5032 is subject to the penalties in ss. 637.2017(2) and 637.2021  
 5033 ~~624.418(2)~~ and ~~624.4211~~ for any violation of a lawful order or  
 5034 rule of the department ~~office or commission~~, or for any  
 5035 violation of this chapter ~~code~~, committed by:

5036 (1) A person, firm, association, corporation, cooperative,  
 5037 joint-stock company, or other legal entity not licensed under  
 5038 this part when issuing and countersigning commitments or  
 5039 policies of title insurance on behalf of the title insurer.

5040 (2) An attorney when issuing and countersigning  
 5041 commitments or policies of title insurance on behalf of the  
 5042 title insurer.

5043 Section 28. Section 627.792, Florida Statutes, is  
 5044 transferred, renumbered as section 637.2077, Florida Statutes,  
 5045 and amended to read:

5046 637.2077 ~~627.792~~ Liability of title insurers for  
 5047 defalcation by title insurance agents or agencies.—A title  
 5048 insurer is liable for the defalcation, conversion, or  
 5049 misappropriation by a licensed title insurance agent or agency  
 5050 of funds held in trust by the agent or agency pursuant to s.

5051 637.3029 ~~626.8473~~. If the agent or agency is an agent or agency  
 5052 for two or more title insurers, any liability shall be borne by  
 5053 the title insurer upon which a title insurance commitment or  
 5054 policy was issued prior to the illegal act. If no commitment or  
 5055 policy was issued, each title insurer represented by the agent  
 5056 or agency at the time of the illegal act shares in the liability  
 5057 in the same proportion that the premium remitted to it by the  
 5058 agent or agency during the 1-year period before the illegal act  
 5059 bears to the total premium remitted to all title insurers by the  
 5060 agent or agency during the same time period.

5061 Section 29. Section 627.793, Florida Statutes, is  
 5062 transferred, renumbered as section 637.2078, Florida Statutes,  
 5063 and amended to read:

5064 637.2078 ~~627.793~~ Rulemaking authority.—The department  
 5065 ~~commission~~ may adopt rules implementing the provisions of this  
 5066 chapter part.

5067 Section 30. Section 627.796, Florida Statutes, is  
 5068 transferred and renumbered as section 637.2079, Florida  
 5069 Statutes.

5070 Section 31. Section 627.797, Florida Statutes, is  
 5071 transferred, renumbered as section 637.2081, Florida Statutes,  
 5072 and subsection (1) of that section is amended to read:

5073 637.2081 ~~627.797~~ Exempt title insurance agent list.—

5074 (1) Every insurer shall file with the department a list  
 5075 containing the name and address of each appointed agent who is  
 5076 exempt from licensure under s. 637.3006(4) ~~626.8417(4)~~ and who  
 5077 issues or countersigns binders, commitments, title insurance  
 5078 policies, or guarantees of title.

5079 Section 32. Section 627.798, Florida Statutes, is  
 5080 transferred, renumbered as section 637.2082, Florida Statutes,  
 5081 and amended to read:

5082 637.2082 ~~627.798~~ Rulemaking authority.—The department may  
 5083 ~~commission shall by rule~~ adopt rules implementing the provisions  
 5084 of this part a form to be used to provide notice to a purchaser-  
 5085 ~~mortgagor that the purchaser-mortgagor is not protected by the~~  
 5086 ~~title policy of the mortgagee.~~

5087 Section 33. Sections 637.2083, 637.2084, 637.2085,  
 5088 637.2086, 637.2087, 637.2088, 637.2089, and 637.2091, Florida  
 5089 Statutes, are created to read:

5090 637.2083 Assets not allowed.—In addition to assets  
 5091 impliedly excluded by the provisions of s. 625.012, the  
 5092 following expressly shall not be allowed as assets in any  
 5093 determination of the financial condition of a title insurer:

5094 (1) Trade names, patents, agreements not to compete, and  
 5095 other like intangible assets.

5096 (2) Advances (other than policy loans) to officers and  
 5097 directors, whether secured or not, and advances to employees,  
 5098 agents, and other persons on personal security only.

5099 (3) Stock of such insurer, owned by it, or any material  
 5100 equity therein or loans secured thereby, or any material  
 5101 proportionate interest in such stock acquired or held through  
 5102 the ownership by such insurer of an interest in another firm,  
 5103 corporation, or business unit.

5104 (4) Furniture, fixtures, furnishings, safes, vehicles,  
 5105 libraries, stationery, literature, and supplies, other than data  
 5106 processing and accounting systems authorized under s.



5107 625.012(11), except in the case of title insurers such materials  
 5108 and plants as the insurer is expressly authorized to invest in  
 5109 under s. 637.20073 and except, in the case of any insurer, such  
 5110 personal property as the insurer is permitted to hold pursuant  
 5111 to part II of this chapter, or which is acquired through  
 5112 foreclosure of chattel mortgages acquired pursuant to s.  
 5113 625.329, or which is reasonably necessary for the maintenance  
 5114 and operation of real estate lawfully acquired and held by the  
 5115 insurer other than real estate used by it for home office,  
 5116 branch office, and similar purposes.

5117 (5) The amount, if any, by which the aggregate book value  
 5118 of investments as carried in the ledger assets of the insurer  
 5119 exceeds the aggregate value thereof as determined under this  
 5120 code.

5121 (6) Bonds, notes, or other evidences of indebtedness which  
 5122 are secured by mortgages or deeds of trust which are in default.

5123 (7) Prepaid and deferred expenses.

5124 637.2084 Power to contract; purchase of title insurance by  
 5125 or for minor.—

5126 (1) Any person of competent legal capacity may contract  
 5127 for title insurance.

5128 (2) Any minor of the age of 15 years or more, as  
 5129 determined by the nearest birthday, may, notwithstanding his or  
 5130 her minority, contract for title insurance on his or her own  
 5131 property.

5132 (3) If any minor mentioned in subsection (2) is possessed  
 5133 of an estate that is being administered by a guardian or  
 5134 curator, such contract shall not be binding upon such estate as

5135 to payment of premiums, except as and when consented to by the  
 5136 guardian or curator and approved by the probate court of the  
 5137 county in which the administration of the estate is pending; and  
 5138 such consent and approval shall be required as to each premium  
 5139 payment.

5140 637.2085 Charter, bylaw provisions.—A title insurance  
 5141 policy may not contain any provision purporting to make any  
 5142 portion of the charter, bylaws, or other constituent document of  
 5143 the title insurer a part of the contract unless such portion is  
 5144 set forth in full in the policy. Any policy provision in  
 5145 violation of this section is invalid.

5146 637.2086 Execution of policies.—

5147 (1) Every title insurance policy shall be executed in the  
 5148 name of and on behalf of the insurer by its officer, attorney in  
 5149 fact, employee, or representative duly authorized by the title  
 5150 insurer.

5151 (2) A facsimile signature of any such executing individual  
 5152 may be used in lieu of an original signature.

5153 (3) A title insurance contract that is otherwise valid may  
 5154 not be rendered invalid by reason of the apparent execution  
 5155 thereof on behalf of the title insurer by the imprinted  
 5156 facsimile signature of an individual not authorized so to  
 5157 execute as of the date of the policy.

5158 637.2087 Construction of policies.—

5159 (1) Every title insurance contract shall be construed  
 5160 according to the entirety of its terms and conditions as set  
 5161 forth in the policy and as amplified, extended, or modified by  
 5162 any application therefor or any rider or endorsement thereto.

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5163        (2) If a title insurer or licensee advertises title  
5164 insurance policy in a language other than English, the  
5165 advertisements shall not be construed to modify or change the  
5166 insurance policy written in English. The advertisement must  
5167 disclose that the policy written in English controls in the  
5168 event of a dispute and that statements contained in the  
5169 advertisement do not necessarily, as a result of possible  
5170 linguistic differences, reflect the contents of the policy  
5171 written in English. Nothing in this subsection shall affect the  
5172 provisions of s. 637.1033 relating to misrepresentations and  
5173 false advertising of insurance policies.

5174        637.2088 Payment of judgment by title insurer; penalty for  
5175 failure.-

5176        (1) Every judgment or decree for the recovery of money  
5177 entered in any of the courts of this state against any  
5178 authorized title insurer shall be fully satisfied within 60 days  
5179 after the entry thereof or, in the case of an appeal from such  
5180 judgment or decree, within 60 days after the affirmance of the  
5181 same by the appellate court.

5182        (2) If the judgment or decree is not satisfied as required  
5183 under subsection (1), and proof of such failure to satisfy is  
5184 made by filing with the department a certified transcript of the  
5185 docket of the judgment or decree together with a certificate by  
5186 the clerk of the court wherein the judgment or decree was  
5187 entered that the judgment or decree remains unsatisfied, in  
5188 whole or in part, after the time aforesaid, the department shall  
5189 forthwith revoke the title insurer's certificate of authority.  
5190 The department shall not issue to such insurer any new

5191 certificate of authority until the judgment or decree is wholly  
 5192 paid and satisfied and proof thereof filed with the department  
 5193 under the official certificate of the clerk of the court wherein  
 5194 the judgment was recovered, showing that the same is satisfied  
 5195 of record, and until the expenses and fees incurred in the case  
 5196 are also paid by the insurer.

5197 637.2089 Attorney's fee.—

5198 (1) Upon the rendition of a judgment or decree by any of  
 5199 the courts of this state against a title insurer and in favor of  
 5200 any named or omnibus insured or the named beneficiary under a  
 5201 policy or contract executed by the title insurer, the trial  
 5202 court or, in the event of an appeal in which the insured or  
 5203 beneficiary prevails, the appellate court shall adjudge or  
 5204 decree against the title insurer and in favor of the insured or  
 5205 beneficiary a reasonable sum as fees or compensation for the  
 5206 insured's or beneficiary's attorney prosecuting the suit in  
 5207 which the recovery is had.

5208 (2) When so awarded, compensation or fees of the attorney  
 5209 shall be included in the judgment or decree rendered in the  
 5210 case.

5211 637.2091 Title insurance business exclusive.—

5212 (1) A domestic title insurer may not engage directly or  
 5213 indirectly in any business other than the title insurance  
 5214 business and business activities reasonably and necessarily  
 5215 incidental to such title insurance business.

5216 (2) Notwithstanding subsection (1), a title insurer may  
 5217 engage in business as an escrow agent, and any title insurer may  
 5218 also engage in the business of making, acquiring, selling,

5219 dealing in, and servicing of real estate mortgage loans and  
 5220 loans incidental thereto.

5221 (3) A business trust whose declaration of trust was filed  
 5222 with the Secretary of State prior to January 1, 1959, and which,  
 5223 at the time of the adoption of the Florida Insurance Code, held  
 5224 a certificate of authority as a title insurer may qualify as an  
 5225 insurer for lawyers' professional liability insurance by  
 5226 complying with the applicable provisions of the code.

5227 Section 34. Part III of chapter 637, Florida Statutes,  
 5228 consisting of sections 637.3001, 637.3002, 637.3003, 637.30041,  
 5229 637.30042, 637.30043, 637.30044, 637.30045, 637.30046,  
 5230 637.30047, 637.30048, 637.30049, 637.3005, 637.3006, 637.3007,  
 5231 637.3008, 637.3009, 637.30093, 637.30094, 637.30095, 637.30096,  
 5232 637.30097, 637.3011, 637.3012, 637.30125, 637.3013, 637.30133,  
 5233 637.30135, 637.3014, 637.30142, 637.30143, 637.30144, 637.30145,  
 5234 637.30146, 637.30147, 637.3015, 637.3016, 637.3017, 637.3018,  
 5235 637.3019, 637.3021, 637.3022, 637.3023, 637.3024, 637.3025,  
 5236 637.3026, 637.3027, 637.3028, 637.3029, and 637.30295, is  
 5237 created and entitled "TITLE INSURANCE AGENT AND AGENCY LICENSING  
 5238 AND ADMINISTRATION."

5239 Section 35. Section 626.8412, Florida Statutes, is  
 5240 transferred, renumbered as section 637.3001, Florida Statutes,  
 5241 and amended to read:

5242 637.3001 ~~626.8412~~ License and appointments required.—

5243 (1) Except as otherwise provided in this part:

5244 (a) Title insurance business may be conducted ~~sold~~ only by  
 5245 a title insurer or a licensed title insurance agent employed by  
 5246 a licensed and appointed title insurance agency ~~or employed by a~~

5247 ~~title insurer.~~

5248 (b) A title insurance agent may not provide ~~sell~~ a title  
 5249 insurance policy for issued by an insurer for which the agent  
 5250 and agency does not hold a current appointment.

5251 (2) Except as otherwise provided in this part, a person,  
 5252 other than a title insurance agency or an employee of a title  
 5253 insurance agency, may not perform any of the functions of a  
 5254 title insurance agency without a title insurance agency license.

5255 (3) Each title insurance agency shall annually remit the  
 5256 administrative surcharge required in s. 637.2031(14) (e) prior to  
 5257 January 30 of each year.

5258 (a) Noncompliance with the payment of the fees as required  
 5259 in s. 637.2031(14) (e) shall result in the immediate suspension  
 5260 of the title insurance agency's appointments to represent an  
 5261 insurer.

5262 (b) Absent other cause for suspension, the appointments of  
 5263 a title insurance agency may be reinstated upon receipt of the  
 5264 amount due for the administrative surcharge plus any penalties  
 5265 imposed.

5266 (c) A penalty may be imposed to reinstate the appointments  
 5267 of an agency.

5268 Section 36. Section 626.8413, Florida Statutes, is  
 5269 transferred, renumbered as section 637.3002, Florida Statutes,  
 5270 and amended to read:

5271 637.3002 ~~626.8413~~ Title insurance agents; certain names  
 5272 prohibited. ~~After October 1, 1985,~~ A title insurance agent ~~as~~  
 5273 ~~defined in s. 626.841~~ shall not adopt a name which contains the  
 5274 words "title insurance," "title guaranty," or "title guarantee,"

5275 unless such words are followed by the word "agent" or "agency"  
 5276 in the same size and type as the words preceding them. This  
 5277 section does not apply to a title insurer acting as an agent for  
 5278 another title insurer.

5279 Section 37. Sections 637.3003, 637.30041, 637.30042,  
 5280 637.30043, 637.30044, 637.30045, 637.30046, 637.30047,  
 5281 637.30048, and 637.30049, Florida Statutes, are created to read:

5282 637.3003 Firm, corporate, and business names; officers;  
 5283 associates; notice of changes.-

5284 (1) Any licensed title agent doing business under a firm  
 5285 or corporate name or under any business name other than his or  
 5286 her own individual name shall, within 30 days after the initial  
 5287 transaction of insurance under such business name, file with the  
 5288 department, on forms adopted and furnished by the department, a  
 5289 written statement of the firm, corporate, or business name being  
 5290 used, the address of any office or offices or places of business  
 5291 making use of such name, and the name and social security number  
 5292 of each officer and director of the corporation and of each  
 5293 individual associated in such firm or corporation as to the  
 5294 insurance transactions of such firm or corporation or in the  
 5295 use of such business name.

5296 (2) In the event of any change of such name, a change of  
 5297 any of the officers or directors, a change of any of such  
 5298 addresses, or a change in the personnel associated with such  
 5299 firm or corporation, written notice of such change shall be  
 5300 filed with the department within 30 days by or on behalf of  
 5301 those licensees terminating any such firm, corporation, or  
 5302 business name or continuing to operate under such name.

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5303 (3) Within 30 days after a change, any licensed title  
 5304 insurance agency shall notify the department of any change in  
 5305 the information contained in the application filed pursuant to s.  
 5306 637.3007.

5307 637.30041 Insurance agency names; disapproval.—The  
 5308 department may disapprove the use of any true or fictitious  
 5309 name, other than the bona fide natural name of an individual, by  
 5310 any title insurance agency on any of the following grounds:

5311 (1) The name interferes with or is too similar to a  
 5312 name already filed and in use by another title insurance agency  
 5313 or title insurer.

5314 (2) The use of the name may mislead the public in any  
 5315 respect.

5316 (3) The name states or implies that the title insurance  
 5317 agency is an insurer, motor club, hospital service plan, state  
 5318 or federal agency, charitable organization, or entity that  
 5319 primarily provides advice and counsel rather than sells or  
 5320 solicits title insurance, or is entitled to engage in title  
 5321 insurance activities not permitted under licenses held or  
 5322 applied for. This subsection does not prohibit the use of the  
 5323 word "state" or "states" in the name of the agency. The use of  
 5324 the word "state" or "states" in the name of an agency does not  
 5325 imply that the agency is a state agency.

5326 637.30042 Examination requirement; exemptions.—The  
 5327 department may not issue any license as a title insurance agent  
 5328 to any individual who has not qualified for, taken, and  
 5329 passed to the satisfaction of the department a written  
 5330 examination of the scope prescribed in s. 637.30044.



5331 637.30043 Eligibility; application for examination.-

5332 (1) A person may not be permitted to take an  
 5333 examination for license until his or her application for  
 5334 examination or application for the license has been approved  
 5335 and the required fees have been received by the department  
 5336 or a person designated by the department to administer the  
 5337 examination.

5338 (2) A person required to take an examination for a license  
 5339 may be permitted to take an examination prior to submitting an  
 5340 application for licensure pursuant to s. 637.3006 by submitting  
 5341 an application for examination through the department's  
 5342 Internet website. In the application, the applicant shall set  
 5343 forth:

5344 (a) His or her full name, age, social security number,  
 5345 residence address, business address, and mailing address.

5346 (b) The type of license that the applicant intends to  
 5347 apply for.

5348 (c) The name of any required pre-licensing course he or  
 5349 she has completed or is in the process of completing.

5350 (d) The method by which the applicant intends to qualify  
 5351 for the type of license if other than by completing a pre-  
 5352 licensing course.

5353 (e) The applicant's gender.

5354 (f) The applicant's native language.

5355 (g) The highest level of education achieved by the  
 5356 applicant.

5357 (h) The applicant's race or ethnicity. However, the  
 5358 application must contain a statement that an applicant is not

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5359 required to disclose his or her race or ethnicity, gender, or  
 5360 native language, that he or she will not be penalized for not  
 5361 making such disclosure, and that the department will use this  
 5362 information exclusively for research and statistical purposes  
 5363 and to improve the quality and fairness of the examinations.

5364 (3) Each application shall be accompanied by payment of  
 5365 the applicable examination fee.

5366 637.30044 Scope of examination.-

5367 (1) Each examination for a license as a title insurance  
 5368 agent, shall be of such scope as is deemed by the department to  
 5369 be reasonably necessary to test the applicant's ability and  
 5370 competence and knowledge of title insurance and real property  
 5371 transactions of the duties and responsibilities of such a  
 5372 licensee, and of the pertinent provisions of the laws of this  
 5373 state.

5374 (2) Examinations must cover title insurance, abstracting,  
 5375 title searches, examination of title, closing procedures, and  
 5376 escrow handling.

5377 (3) This section applies to any person who submits an  
 5378 application for license and to any person who submits an  
 5379 application for examination prior to filing an application  
 5380 for license.

5381 637.30045 Time and place of examination; notice.-

5382 (1) The department or a person designated by the  
 5383 department shall mail written notice of the time and place of  
 5384 the examination to each applicant for examination and each  
 5385 applicant for license required to take an examination who is  
 5386 eligible to take the examination as of the examination date. The

5387 notice shall be mailed, postage prepaid, and addressed to the  
 5388 applicant at his or her address shown on the application for  
 5389 license or at such other address as requested by the applicant  
 5390 in writing filed with the department prior to the mailing of the  
 5391 notice. Notice shall be deemed given when mailed.

5392 (2) The examination shall be held in an adequate and  
 5393 designated examination center in this state.

5394 (3) The department shall make an examination available to  
 5395 the applicant, to be taken as soon as reasonably possible after  
 5396 the applicant is eligible to take the examination. Any  
 5397 examination required under this part shall be available in this  
 5398 state at a designated examination center.

5399 637.30046 Conduct of examination.—

5400 (1) The applicant for license or the applicant for  
 5401 examination shall appear in person and personally take the  
 5402 examination for license at the time and place specified by  
 5403 the department or by a person designated by the department.

5404 (2) The examination shall be conducted by an employee of  
 5405 the department or a person designated by the department for that  
 5406 purpose.

5407 (3) The questions propounded shall be as prepared by the  
 5408 department, or by a person designated by the department for that  
 5409 purpose, consistent with the applicable provisions of this code.

5410 (4) All examinations shall be given and graded in a  
 5411 fair and impartial manner and without unfair discrimination in  
 5412 favor of or against any particular applicant.

5413 637.30047 Printing of examinations or related materials to  
 5414 preserve examination security.—A contract let for the

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5415 development, administration, or grading of examinations or  
 5416 related materials by the department pursuant to the agent,  
 5417 customer representative, or adjuster licensing and examination  
 5418 provisions of this code may include the printing or furnishing  
 5419 of such examinations or related materials in order to preserve  
 5420 security. Any such contract shall be let as a contract for a  
 5421 contractual service pursuant to s. 287.057.

5422 637.30048 Examination fee; determination, refund.—

5423 (1) Prior to being permitted to take an examination, each  
 5424 applicant who is subject to examination shall pay an examination  
 5425 fee to the department or a person designated by the department.  
 5426 A separate and additional examination fee shall be payable for  
 5427 each separate class of license applied for, notwithstanding that  
 5428 all such examinations are taken on the same date and at the same  
 5429 place.

5430 (2) The fee for examination is not refundable.

5431 637.30049 Reexamination.—

5432 (1) Any applicant for license or applicant for examination  
 5433 who has taken an examination and failed to make a passing grade,  
 5434 or failed to appear for the examination or to take or complete  
 5435 the examination at the time and place specified in the  
 5436 notice of the department, may take additional examinations  
 5437 after filing with the department an application for  
 5438 reexamination together with applicable fees. The failure of an  
 5439 applicant to pass an examination or the failure to appear for  
 5440 the examination or to take or complete the examination does not  
 5441 preclude the applicant from taking subsequent examinations.

5442 (2) The department may require any individual whose

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5443 license as an agent has expired or has been suspended to pass  
5444 an examination prior to reinstating or relicensing the  
5445 individual as to any class of license. The examination fee  
5446 shall be paid as to each examination.

5447 Section 38. Section 626.8414, Florida Statutes, is  
5448 transferred and renumbered as section 637.3005, Florida  
5449 Statutes.

5450 Section 39. Section 626.8417, Florida Statutes, is  
5451 transferred, renumbered as section 637.3006, Florida Statutes,  
5452 and subsections (1) and (3) of that section are amended to read:  
5453 637.3006 ~~626.8417~~ Title insurance agent licensure;  
5454 exemptions.—

5455 (1) A person may not act as or hold himself or herself out  
5456 to be a title insurance agent ~~as defined in s. 626.841~~ until a  
5457 valid title insurance agent's license has been issued to that  
5458 person by the department.

5459 (3) The department shall not grant or issue a license as  
5460 title agent to any individual found by it to be untrustworthy or  
5461 incompetent, who does not meet the qualifications for  
5462 examination specified in s. 637.3005 ~~626.8414~~, or who does not  
5463 meet the following qualifications:

5464 (a) Within the 4 years immediately preceding the date of  
5465 the application for license, the applicant must have completed a  
5466 40-hour classroom course in title insurance, 3 hours of which  
5467 shall be on the subject matter of ethics, as approved by the  
5468 department, or must have had at least 12 months of experience in  
5469 responsible title insurance duties, while working in the title  
5470 insurance business as a substantially full-time, bona fide

5471 employee of a title agency, title agent, title insurer, or  
 5472 attorney who conducts real estate closing transactions and  
 5473 issues title insurance policies but who is exempt from licensure  
 5474 pursuant to paragraph (4) (a). If an applicant's qualifications  
 5475 are based upon the periods of employment at responsible title  
 5476 insurance duties, the applicant must submit, with the  
 5477 application for license on a form prescribed by the department,  
 5478 the affidavit of the applicant and of the employer setting forth  
 5479 the period of such employment, that the employment was  
 5480 substantially full time, and giving a brief abstract of the  
 5481 nature of the duties performed by the applicant.

5482 (b) The applicant must have passed an ~~any~~ examination for  
 5483 licensure ~~required under s. 626.221~~.

5484 Section 40. Section 626.8418, Florida Statutes, is  
 5485 transferred, renumbered as section 637.3007, Florida Statutes,  
 5486 and subsection (1) of that section is amended to read:

5487 637.3007 ~~626.8418~~ Application for title insurance agency  
 5488 license.—Prior to doing business in this state as a title  
 5489 insurance agency, a title insurance agency must meet all of the  
 5490 following requirements:

5491 (1) The applicant must file with the department an  
 5492 application for a license as a title insurance agency, on  
 5493 printed forms furnished by the department, that includes all of  
 5494 the following:

5495 (a) The name of each majority owner, partner, officer, and  
 5496 director of the agency.

5497 (b) The residence address of each person required to be  
 5498 listed under paragraph (a).

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5499 (c) The name of the agency and its principal business  
5500 address.

5501 (d) The location of each title insurance agency ~~office~~ and  
5502 the name under which each title insurance agency ~~office~~ conducts  
5503 or will conduct business.

5504 (e) The name of each title insurance agent to be in full-  
5505 time charge of a title insurance ~~an~~ agency ~~office~~ and  
5506 specification of which title insurance agency ~~office~~.

5507 (f) Such additional information as the department requires  
5508 by rule to ascertain the trustworthiness and competence of  
5509 persons required to be listed on the application and to  
5510 ascertain that such persons meet the requirements of this  
5511 chapter ~~code~~.

5512 Section 41. Section 626.8419, Florida Statutes, is  
5513 transferred and renumbered as section 637.3008, Florida  
5514 Statutes.

5515 Section 42. Section 626.842, Florida Statutes, is  
5516 transferred and renumbered as section 637.3009, Florida  
5517 Statutes.

5518 Section 43. Sections 637.30093, 637.30094, 637.30095,  
5519 637.30096, and 637.30097, Florida Statutes, are created to read:  
5520 637.30093 Continuing education required; application;  
5521 exceptions; requirements; penalties.-

5522 (1) The purpose of this section is to establish  
5523 requirements and standards for continuing education courses for  
5524 persons licensed to solicit or sell title insurance in this  
5525 state.

5526 (2) (a) Each person subject to the provisions of this

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5527 section must complete a minimum of 10 hours of continuing  
5528 education courses every 2 years in title insurance courses  
5529 approved by this state. Each person subject to the provisions  
5530 of this section must complete, as part of his or her required  
5531 number of continuing education hours, 2 hours of continuing  
5532 education, approved by the department, every 2 years on the  
5533 subject matter of ethics, rules, or state and federal regulatory  
5534 compliance matters relating to title insurance and closing  
5535 services.

5536 (b) Any person who holds a license as a title agent must  
5537 complete 10 hours of continuing education courses every 2 years.

5538 (c) Except as provided in paragraph (d), compliance with  
5539 continuing education requirements is a condition precedent to  
5540 the issuance, continuation, reinstatement, or renewal of any  
5541 appointment subject to this chapter.

5542 (d) A person teaching any approved course of instruction  
5543 or lecturing at any approved seminar and attending the entire  
5544 course or seminar shall qualify for the same number of classroom  
5545 hours as would be granted to a person taking and successfully  
5546 completing such course, seminar, or program. Credit shall be  
5547 limited to the number of hours actually taught unless a person  
5548 attends the entire course or seminar. Any person who is an  
5549 official of or employed by any governmental entity in this  
5550 state and serves as a professor, instructor, or in any other  
5551 position or office the duties and responsibilities of which are  
5552 determined by the department to require monitoring and review of  
5553 insurance laws or insurance regulations and practices shall be  
5554 exempt from this section.



5555 (e) Excess classroom hours accumulated during any  
 5556 compliance period may be carried forward to the next compliance  
 5557 period.

5558 (f) For good cause shown, the department may grant an  
 5559 extension of time during which the requirements imposed by this  
 5560 section may be completed, but such extension of time may not  
 5561 exceed 1 year.

5562 (3) The following courses may be completed in order to  
 5563 meet the continuing education course requirements:

5564 (a) In the case of title agents, completion of the  
 5565 Certified Land Closer (CLC) professional designation program  
 5566 and receipt of the designation: 24 hours.

5567 (b) In the case of title agents, completion of the  
 5568 Certified Land Searcher (CLS) professional designation program  
 5569 and receipt of the designation: 24 hours.

5570 (c) Any insurance-related course which is approved by the  
 5571 department and taught by an accredited college or university per  
 5572 credit hour granted: 12 hours.

5573 (d) Any course, including courses relating to agency  
 5574 management or errors and omissions, developed or sponsored by  
 5575 any authorized insurer or recognized agents' association or  
 5576 insurance trade association or any independent study  
 5577 program of instruction, subject to approval by the department,  
 5578 qualifies for the equivalency of the number of classroom hours  
 5579 assigned to such course by the department. However, unless  
 5580 otherwise provided in this section, continuing education  
 5581 course hours may not be credited toward meeting the  
 5582 requirements of this section unless the course is provided

5583 by classroom instruction or results in a monitored examination.

5584 (e) A monitored examination is not required for:

5585 1. An independent study program of instruction presented  
 5586 through interactive, online technology that the department  
 5587 determines has sufficient internal testing to validate the  
 5588 student's full comprehension of the materials presented; or

5589 2. An independent study program of instruction presented on  
 5590 paper or in printed material that imposes a final closed book  
 5591 examination that meets the requirements of the department's rule  
 5592 for self-study courses. The examination may be taken without a  
 5593 proctor provided the student presents to the provider a sworn  
 5594 affidavit certifying that the student did not consult any  
 5595 written materials or receive outside assistance of any kind or  
 5596 from any person, directly or indirectly, while taking the  
 5597 examination. If the student is an employee of an agency or  
 5598 corporate entity, the student's supervisor or a manager or  
 5599 owner of the agency or corporate entity must also sign the sworn  
 5600 affidavit. If the student is self-employed, a sole proprietor,  
 5601 or a partner, or if the examination is administered online, the  
 5602 sworn affidavit must also be signed by a disinterested third  
 5603 party. The sworn affidavit must be received by the approved  
 5604 provider prior to reporting continuing education credits to  
 5605 the department.

5606 (f) Each person or entity sponsoring a course for  
 5607 continuing education credit shall furnish, within 30 days  
 5608 after completion of the course, in a form satisfactory to the  
 5609 department or its designee, a written and certified roster  
 5610 showing the name and license number of all persons

5611 successfully completing such course and requesting credit,  
 5612 accompanied by the required fee.

5613 (4) The department shall refuse to renew the appointment  
 5614 of any agent who has not had his or her continuing education  
 5615 requirements certified unless the agent has been granted an  
 5616 extension by the department. The department may not issue a new  
 5617 appointment of the same or similar type, with any insurer, to an  
 5618 agent who was denied a renewal appointment for failure to  
 5619 complete continuing education as required until the agent  
 5620 completes his or her continuing education requirement.

5621 (5) An 11-member continuing education advisory board is  
 5622 created, to be appointed by the Chief Financial Officer.  
 5623 Appointments shall be for terms of 4 years. The purpose of the  
 5624 board is to advise the department in determining standards by  
 5625 which courses may be evaluated and categorized as basic,  
 5626 intermediate, or advanced. The board shall submit to the  
 5627 department recommendations of changes needed in such criteria  
 5628 not less frequently than every 2 years. The department shall  
 5629 require all approved course providers to submit courses for  
 5630 approval to the department using the criteria. All materials,  
 5631 brochures, and advertisements related to the approved courses  
 5632 must specify the level assigned to the course.

5633 (6) The department may contract services relative to the  
 5634 administration of the continuing education program to a private  
 5635 entity. The contract shall be procured as a contract for a  
 5636 contractual service pursuant to s. 287.057.

5637 637.30094 Regulation of continuing education for  
 5638 licensees, course providers, instructors, school officials, and

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5639 monitor groups.-

5640 (1) Continuing education course providers, instructors,  
5641 school officials, and monitor groups must be approved by the  
5642 department before offering continuing education courses pursuant  
5643 to s. 637.30093.

5644 (2) The department shall adopt rules establishing  
5645 standards for the approval, regulation, and operation of the  
5646 continuing education programs and for the discipline of  
5647 licensees, course providers, instructors, school officials, and  
5648 monitor groups. The standards must be designed to ensure that  
5649 such course providers, instructors, school officials, and  
5650 monitor groups have the knowledge, competence, and integrity to  
5651 fulfill the educational objectives of s. 637.30093.

5652 (3) The department shall adopt rules establishing a  
5653 process by which compliance with the continuing education  
5654 requirements of s. 637.30093 can be determined, the  
5655 establishment of a continuing education compliance period for  
5656 licensees, and forms necessary to implement such a process.

5657 637.30095 Regulation of course providers, instructors,  
5658 school officials, and monitor groups involved in prelicensure  
5659 education for insurance agents and other licensees.-

5660 (1) Any course provider, instructor, school official, or  
5661 monitor group must be approved by and registered with the  
5662 department before offering prelicensure education courses for  
5663 insurance agents and other licensees.

5664 (2) The department shall adopt rules establishing standards  
5665 for the approval, registration, discipline, or removal from  
5666 registration of course providers, instructors, school officials,

5667 and monitor groups. The standards must be designed to ensure  
 5668 that such persons have the knowledge, competence, and integrity  
 5669 to fulfill the educational objectives of the prelicensure  
 5670 requirements of this chapter and chapter 648 and to ensure that  
 5671 insurance agents and licensees are competent to engage in the  
 5672 activities authorized under the license.

5673 (3) The department shall adopt rules to establish a  
 5674 process for determining compliance with the prelicensure  
 5675 requirements of this chapter and chapter 648. The department  
 5676 shall adopt rules prescribing the forms necessary to administer  
 5677 the prelicensure requirements.

5678 637.30096 Examination results; denial, issuance of  
 5679 license.-

5680 (1) Within 30 days after the applicant has completed any  
 5681 examination required under s. 637.30042, the department or its  
 5682 designee shall provide a score report and, if the applicant has  
 5683 received a passing grade, the department shall within such  
 5684 period notify the applicant and issue and transmit the license  
 5685 to which such examination related. If the applicant did not make  
 5686 a passing grade on the examination for a particular license, the  
 5687 department or its designee shall within such period provide  
 5688 notice to the applicant to that effect and of the denial of the  
 5689 license. For an applicant who has completed the examination and  
 5690 received a passing grade prior to submitting the license  
 5691 application, the department shall promptly issue the license  
 5692 applied for as soon as the department approves the application.

5693 (2) A passing grade on an examination is valid for a  
 5694 period of 1 year. The department may not issue a license to an

5695 applicant based upon an examination taken more than 1 year prior  
 5696 to the date an application for a license is filed.

5697 637.30097 Form and contents of licenses in general.—Each  
 5698 license issued by the department shall be in such form as the  
 5699 department may designate and must contain the licensee's name,  
 5700 the licensee's personal identification number, the date of  
 5701 issuance, and any other information the department deems  
 5702 necessary to fully identify the licensee and the authority being  
 5703 granted. The department may by rule require photographs of  
 5704 applicants as a part of the licensing process.

5705 Section 44. Section 626.84201, Florida Statutes, is  
 5706 transferred, renumbered as section 637.3011, Florida Statutes,  
 5707 and amended to read:

5708 637.3011 ~~626.84201~~ Nonresident title insurance agents.—  
 5709 Notwithstanding s. 637.3005(2) ~~626.8414(2)~~, the department, upon  
 5710 application and payment of the fees specified in s. 637.2031  
 5711 ~~624.501~~, may issue a license as a nonresident title insurance  
 5712 agent to an individual not a resident of this state in the same  
 5713 manner applicable to the licensure of nonresident general lines  
 5714 agents under the provisions of s. 626.741, provided the  
 5715 individual passes the examination for licensure required under  
 5716 s. 637.30042 ~~626.221~~. Nonresident title insurance agents  
 5717 licensed pursuant to this section must complete the continuing  
 5718 education requirements of s. 637.30093 ~~626.2815~~ in the same  
 5719 manner as resident title insurance agents. Sections 626.742 and  
 5720 626.743 apply to nonresident title insurance agents.

5721 Section 45. Section 626.8421, Florida Statutes, is  
 5722 transferred, renumbered as section 637.3012, Florida Statutes,  
 5723 and amended to read:

5724 637.3012 ~~626.8421~~ Number of appointments permitted or  
 5725 required.—A title agent shall be required to have a separate  
 5726 appointment as to each insurer by which he or she is appointed  
 5727 as agent. As a part of each appointment there shall be a  
 5728 certified statement or affidavit of an appropriate officer or  
 5729 official of the appointing insurer stating that to the best of  
 5730 the insurer's knowledge and belief the applicant, or its  
 5731 principals in the case of a corporation or other legal entity,  
 5732 has met the requirements of s. 637.3006 ~~626.8417~~.

5733 Section 46. Section 637.30125, Florida Statutes, is  
 5734 created to read:

5735 637.30125 Agent in charge.—

5736 (1) Each location of a title insurance agency or insurer  
 5737 at which primary title services as defined in s. 637.1004 are  
 5738 performed shall have a separate agent in charge. The failure  
 5739 to designate an agent in charge on a form prescribed by the  
 5740 department, within 10 working days after an agency's inception  
 5741 or a change of the agent in charge, is a violation of this  
 5742 chapter, punishable as provided in s. 637.3018.

5743 (2) The agent in charge shall accept and be responsible  
 5744 for the overall operation and management of a title agency  
 5745 location. The agent in charge's responsibilities may include,  
 5746 but shall not be limited to, hiring and supervising all  
 5747 individuals within the location, whether the individuals deal  
 5748 with the public in the solicitation or negotiation of title

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5749 insurance contracts or in the collection or accounting of  
5750 moneys.

5751 (3) An individual must be physically located on a full-  
5752 time basis in the same agency office in order to be the agent in  
5753 charge of that agency office, and an individual may be  
5754 designated as the agent in charge for only one licensed agency  
5755 at a single physical location.

5756 (4) The department may suspend or revoke the license of  
5757 the owner, operator, and agent in charge if a title insurance  
5758 agency employs, contracts with, or uses the services of a  
5759 person who has had a license denied or whose license is  
5760 currently suspended or revoked. However, a person who has been  
5761 denied a license for failure to pass a required examination  
5762 may be employed to perform clerical or administrative functions  
5763 for which licensure is not required.

5764 (5) An agency that has an attorney that is in charge of  
5765 the agency shall designate that attorney to be in charge of only  
5766 one location of a single licensed title agency.

5767 (6) The department may adopt rules pursuant to ss.  
5768 120.536(1) and 120.54 to implement this section and interpret  
5769 the duties and responsibilities of the agent in charge or the  
5770 attorney in charge of a licensed title insurance agency.

5771 Section 47. Section 626.8423, Florida Statutes, is  
5772 transferred and renumbered as section 637.3013, Florida  
5773 Statutes.

5774 Section 48. Section 637.30133, Florida Statutes, is  
5775 created to read:

5776 637.30133 Consumer protections.—To transact title



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5777 insurance, title insurance agents shall comply with consumer  
5778 protection laws, including the following, as applicable:

5779 (1) Continuing education requirements for resident and  
5780 nonresident agents, as required in s. 637.30093.

5781 (2) Fingerprinting requirements for resident and  
5782 nonresident agents, as required under s. 626.171 or s.  
5783 637.30135.

5784 (3) Fingerprinting following a department investigation  
5785 under s. 637.1019.

5786 (4) The submission of credit and character reports, as  
5787 required by s. 626.171 or s. 626.521.

5788 (5) Qualifications for licensure as an agent in s.  
5789 626.731, s. 626.741, s. 626.785, s. 626.831, s. 626.835, or s.  
5790 6378.2077.

5791 (6) Examination requirements in s. 626.741, s. 626.835,  
5792 637.2077, or s. 637.30042.

5793 (7) Required licensure or registration of insurance  
5794 agencies under s. 626.112.

5795 (8) Requirements for licensure of resident and  
5796 nonresident agents in s. 626.112, s. 626.321, s. 626.731, s.  
5797 626.741, s. 626.785, s. 626.831, s. 626.835, s. 626.927, or s.  
5798 637.2077.

5799 (9) Any other licensing requirement, restriction, or  
5800 prohibition designated a consumer protection by the Chief  
5801 Financial Officer, but not inconsistent with the requirements of  
5802 Subtitle C of the Gramm-Leach-Bliley Act, 15 U.S.C.A. ss. 6751  
5803 et seq.

5804 Section 49. Section 637.30135, Florida Statutes, is

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5805 created to read:

5806 637.30135 Fingerprinting requirements.—If there is a  
5807 change in ownership or control of any entity licensed under this  
5808 chapter, or if a new partner, officer, or director is employed  
5809 or appointed, a set of fingerprints of the new owner, partner,  
5810 officer, or director must be filed with the department or office  
5811 within 30 days after the change. The acquisition of 10 percent  
5812 or more of the voting securities of a licensed entity is  
5813 considered a change of ownership or control. The fingerprints  
5814 must be taken by a law enforcement agency or other  
5815 department-approved entity and be accompanied by the  
5816 fingerprint processing fee in s. 637.2031.

5817 Section 50. Section 626.8427, Florida Statutes, is  
5818 transferred and renumbered as section 637.3014, Florida  
5819 Statutes.

5820 Section 51. Sections 637.30142, 637.30143, 637.30144,  
5821 637.30145, 637.30146, and 637.30147, Florida Statutes, are  
5822 created to read:

5823 637.30142 Payment of fees, taxes for appointment period  
5824 without appointment.—

5825 (1) All initial appointments shall be submitted to the  
5826 department on a monthly basis no later than 45 days after the  
5827 date of appointment and shall become effective on the date  
5828 requested on the appointment form.

5829 (2) Upon application and qualification for an initial or  
5830 renewal appointment and such investigation as the department may  
5831 make, if it appears to the department that an individual who was  
5832 formerly licensed or is currently licensed but not properly

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5833 appointed to represent an insurer or employer and who has  
 5834 been actively engaged or is currently actively engaged as such  
 5835 an appointee, but without being appointed as required, the  
 5836 department, if it finds that such failure to be appointed was an  
 5837 inadvertent error on the part of the insurer or employer so  
 5838 represented, may issue or authorize the issuance of the  
 5839 appointment as applied for but subject to the condition that,  
 5840 before the appointment is issued, all fees and taxes which  
 5841 would have been due had the applicant been so appointed during  
 5842 such current and prior periods, with applicable fees pursuant to  
 5843 s. 637.2031 for such current and prior periods of appointment,  
 5844 shall be paid to the department.

5845 (3) (a) Failure to notify the department within the  
 5846 required time period shall result in the appointing entity being  
 5847 assessed a delinquent fee of \$250 per appointee. Delinquent fees  
 5848 shall be paid by the appointing entity and may not be charged to  
 5849 the appointee.

5850 (b) Failure to timely renew an appointment by an  
 5851 appointing entity prior to the expiration date of the  
 5852 appointment shall result in the appointing entity being assessed  
 5853 late filing, continuation, and reinstatement fees as prescribed  
 5854 in s. 637.2031. Such fees shall be paid by the appointing entity  
 5855 and may not be charged back to the appointee.

5856 637.30143 License or appointment; transferability.—A  
 5857 license or appointment issued under this part is valid only as  
 5858 to the person named and is not transferable to any other  
 5859 person. A licensee or appointee may not allow any other  
 5860 person to transact insurance by using the license or

5861 appointment issued to such licensee or appointee.  
 5862 637.30144 Termination of appointment.—  
 5863 (1) Subject to an appointee's contract rights, an  
 5864 appointing entity may terminate its appointment of any appointee  
 5865 at any time. Except when termination is upon a ground which  
 5866 would subject the appointee to suspension or revocation of his  
 5867 or her license and appointment under s. 637.3017 or s. 637.3018,  
 5868 and except as provided by contract between the appointing entity  
 5869 and the appointee, the appointing entity shall give to the  
 5870 appointee at least 60 days' advance written notice of its  
 5871 intention to terminate such appointment by delivery of such  
 5872 notice to the appointee in person or by mailing the notice,  
 5873 postage prepaid, addressed to the appointee at his or her last  
 5874 address of record with the appointing entity. Notice so mailed  
 5875 shall be deemed to have been given when deposited in a United  
 5876 States Postal Service mail depository.  
 5877 (2) Within 30 days after terminating the appointment  
 5878 of an appointee, other than as to an appointment terminated by  
 5879 the appointing entity's failure to continue or renew the  
 5880 appointment, the appointing entity shall file with the  
 5881 department a written notice of the termination, together with  
 5882 a statement that the appointing entity has given the  
 5883 appointee notice of the termination as provided in subsection  
 5884 (1) and shall file with the department the reasons and facts  
 5885 involved in such termination as required under s. 637.30145.  
 5886 (3) Upon termination of the appointment of an appointee by  
 5887 failure to renew or continue the appointment, the appointing  
 5888 entity shall:

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5889           (a) File with the department the information required  
 5890 under s. 637.30145.

5891           (b) Subject to the exceptions provided under subsection  
 5892 (1), continue the outstanding contracts transacted by an agent  
 5893 until the expiration date or anniversary date when the policy is  
 5894 a continuous policy with no expiration date. This paragraph  
 5895 shall not be construed to prohibit the cancellation of such  
 5896 contracts when not otherwise prohibited by law.

5897           (4) An appointee may terminate the appointment at any  
 5898 time by giving written or electronic notice of such termination  
 5899 to the appointing entity, department, or person designated by the  
 5900 department to administer the appointment process. The department  
 5901 shall immediately terminate the appointment and notify the  
 5902 appointing entity of such termination. Such termination shall be  
 5903 subject to the appointee's contract rights, if any.

5904           (5) Upon receiving a notice of termination, the department  
 5905 or person designated by the department to administer the  
 5906 appointment process shall terminate the appointment.

5907           637.30145 Reasons for termination.-

5908           (1) Any insurer terminating the appointment of an agent or  
 5909 managing general agent, whether such termination is by direct  
 5910 action of the appointing insurer, agent, or employer or by  
 5911 failure to renew or continue the appointment, shall file with  
 5912 the department or office a statement of the reasons, if any, for  
 5913 such termination and the facts relative to such termination. In  
 5914 the case of a termination of the appointment of an agent, such  
 5915 information may be filed by the insurer or by the general agent  
 5916 of the insurer.

5917       (2) In the case of terminations by failure to renew or  
 5918 continue the appointment, the information required under  
 5919 subsection (1) shall be filed with the department or office  
 5920 within 30 days after the date notice of intention not to renew  
 5921 or continue was filed with the department or office as required  
 5922 by this chapter. In all other cases, the information required  
 5923 under subsection (1) shall be filed with the department or  
 5924 office within 10 days after notice of the termination was filed  
 5925 with the department or office.

5926       637.30146 Delinquent agencies; notice of trusteeship.—If  
 5927 any agent or agency becomes delinquent for 90 days in payment of  
 5928 accounts owing to the insurer or insurers represented by the  
 5929 agent or agency and a trusteeship or similar arrangement for the  
 5930 administration of the affairs of the agent or agency is  
 5931 instituted, the insurer or insurers involved in such trusteeship  
 5932 or arrangement shall immediately give written notice of such  
 5933 trusteeship or arrangement to the department. The notice shall  
 5934 state the name and address of each such agent, the circumstances  
 5935 and estimated amount of delinquency, and such other information  
 5936 as the insurer deems pertinent or as the department may  
 5937 reasonably require.

5938       637.30147 Procedure for refusal, suspension, or revocation  
 5939 of license.—If any licensee is convicted of a violation of  
 5940 this code or a felony, the licenses and appointments of such  
 5941 person shall be immediately revoked by the department. The  
 5942 licensee may subsequently request a hearing pursuant to ss.  
 5943 120.569 and 120.57, and the department shall expedite any such  
 5944 requested hearing. The sole issue at such hearing shall be

5945 whether the revocation should be rescinded because such person  
 5946 was not in fact convicted of a violation of this code or a  
 5947 felony.

5948 Section 52. Section 626.843, Florida Statutes, is  
 5949 transferred, renumbered as section 637.3015, Florida Statutes,  
 5950 and amended to read:

5951 637.3015 ~~626.843~~ Renewal, continuation, reinstatement,  
 5952 termination of title insurance agent's appointment.—

5953 (1) The appointment of a title insurance agent shall  
 5954 continue in force until suspended, revoked, or otherwise  
 5955 terminated, but subject to a renewed request filed by the  
 5956 insurer every 24 months after the original issue date of the  
 5957 appointment, accompanied by payment of the renewal appointment  
 5958 fee and taxes as prescribed in s. 637.2031 ~~624.501~~.

5959 (2) (a) Renewal of an appointment that is received by the  
 5960 department or person designated by the department to administer  
 5961 the appointment process prior to the expiration of an  
 5962 appointment in the licensee's birth month or license issue date,  
 5963 whichever applies, may be renewed by the department without  
 5964 penalty and shall be effective as of the first day of the month  
 5965 succeeding the month in which the appointment would have  
 5966 expired.

5967 (b) Renewal of an appointment that is received by the  
 5968 department or person designated by the department to administer  
 5969 the appointment process after the renewal date may be accepted  
 5970 and effectuated by the department in its discretion if the  
 5971 appointment, late filing, continuation, and reinstatement fee  
 5972 accompanies the renewal request pursuant to s. 637.2031. Late

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5973 | filing fees shall be paid by the appointing entity and may not  
 5974 | be charged to the appointee ~~Title insurance agent appointments~~  
 5975 | ~~shall be renewed pursuant to s. 626.381 for insurance~~  
 5976 | ~~representatives in general.~~

5977 | (3) The appointment issued shall remain in effect for so  
 5978 | long as the appointment represented thereby continues in force  
 5979 | as provided in this section.

5980 | Section 53. Section 626.8433, Florida Statutes, is  
 5981 | transferred and renumbered as section 637.3016, Florida  
 5982 | Statutes.

5983 | Section 54. Section 626.8437, Florida Statutes, is  
 5984 | transferred, renumbered as section 637.3017, Florida Statutes,  
 5985 | and amended to read:

5986 | 637.3017 ~~626.8437~~ Grounds for denial, suspension,  
 5987 | revocation, or refusal to renew license or appointment.—

5988 | (1) The department shall deny, suspend, revoke, or refuse  
 5989 | to renew or continue the license or appointment of any title  
 5990 | insurance agent or agency, and it shall suspend or revoke the  
 5991 | eligibility to hold a license or appointment of such person, if  
 5992 | it finds that as to the applicant, licensee, appointee, or any  
 5993 | principal thereof, any one or more of the following grounds  
 5994 | exist:

5995 | (a) ~~(1)~~ Lack of one or more of the qualifications for the  
 5996 | license or appointment as specified in ss. 637.3006, 637.3007,  
 5997 | and 637.3008 ~~626.8417, 626.8418, and 626.8419.~~

5998 | (b) ~~(2)~~ Material misstatement, misrepresentation, or fraud  
 5999 | in obtaining, or attempting to obtain, the license or  
 6000 | appointment.



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6001        (c)~~(3)~~ Willful misrepresentation of any title insurance  
 6002 policy, guarantee of title, binder, or commitment, or willful  
 6003 deception with regard to any such policy, guarantee, binder, or  
 6004 commitment, done either in person or by any form of  
 6005 dissemination of information or advertising.

6006        (d)~~(4)~~ Demonstrated lack of fitness or trustworthiness to  
 6007 represent a title insurer in the issuance of its commitments,  
 6008 binders, policies of title insurance, or guarantees of title.

6009        (e)~~(5)~~ Demonstrated lack of reasonably adequate knowledge  
 6010 and technical competence to engage in the transactions  
 6011 authorized by the license or appointment.

6012        (f)~~(6)~~ Fraudulent or dishonest practices in the conduct of  
 6013 business under the license or appointment.

6014        (g)~~(7)~~ Misappropriation, conversion, or unlawful  
 6015 withholding of moneys belonging to title insurers or insureds or  
 6016 others and received in conduct of business under the license or  
 6017 appointment.

6018        (h)~~(8)~~ Unlawful rebating, or attempting to unlawfully  
 6019 rebate, or unlawfully dividing, or offering to unlawfully  
 6020 divide, title insurance premiums, fees, or charges with another,  
 6021 as prohibited by s. 637.1033(7)(b). ~~626.9541(1)(h)3.~~

6022        (i)~~(9)~~ Willful failure to comply with, or willful  
 6023 violation of, any proper order or rule of the department or  
 6024 willful violation of any provision of this act.

6025        (j)~~(10)~~ The licensee if an individual, or the partners if  
 6026 a partnership, or owner if a sole proprietorship, or the  
 6027 officers if a corporation, having been found guilty of or having  
 6028 pleaded guilty or nolo contendere to a felony or a crime

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6029 | punishable by imprisonment of 1 year or more under the law of  
 6030 | the United States or of any state or under the law of any other  
 6031 | country which involves moral turpitude, without regard to  
 6032 | whether a judgment of conviction has been entered by the court  
 6033 | having jurisdiction of such cases.

6034 | (k) Failure to timely submit data as required by the  
 6035 | department.

6036 | (2) Upon receipt of an information or indictment, the  
 6037 | department shall immediately temporarily suspend any license or  
 6038 | appointment issued under this chapter when the licensee has been  
 6039 | convicted of an insurance or financial-related felony or a crime  
 6040 | involving moral turpitude or a crime punishable by imprisonment  
 6041 | of 1 year or more under the law of any state, territory, or  
 6042 | country. Such suspension shall continue if the licensee has been  
 6043 | found guilty of, or has pleaded guilty or no contest to, the  
 6044 | crime, whether or not a judgment or conviction has been entered,  
 6045 | during a pending appeal. A person may not affect any additional  
 6046 | insurance after suspension of his or her license or appointment.  
 6047 | However, he or she may service the policies effected prior to  
 6048 | such suspension.

6049 | Section 55. Section 626.844, Florida Statutes, is  
 6050 | transferred, renumbered as section 637.3018, Florida Statutes,  
 6051 | and amended to read:

6052 | 637.3018 ~~626.844~~ Grounds for discretionary refusal,  
 6053 | suspension, or revocation of license or appointment.—The  
 6054 | department may, in its discretion, deny, suspend, revoke, or  
 6055 | refuse to renew or continue the license or appointment of any  
 6056 | title insurance agent or agency, and it may suspend or revoke

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6057 | the eligibility to hold a license or appointment of any such  
 6058 | title insurance agent or agency if it finds that as to the  
 6059 | applicant or licensee or appointee, or any principal thereof,  
 6060 | any one or more of the following grounds exist under  
 6061 | circumstances for which such denial, suspension, revocation, or  
 6062 | refusal is not mandatory under s. 637.3017 ~~626.8437~~:

6063 |       (1) Any cause for which issuance of the license or  
 6064 | appointment could have been refused had it then existed and been  
 6065 | known to the department.

6066 |       (2) Violation of any provision of this act in the course  
 6067 | of dealing under the license or appointment.

6068 |       (3) Violation of any lawful order or rule of the  
 6069 | department.

6070 |       (4) Failure or refusal upon demand to pay over to any  
 6071 | title insurer that the appointee represents or has represented  
 6072 | any money coming into the hands of such appointee and belonging  
 6073 | to the title insurer.

6074 |       (5) Engaging in unfair methods of competition or in unfair  
 6075 | or deceptive acts or practices in the conduct of business, as  
 6076 | prohibited under part IX of this chapter, or having otherwise  
 6077 | shown himself or herself to be a source of injury or loss to the  
 6078 | public or to be detrimental to the public interest.

6079 |       (6) The licensee if an individual, or the partners if a  
 6080 | partnership, or owner if a sole proprietorship, or the officers  
 6081 | if a corporation, having been found guilty of or having pleaded  
 6082 | guilty or nolo contendere to a felony or a crime punishable by  
 6083 | imprisonment of 1 year or more under the law of the United  
 6084 | States or of any state or under the law of any other country,

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6085 without regard to whether a judgment of conviction has been  
6086 entered by the court having jurisdiction of such cases.

6087 (7) Failure or refusal upon demand by any title insurer  
6088 that the appointee represents or has represented to pay any  
6089 money coming into the hands of such appointee and belonging to  
6090 the title insurer.

6091 (8) Failure to maintain the insurer's portion of the  
6092 premium in escrow.

6093 (9) Fraud, misrepresentation, or deceit in any title  
6094 insurance transaction.

6095 (10) Failure to comply with s. 637.3029.

6096 (11) Failure to account or deliver to any person any  
6097 property that has come into the agency's hands and that is not  
6098 the agency's property or that the agency is not in law or equity  
6099 entitled to retain, under the circumstances and at the time that  
6100 has been agreed upon or is required by law or, in the absence of  
6101 a fixed time, upon demand of the person entitled to such  
6102 accounting and delivery absent a good faith dispute, lack of  
6103 mutual instructions, or doubt about entitlement thereto.

6104 (12) Failure to disburse escrow funds in accordance with  
6105 agreements signed by the seller and the buyer absent a good  
6106 faith dispute or lack of mutual instructions from the buyer and  
6107 seller about entitlement thereto.

6108 (13) Acting as or holding himself or herself out to be a  
6109 title insurance agent or title insurance agency without a  
6110 current, active license issued by the Department of Financial  
6111 Services.

6112           (14) Providing a closing protection letter, title  
 6113 insurance commitment, or title insurance policy for an insurer  
 6114 that the licensee is not actively appointed to represent.

6115           (15) Failure to maintain, preserve, and keep available for  
 6116 examination all books, accounts, or other documents required by  
 6117 ss. 637.30044-637.3015 and s. 637.3029 and the rules of the  
 6118 department.

6119           (16) Failure to allow an investigation or examination of  
 6120 books and records by the department.

6121           (17) Adding any amount to the charges of other providers  
 6122 of service in a real estate transaction without adding value to  
 6123 the services provided.

6124           (18) Failure to timely deliver the property deed,  
 6125 mortgage, and other documents related to a closing transaction  
 6126 with the appropriate recording authority.

6127           (19) Failure to timely deliver the escrow funds to the  
 6128 appropriate entity or to the state if the owner is unable to be  
 6129 located pursuant to chapter 717.

6130           Section 56. Section 626.8443, Florida Statutes, is  
 6131 transferred, renumbered as section 637.3019, Florida Statutes,  
 6132 and subsection (4) of that section is amended to read:

6133           637.3019 ~~626.8443~~ Duration of suspension or revocation.—

6134           (4) During the period of suspension or after revocation of  
 6135 the license and appointment, the former licensee shall not  
 6136 engage in or attempt to profess to engage in any transaction or  
 6137 business for which a license or appointment is required under  
 6138 this chapter ~~code~~ or directly or indirectly own, control, or be  
 6139 employed in any manner by any title insurance agent or title

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6140 insurance agency ~~or adjuster or adjusting firm~~.

6141 Section 57. Section 626.8447, Florida Statutes, is  
 6142 transferred and renumbered as section 637.3021, Florida  
 6143 Statutes.

6144 Section 58. Section 626.845, Florida Statutes, is  
 6145 transferred and renumbered as section 637.3022, Florida  
 6146 Statutes.

6147 Section 59. Section 626.8453, Florida Statutes, is  
 6148 transferred, renumbered as section 637.3023, Florida Statutes,  
 6149 and amended to read:

6150 637.3023 ~~626.8453~~ Penalty for violation.—A person who  
 6151 knowingly makes a false or otherwise fraudulent application for  
 6152 a license or appointment under this act, or who knowingly  
 6153 violates any provision of s. 637.2032 ~~624.5015~~, ss. 637.3006-  
 6154 637.3029 ~~626.8417-626.847~~, or s. 637.2076 ~~627.791~~, in addition  
 6155 to any applicable denial, suspension, revocation, or refusal to  
 6156 renew or continue any license or appointment, commits a  
 6157 misdemeanor of the second degree, punishable as provided in s.  
 6158 775.082 or s. 775.083. Each instance of violation shall be  
 6159 considered a separate offense.

6160 Section 60. Section 626.8457, Florida Statutes, is  
 6161 transferred and renumbered as section 637.3024, Florida  
 6162 Statutes.

6163 Section 61. Section 626.846, Florida Statutes, is  
 6164 transferred, renumbered as section 637.3025, Florida Statutes,  
 6165 and subsection (1) of that section is amended to read:

6166 637.3025 ~~626.846~~ Probation.—

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6167 (1) If the department finds that one or more grounds exist  
 6168 for the suspension of, revocation of, or refusal to renew or  
 6169 continue any license or appointment issued under this act, the  
 6170 department may, except when an administrative fine is not  
 6171 permissible under s. 637.3024 ~~626.8457~~ or when such suspension,  
 6172 revocation, or refusal is mandatory, in lieu of such suspension,  
 6173 revocation, or refusal, or in connection with any administrative  
 6174 monetary penalty imposed under s. 637.3024 ~~626.8457~~, place the  
 6175 offending licensee or appointee on probation for a period not to  
 6176 exceed 2 years, as specified by the department in its order.

6177 Section 62. Section 626.8463, Florida Statutes, is  
 6178 transferred, renumbered as section 637.3026, Florida Statutes,  
 6179 and subsection (1) of that section is amended to read:

6180 637.3026 ~~626.8463~~ Witnesses and evidence.—

6181 (1) As to the subject of any examination, investigation,  
 6182 or hearing being conducted by him or her under s. 637.2032, s.  
 6183 637.2076, or ~~624.5015~~, ss. 637.3006-637.3029 ~~626.8417-626.847~~,  
 6184 ~~or s. 627.791~~, an examiner appointed by the department ~~or office~~  
 6185 may administer oaths, examine and cross-examine witnesses, and  
 6186 receive oral and documentary evidence and shall have the power  
 6187 to subpoena witnesses, compel their attendance and testimony,  
 6188 and require by subpoena the production of books, papers,  
 6189 records, files, correspondence, documents, or other evidence  
 6190 which the examiner deems relevant to the inquiry.

6191 Section 63. Section 626.8467, Florida Statutes, is  
 6192 transferred, renumbered as section 637.3027, Florida Statutes,  
 6193 and amended to read:

6194 637.3027 ~~626.8467~~ Testimony compelled; immunity from  
 6195 prosecution.—

6196 (1) If a person asks to be excused from attending or  
 6197 testifying or from producing any books, papers, records,  
 6198 contracts, documents, or other evidence in connection with any  
 6199 examination, hearing, or investigation being conducted under s.  
 6200 637.2032, s. 637.2076, or 624.5015, ss. 637.3006-637.3029  
 6201 ~~626.8417-626.847, or s. 627.791~~ by the department ~~or office~~ or  
 6202 its examiner on the ground that the testimony or evidence  
 6203 required of the person may tend to incriminate him or her or  
 6204 subject him or her to a penalty or forfeiture and  
 6205 notwithstanding is directed to give such testimony or produce  
 6206 such evidence, the person must, if so directed by the Department  
 6207 of Financial Services and the Department of Legal Affairs or by  
 6208 the department ~~office~~ and the Department of Legal Affairs,  
 6209 nonetheless comply with such direction, but he or she shall not  
 6210 thereafter be prosecuted or subjected to any penalty or  
 6211 forfeiture for or on account of any transaction, matter, or  
 6212 thing concerning which he or she may have so testified or  
 6213 produced evidence, and no testimony so given or evidence  
 6214 produced shall be received against the person upon any criminal  
 6215 action, investigation, or proceeding. However, a person so  
 6216 testifying shall not be exempt from prosecution or punishment  
 6217 for any perjury committed by him or her in such testimony, and  
 6218 the testimony or evidence so given or produced shall be  
 6219 admissible against him or her upon any criminal action,  
 6220 investigation, or proceeding concerning such perjury; and such  
 6221 person shall not be exempt from the refusal, suspension, or



6222 revocation of any license or appointment, permission, or  
 6223 authority conferred or to be conferred pursuant to s. 637.2032,  
 6224 s. 637.2076, or ~~624.5015~~, ss. 637.3006-637.3029 ~~626.8417-~~  
 6225 ~~626.847, or s. 627.791.~~

6226 (2) Any such person may execute, acknowledge, and file  
 6227 with the department of ~~Financial Services or the office~~, as  
 6228 ~~appropriate~~, a statement expressly waiving such immunity or  
 6229 privilege with respect to any transaction, matter, or thing  
 6230 specified in the statement, and thereupon the testimony of such  
 6231 person or such evidence in relation to such transaction, matter,  
 6232 or thing may be received or produced before any judge or  
 6233 justice, court, tribunal, or grand jury or otherwise and, if so  
 6234 received or produced, such person shall not be entitled to any  
 6235 immunity or privilege on account of any testimony he or she may  
 6236 so give or evidence so produced.

6237 Section 64. Section 626.847, Florida Statutes, is  
 6238 transferred, renumbered as section 637.3028, Florida Statutes,  
 6239 and amended to read:

6240 637.3028 ~~626.847~~ Penalty for refusal to testify.—A person  
 6241 who refuses or fails, without lawful cause, to testify relative  
 6242 to the affairs of any title insurer or other person when  
 6243 subpoenaed under s. 637.3026 ~~626.8463~~ and requested by the  
 6244 department ~~or office~~ to so testify is guilty of a misdemeanor of  
 6245 the second degree and, upon conviction, is punishable as  
 6246 provided in s. 775.082 or s. 775.083.

6247 Section 65. Section 626.8473, Florida Statutes, is  
 6248 transferred, renumbered as section 637.3029, Florida Statutes,  
 6249 and subsections (1) and (6) of that section are amended to read:

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6250 637.3029 ~~626.8473~~ Escrow; trust fund.—

6251 (1) A title insurance agent may engage in business as an  
 6252 escrow agent as to funds received from others to be subsequently  
 6253 disbursed by the title insurance agent in connection with real  
 6254 estate closing transactions involving the issuance of title  
 6255 insurance binders, commitments, policies of title insurance, or  
 6256 guarantees of title, provided that a licensed and appointed  
 6257 title insurance agent complies with the requirements of s.  
 6258 637.3006 ~~626.8417~~, including such requirements added after the  
 6259 initial licensure of the agent.

6260 (6) In the event that the department adopts ~~promulgates~~  
 6261 rules necessary to implement the requirements of this section  
 6262 pursuant to s. 637.1007 ~~624.308~~, the department shall consider  
 6263 reasonable standards necessary for the protection of funds held  
 6264 in trust, including, but not limited to, standards for  
 6265 accounting of funds, standards for receipt and disbursement of  
 6266 funds, and protection for the person or persons to whom the  
 6267 funds are to be disbursed.

6268 Section 66. Section 637.30295, Florida Statutes, is  
 6269 created to read:

6270 637.30295 Collection of title insurance information.—Each  
 6271 title insurance agency licensed to do business in this state and  
 6272 each insurer doing direct, retail, or affiliated business in  
 6273 this state shall maintain and submit information, including  
 6274 revenue, loss, and expense data, as the department determines to  
 6275 be necessary to assist in the analysis of title insurance premium  
 6276 rates, title search costs, and the condition of the title  
 6277 insurance industry in this state. This information must be

6278 transmitted to the department no later than March 31 of each  
 6279 year following the reporting year. The department shall adopt  
 6280 rules to assist in the collection and analysis of the data from  
 6281 the title insurance industry.

6282 Section 67. Paragraphs (a), (e), and (f) of subsection (1)  
 6283 of section 624.5105, Florida Statutes, are amended to read:

6284 624.5105 Community contribution tax credit; authorization;  
 6285 limitations; eligibility and application requirements;  
 6286 administration; definitions; expiration.—

6287 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

6288 (a) There shall be allowed a credit of 50 percent of a  
 6289 community contribution against any tax due for a calendar year  
 6290 under s. 624.509, ~~or~~ s. 624.510, or s. 637.2039.

6291 (e) If the credit granted pursuant to this section is not  
 6292 fully used in any one year because of insufficient tax liability  
 6293 on the part of the insurer, the unused amount may be carried  
 6294 forward for a period not to exceed 5 years. The carryover credit  
 6295 may be used in a subsequent year when the tax imposed by s.  
 6296 624.509, ~~or~~ s. 624.510, or 637.2039 for such year exceeds the  
 6297 credit under this section for such year.

6298 (f) An insurer that claims a credit against premium-tax  
 6299 liability earned by making a community contribution under this  
 6300 section need not pay any additional retaliatory tax levied under  
 6301 s. 624.5091 or s. 637.2041 as a result of claiming such a  
 6302 credit. Section 624.5091 or s. 637.2041 does not limit such a  
 6303 credit in any manner.

6304 Section 68. Subsection (1) of section 624.5107, Florida  
 6305 Statutes, is amended to read:

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6306 624.5107 Child care tax credits.—

6307 (1) If the credit granted under this section is not fully  
6308 used in any one year because of insufficient tax liability on  
6309 the part of the insurer, the unused amount may be carried  
6310 forward for a period not to exceed 5 years. The carryover credit  
6311 may be used in a subsequent year when the tax imposed by s.  
6312 624.509, ~~or~~ s. 624.510, or s. 637.2039 for that year exceeds the  
6313 credit for which the insurer is eligible in that year under this  
6314 section.

6315 Section 69. Transfers; rules; powers; regulatory  
6316 authority; orders.—

6317 (1) Effective July 1, 2010, the rules of the Financial  
6318 Services Commission and the Office of Insurance Regulation with  
6319 respect to the regulation of title insurance shall become the  
6320 rules of the Department of Financial Services and shall remain  
6321 in effect until specifically amended or repealed in the manner  
6322 provided by law.

6323 (2) (a) All of the statutory powers, duties and functions,  
6324 records, personnel, property, and unexpended balances of  
6325 appropriations, allocations, or other funds for the  
6326 administration of chapter 624, Florida Statutes, related to  
6327 title insurance, shall be transferred by a type two transfer, as  
6328 defined in s. 20.06(2), Florida Statutes, from the Financial  
6329 Services Commission and the Office of Insurance Regulation to  
6330 the Department of Financial Services.

6331 (b) All of the statutory powers, duties and functions,  
6332 records, personnel, property, and unexpended balances of  
6333 appropriations, allocations, or other funds for the

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6334 administration of chapter 626, Florida Statutes, related to  
6335 title insurance, shall be transferred by a type two transfer, as  
6336 defined in s. 20.06(2), Florida Statutes, from the Financial  
6337 Services Commission and the Office of Insurance Regulation to  
6338 the Department of Financial Services.

6339 (c) All of the statutory powers, duties and functions,  
6340 records, personnel, property, and unexpended balances of  
6341 appropriations, allocations, or other funds for the  
6342 administration of chapter 627, Florida Statutes, related to  
6343 title insurance, shall be transferred by a type two transfer, as  
6344 defined in s. 20.06(2), Florida Statutes, from the Financial  
6345 Services Commission and the Office of Insurance Regulation to  
6346 the Department of Financial Services.

6347 (3) (a) The transfer of regulatory authority under chapter  
6348 624, Florida Statutes, provided by this act shall not affect the  
6349 validity of any judicial or administrative action relating to  
6350 title insurance pending as of 11:59 p.m. on the day before the  
6351 effective date of this act, to which action the Financial  
6352 Services Commission or the Office of Insurance Regulation are at  
6353 that time parties, and the Department of Financial Services  
6354 shall be substituted as a party in interest in any such action.

6355 (b) The transfer of regulatory authority under chapter  
6356 626, Florida Statutes, provided by this act shall not affect the  
6357 validity of any judicial or administrative action relating to  
6358 title insurance pending as of 11:59 p.m. on the day before the  
6359 effective date of this act, to which action the Financial  
6360 Services Commission or the Office of Insurance Regulation are at

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6361 that time parties, and the Department of Financial Services  
6362 shall be substituted as a party in interest in any such action.

6363 (c) The transfer of regulatory authority under chapter  
6364 627, Florida Statutes, provided by this act shall not affect the  
6365 validity of any judicial or administrative action relating to  
6366 title insurance pending as of 11:59 p.m. on the day before the  
6367 effective date of this act, to which action the Financial  
6368 Services Commission or the Office of Insurance Regulation are at  
6369 that time parties, and the Department of Financial Services  
6370 shall be substituted as a party in interest in any such action.

6371 (4) (a) All lawful orders issued by the Financial Services  
6372 Commission or the Office of Insurance Regulation implementing or  
6373 enforcing or otherwise in regard to any provision of chapter  
6374 624, Florida Statutes, relating to title insurance, issued prior  
6375 to the effective date of this act, shall remain in effect and be  
6376 enforceable after the effective date of this act, unless  
6377 thereafter modified in accordance with law.

6378 (b) All lawful orders issued by the Financial Services  
6379 Commission or the Office of Insurance Regulation, implementing  
6380 or enforcing or otherwise in regard to any provision of chapter  
6381 626, Florida Statutes, relating to title insurance, issued prior  
6382 to the effective date of this act, shall remain in effect and be  
6383 enforceable after the effective date of this act, unless  
6384 thereafter modified in accordance with law.

6385 (c) All lawful orders issued by the Financial Services  
6386 Commission or the Office of Insurance Regulation, implementing  
6387 or enforcing or otherwise in regard to any provision of chapter  
6388 627, Florida Statutes, relating to title insurance, issued prior

6389 to the effective date of this act, shall remain in effect and be  
 6390 enforceable after the effective date of this act, unless  
 6391 thereafter modified in accordance with law.

6392 Section 70. The Legislature recognizes that there is a  
 6393 need to conform the Florida Statutes to the policy decisions  
 6394 reflected in the provisions of this act. The Division of  
 6395 Statutory Revision is directed to provide the relevant  
 6396 substantive committees of the Senate and the House of  
 6397 Representatives with assistance, upon request, to enable such  
 6398 committees to prepare draft legislation to conform the Florida  
 6399 Statutes to the provisions of this act.

6400 Section 71. Section 689.263, Florida Statutes, is created  
 6401 to read:

6402 689.263 Sale of residential property; settlement statement  
 6403 requirements.—A title insurance agent or title insurance agency  
 6404 may not disburse funds pursuant to a completed purchase and sale  
 6405 of residential real property without requiring a statement of  
 6406 settlement costs meeting the following requirements:

6407 (1) The settlement statement must be executed by the buyer  
 6408 and the seller.

6409 (2) If a title insurance premium is to be disbursed, the  
 6410 title insurer and the title insurance agent or title insurance  
 6411 agency, if any, must be disclosed.

6412 (3) A copy of the executed settlement statement must be  
 6413 delivered to the buyer and the seller.

6414 Section 72. Section 717.1121, Florida Statutes, is created  
 6415 to read:

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6416           717.1121 Payments from escrow related to real estate  
 6417 transactions.—All funds held as part of a real estate  
 6418 transaction, including any outstanding payments for amounts to  
 6419 be paid as listed on the settlement statement form by any title  
 6420 insurance agency, title insurer, savings and loan association,  
 6421 bank, trust company, or other financial institution, attorney  
 6422 firm, real estate broker, or similar institution, are considered  
 6423 unclaimed if the owner of those funds has not claimed the money  
 6424 within 2 years after the closing performed under the real estate  
 6425 transaction.

6426           Section 73. Subsection (1) and paragraph (d) of subsection  
 6427 (2) of section 877.101, Florida Statutes, are amended to read:

6428           877.101 Escrow business by unauthorized persons; use of  
 6429 name.—

6430           (1) Except as provided in subsection (2), in connection  
 6431 with the purchase and sale of real property, a person may not:

6432           (a) Transact business under any name or title that  
 6433 contains the word "escrow" or words of similar import; ~~or~~

6434           (b)1. Use any name, word, sign, symbol, or device in any  
 6435 context or in any manner; or

6436           2. Circulate or use any letterhead, billhead, circular,  
 6437 paper, or writing of any kind or otherwise advertise or  
 6438 represent in any manner

6439  
 6440 that indicates or reasonably implies that the business being  
 6441 conducted or advertised is the kind or character of business  
 6442 transacted that is regulated by this state as an escrow agent;  
 6443 or



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6444 (c) Engage in business as an escrow agent as to funds  
 6445 received from others to be subsequently disbursed in connection  
 6446 with real estate closing transactions.

6447 (2) This section does not apply to:

6448 (d) A title insurance agent who is licensed pursuant to s.  
 6449 637.3006 ~~626.8417~~, a title insurance agency that is licensed  
 6450 pursuant to s. 637.3007 ~~626.8418~~, or a title insurer who is  
 6451 authorized to transact business in this state pursuant to s.  
 6452 637.2001 ~~624.401~~.

6453 Section 74. Section 624.5015, Florida Statutes, is amended  
 6454 to read:

6455 624.5015 Advance collection of fees and taxes; ~~title~~  
 6456 ~~insurers not to pay without reimbursement.~~

6457 ~~(1)~~ The department or the office shall collect in advance  
 6458 from the applicant or licensee fees and taxes as provided in s.  
 6459 624.501.

6460 ~~(2)~~ ~~A title insurer shall not pay directly or indirectly~~  
 6461 ~~without reimbursement from a title insurance agent any~~  
 6462 ~~appointment fee required under this section. The failure of a~~  
 6463 ~~title insurance agent to make reimbursement is not a ground for~~  
 6464 ~~cancellation of the title insurance agent's appointment by the~~  
 6465 ~~title insurer.~~

6466 Section 75. Subsections (7), (8), and (9) of section  
 6467 626.241, Florida Statutes, are amended to read:

6468 626.241 Scope of examination.—

6469 ~~(7)~~ ~~Examinations given applicants for licensure as title~~  
 6470 ~~agents must cover title insurance, abstracting, title searches,~~  
 6471 ~~examination of title, closing procedures, and escrow handling.~~

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6472        (7)~~(8)~~ An examination for licensure as a personal lines  
 6473 agent shall consist of 100 questions and shall be limited in  
 6474 scope to the kinds of business transacted under such license.

6475        (8)~~(9)~~ This section applies to any person who submits an  
 6476 application for license and to any person who submits an  
 6477 application for examination prior to filing an application for  
 6478 license.

6479        Section 76. Subsection (5) of section 626.331, Florida  
 6480 Statutes, is amended to read:

6481            626.331 Number of appointments permitted or required.—

6482        ~~(5) A title agent or title agency license must be limited  
 6483 to selling title insurance only for the appointing title insurer  
 6484 or insurers.~~

6485        Section 77. Paragraph (a) of subsection (5) of section  
 6486 197.502, Florida Statutes, is amended to read:

6487            197.502 Application for obtaining tax deed by holder of  
 6488 tax sale certificate; fees.—

6489        (5) (a) The tax collector may contract with a title company  
 6490 or an abstract company at a reasonable fee to provide the  
 6491 minimum information required in subsection (4), consistent with  
 6492 rules adopted by the department. If additional information is  
 6493 required, the tax collector must make a written request to the  
 6494 title or abstract company stating the additional requirements.  
 6495 The tax collector may select any title or abstract company,  
 6496 regardless of its location, as long as the fee is reasonable,  
 6497 the minimum information is submitted, and the title or abstract  
 6498 company is authorized to do business in this state. The tax  
 6499 collector may advertise and accept bids for the title or

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6500 abstract company if he or she considers it appropriate to do so.

6501 1. The ownership and encumbrance report must be printed or  
 6502 typed on stationery or other paper showing a letterhead of the  
 6503 person, firm, or company that makes the search, and the  
 6504 signature of the person who makes the search or of an officer of  
 6505 the firm must be attached. The tax collector is not liable for  
 6506 payment to the firm unless these requirements are met.

6507 2. The tax collector may not accept or pay for any title  
 6508 search or abstract if no financial responsibility is assumed for  
 6509 the search. However, reasonable restrictions as to the liability  
 6510 or responsibility of the title or abstract company are  
 6511 acceptable. Notwithstanding s. 637.2071(3) ~~627.7843(3)~~, the tax  
 6512 collector may contract for higher maximum liability limits.

6513 3. In order to establish uniform prices for ownership and  
 6514 encumbrance reports within the county, the tax collector shall  
 6515 ensure that the contract for ownership and encumbrance reports  
 6516 include all requests for title searches or abstracts for a given  
 6517 period of time.

6518 Section 78. Paragraph (d) of subsection (27) of section  
 6519 624.501, Florida Statutes, is amended to read:

6520 624.501 Filing, license, appointment, and miscellaneous  
 6521 fees.—The department, commission, or office, as appropriate,  
 6522 shall collect in advance, and persons so served shall pay to it  
 6523 in advance, fees, licenses, and miscellaneous charges as  
 6524 follows:

6525 (27) Title insurance agents:

6526 (d) Additional appointment continuation fee as prescribed  
 6527 by s. 637.3015 ~~626.843~~ \$5.00

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6528 Section 79. Section 624.604, Florida Statutes, is amended  
 6529 to read:

6530 624.604 "Property insurance" defined.—"Property insurance"  
 6531 is insurance on real or personal property of every kind and of  
 6532 every interest therein, whether on land, water, or in the air,  
 6533 against loss or damage from any and all hazard or cause, and  
 6534 against loss consequential upon such loss or damage, other than  
 6535 noncontractual legal liability for any such loss or damage.  
 6536 Property insurance may contain a provision for accidental death  
 6537 or injury as part of a multiple peril homeowner's policy. Such  
 6538 insurance, which is incidental to the property insurance, is not  
 6539 subject to the provisions of this code applicable to life or  
 6540 health insurance. Property insurance does not include title  
 6541 insurance, as defined in s. 637.1004 ~~624.608~~.

6542 Section 80. Paragraph (r) of subsection (1) of section  
 6543 624.605, Florida Statutes, is amended to read:

6544 624.605 "Casualty insurance" defined.—

6545 (1) "Casualty insurance" includes:

6546 (r) Insurance for debt cancellation products.—Insurance  
 6547 that a creditor may purchase against the risk of financial loss  
 6548 from the use of debt cancellation products with consumer loans  
 6549 or leases or retail installment contracts. Insurance for debt  
 6550 cancellation products is not liability insurance but shall be  
 6551 considered credit insurance only for the purposes of s.  
 6552 631.52(4).

6553 1. For purposes of this paragraph, the term "debt  
 6554 cancellation products" means loan, lease, or retail installment  
 6555 contract terms, or modifications to loan, lease, or retail

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6556 installment contracts, under which a creditor agrees to cancel  
 6557 or suspend all or part of a customer's obligation to make  
 6558 payments upon the occurrence of specified events and includes,  
 6559 but is not limited to, debt cancellation contracts, debt  
 6560 suspension agreements, and guaranteed asset protection  
 6561 contracts. However, the term "debt cancellation products" does  
 6562 not include title insurance as defined in s. 637.1004 ~~624.608~~.

6563 2. Debt cancellation products may be offered by financial  
 6564 institutions, as defined in s. 655.005(1)(h), insured depository  
 6565 institutions as defined in 12 U.S.C. s. 1813(c), and  
 6566 subsidiaries of such institutions, as provided in the financial  
 6567 institutions codes; by sellers as defined in s. 721.05, or by  
 6568 the parents, subsidiaries, or affiliated entities of sellers, in  
 6569 connection with the sale of timeshare interests; or by other  
 6570 business entities as may be specifically authorized by law, and  
 6571 such products shall not constitute insurance for purposes of the  
 6572 Florida Insurance Code.

6573 Section 81. Subsection (4) of section 625.031, Florida  
 6574 Statutes, is amended to read:

6575 625.031 Assets not allowed.—In addition to assets  
 6576 impliedly excluded by the provisions of s. 625.012, the  
 6577 following expressly shall not be allowed as assets in any  
 6578 determination of the financial condition of an insurer:

6579 (4) Furniture, fixtures, furnishings, safes, vehicles,  
 6580 libraries, stationery, literature, and supplies, other than data  
 6581 processing and accounting systems authorized under s.  
 6582 625.012(11), except in the case of title insurers such materials  
 6583 and plants as the insurer is expressly authorized to invest in

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6584 | under s. 637.20073 ~~625.330~~ and except, in the case of any  
 6585 | insurer, such personal property as the insurer is permitted to  
 6586 | hold pursuant to part II of this chapter, or which is acquired  
 6587 | through foreclosure of chattel mortgages acquired pursuant to s.  
 6588 | 625.329, or which is reasonably necessary for the maintenance  
 6589 | and operation of real estate lawfully acquired and held by the  
 6590 | insurer other than real estate used by it for home office,  
 6591 | branch office, and similar purposes.

6592 |         Section 82. Section 626.207, Florida Statutes, is amended  
 6593 | to read:

6594 |             626.207 Department rulemaking authority; waiting periods  
 6595 | for applicants; penalties against licensees.—

6596 |             (1) The department shall adopt rules establishing specific  
 6597 | waiting periods for applicants to become eligible for licensure  
 6598 | following denial, suspension, or revocation pursuant to s.  
 6599 | 626.611, s. 626.621, s. 637.3017 ~~626.8437~~, s. 637.3018 ~~626.844~~,  
 6600 | s. 626.935, s. 634.181, s. 634.191, s. 634.320, s. 634.321, s.  
 6601 | 634.422, s. 634.423, s. 642.041, or s. 642.043. The purpose of  
 6602 | the waiting periods is to provide sufficient time to demonstrate  
 6603 | reformation of character and rehabilitation. The waiting periods  
 6604 | shall vary based on the type of conduct and the length of time  
 6605 | since the conduct occurred and shall also be based on the  
 6606 | probability that the propensity to commit illegal conduct has  
 6607 | been overcome. The waiting periods may be adjusted based on  
 6608 | aggravating and mitigating factors established by rule and  
 6609 | consistent with this purpose.

6610 |             (2) The department shall adopt rules establishing specific  
 6611 | penalties against licensees for violations of s. 626.611, s.

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6612 626.621, s. 637.3017 ~~626.8437~~, s. 637.3018 ~~626.844~~, s. 626.935,  
 6613 s. 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.  
 6614 634.423, s. 642.041, or s. 642.043. The purpose of the  
 6615 revocation or suspension is to provide a sufficient penalty to  
 6616 deter future violations of the Florida Insurance Code. The  
 6617 imposition of a revocation or the length of suspension shall be  
 6618 based on the type of conduct and the probability that the  
 6619 propensity to commit further illegal conduct has been overcome  
 6620 at the time of eligibility for relicensure. The revocation or  
 6621 the length of suspension may be adjusted based on aggravating or  
 6622 mitigating factors, established by rule and consistent with this  
 6623 purpose.

6624 Section 83. Paragraph (t) of subsection (1) of section  
 6625 655.005, Florida Statutes, is amended to read:

6626 655.005 Definitions.—

6627 (1) As used in the financial institutions codes, unless  
 6628 the context otherwise requires, the term:

6629 (t) "Debt cancellation products" means loan, lease, or  
 6630 retail installment contract terms, or modifications or addenda  
 6631 to loan, lease, or retail installment contracts, under which a  
 6632 creditor agrees to cancel or suspend all or part of a customer's  
 6633 obligation to make payments upon the occurrence of specified  
 6634 events and includes, but is not limited to, debt cancellation  
 6635 contracts, debt suspension agreements, and guaranteed asset  
 6636 protection contracts offered by financial institutions, insured  
 6637 depository institutions as defined in 12 U.S.C. s. 1813(c), and  
 6638 subsidiaries of such institutions. However, the term "debt  
 6639 cancellation products" does not include title insurance as

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6640 defined in s. 637.1004 ~~624.608~~.

6641 Section 84. Paragraph (d) of subsection (6) of section  
6642 701.041, Florida Statutes, is amended to read:

6643 701.041 Title insurer; mortgage release certificate.—

6644 (6) LIABILITY OF TITLE INSURER AND TITLE INSURANCE AGENT.—

6645 (d) Liability of a title insurer pursuant to this section  
6646 shall be considered to be a title insurance claim on real  
6647 property in this state pursuant to s. 637.2075 ~~627.7865~~.

6648 Section 85. Paragraph (d) of subsection (14) of section  
6649 721.05, Florida Statutes, is amended to read:

6650 721.05 Definitions.—As used in this chapter, the term:

6651 (14) "Escrow agent" includes only:

6652 (d) A title insurance agent that is licensed pursuant to  
6653 s. 637.3006 ~~626.8417~~, a title insurance agency that is licensed  
6654 pursuant to s. 637.3007 ~~626.8418~~, or a title insurer authorized  
6655 to transact business in this state pursuant to s. 637.2001  
6656 ~~624.401~~.

6657 Section 86. Sections 624.4031, 624.608, 626.841, 626.8411,  
6658 626.9531, 627.7711, and 627.776, Florida Statutes, are repealed.

6659 Section 87. This act shall take effect July 1, 2010.