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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 within the
4 Department of Financial Services; creating s. 624.3095,
5 F.S.; authorizing the department to adopt specified rules
6 relating to title insurance; providing for suspension or
7 revocation of a certificate of authority or license of a
8 title insurer, title insurance agent, or agency for the
9 willful violation of any such rule; creating s. 624.630,
10 F.S.; creating the "Title Insurance Regulatory Reform Act
11 of 2011"; providing legislative findings; providing
12 purpose of the act; providing legislative intent; creating
13 s. 624.632 F.S.; providing powers and duties of the
14 Division of Title Insurance within the Department of
15 Financial Services; providing for a division director;
16 providing organization of the division; creating s.
17 624.633 F.S.; providing that the rules of the Financial
18 Services Commission and the Office of Insurance Regulation
19 with respect to the regulation of title insurance shall
20 become the rules of the Department of Financial Services;
21 creating s. 624.634, F.S.; providing for a type two
22 transfer of statutory powers, duties, functions, records,
23 personnel, property, and unexpended balances of
24 appropriations, allocations, or other funds for the
25 administration of chs. 624, 626, and 627, F.S., related to
26 title insurance, from the Financial Services Commission
27 and the Office of Insurance Regulation to the Department
28 of Financial Services; creating s. 624.635, F.S.;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 providing that the transfer of regulatory authority shall
30 not affect the validity of any pending judicial or
31 administrative action relating to title insurance;
32 requiring the substitution of the Department of Financial
33 Services as a party in interest in any such action;
34 creating s. 624.636, F.S.; providing that all lawful
35 orders of the Financial Services Commission or the Office
36 of Insurance Regulation relating to title insurance,
37 issued before the effective date of the act, remain in
38 effect and are enforceable after the effective date of the
39 act; creating 624.637, F.S.; requiring the Division of
40 Statutory Revision to assist legislative committees in the
41 preparation of legislation to conform the Florida Statutes
42 to the provisions of the act; creating s. 624.638, F.S.;
43 requiring statutory references in the Florida Insurance
44 Code to the Financial Services Commission, the Department
45 of Financial Services, or the Office of Insurance
46 Regulation relating to title insurance be deemed
47 references to the Title Insurance Division of the
48 Department of Financial Services and be applied
49 accordingly, unless the context clearly requires
50 otherwise; creating s. 624.639 F.S.; requiring the
51 Division of Title Insurance to consult with parties
52 affected by the revisions made in the act and make certain
53 recommendations to the Legislature relating to the
54 regulation of the title insurance industry; amending s.
55 624.4213 F.S.; providing that certain data submitted by a
56 title insurance agent or title insurer is presumed to be a

57 | trade secret whether or not so designated; amending s.
58 | 626.2815, F.S.; specifying continuing education
59 | requirements for title insurance agents; authorizing the
60 | department to contract with a private entity for services
61 | related to continuing education for title insurance
62 | agents; amending s. 626.841, F.S.; providing a definition
63 | for the term "agent in charge of a title insurance
64 | agency;" amending s. 626.8411, F.S.; providing that
65 | certain provisions of the Florida Insurance Code relating
66 | to branch agencies no longer apply to title insurance
67 | agents or agencies; amending s. 626.8417, F.S.; requiring
68 | that certain attorney-owned entities that engage in
69 | business as a title insurance agency, other than the
70 | active practice of law, must be licensed as a title
71 | insurance agency with a designated agent in charge;
72 | amending s. 626.8418, F.S.; deleting specified financial
73 | security and bond requirements relating to an applicant
74 | for licensure as a title insurance agency; amending s.
75 | 626.8419, F.S.; increasing the amount of a fidelity bond
76 | that a title insurance agency must file with the
77 | department and limiting the amount of the deductible
78 | applicable to such bond; creating s. 626.8422, F.S.;
79 | specifying requirements that apply to title insurance
80 | agencies relating to the designation of an agent in charge
81 | at specified locations; providing a penalty for failing to
82 | designate an agent in charge under certain circumstances;
83 | amending s. 626.8437, F.S.; specifying additional grounds
84 | for the denial, suspension, revocation, or refusal to

85 | renew the license or appointment of a title insurance
86 | agent or agency; amending s. 626.8473, F.S.; requiring an
87 | attorney serving as a title or real estate settlement
88 | agent to deposit and maintain certain funds in a separate
89 | trust account and permit the account to be audited by the
90 | applicable title insurer, unless prohibited by the rules
91 | of The Florida Bar; amending s. 626.9541, F.S.; providing
92 | legislative findings and intent relating to the holding of
93 | a Florida Supreme Court case involving prohibitions
94 | against title insurers rebating title insurance premiums;
95 | expressing legislative intent to override such case by
96 | reenacting substantially the same provisions; amending s.
97 | 627.777, F.S.; providing procedures and requirements
98 | relating to the approval or disapproval of title insurance
99 | forms by the department; amending s. 627.780, F.S.;
100 | conforming a statutory reference; amending s. 627.782,
101 | F.S.; requiring title insurance agencies and certain
102 | insurers to submit specified information to the department
103 | to assist in the analysis of title insurance premium
104 | rates, title search costs, and the condition of the title
105 | insurance industry; redesignating pt. II, pt. III, pt. IV,
106 | and pt. V of ch. 631, F.S., as pt. III, pt. IV, pt. V, and
107 | pt. VI of ch. 631, F.S., respectively; creating pt II of
108 | ch. 631, F.S., consisting of ss. 631.400, 631.401,
109 | 631.402, 631.403, 631.404, 631.405, 631.406, 631.407,
110 | 631.408, 631.409, and 631.410, F.S.; providing legislative
111 | findings; providing application; providing definitions;
112 | providing procedures and requirements relating to the

113 rehabilitation of an impaired title insurer; providing
114 procedures, requirements, and remedies relating to the
115 liquidation and allocation of assets of an impaired title
116 insurer; authorizing a court to require certain title
117 insurers to assume the policy obligations and liabilities
118 of an impaired title insurer under certain circumstances;
119 specifying requirements and procedures for the imposition
120 of assessments by the department and the payment of
121 assessments by all title insurers relating to the
122 impairment of other title insurers; providing procedures,
123 requirements, and criteria relating to the recovery of
124 assessments for impaired insurers by contributing title
125 insurers; specifying that amounts recovered by a
126 contributing title insurer are to be treated as admitted
127 assets; providing procedures and requirements relating to
128 the liquidation of assets of impaired foreign and alien
129 title insurers; specifying the priority of the
130 distribution of claims from the estate of an impaired
131 title insurer; authorizing the department to adopt rules
132 to administer the provisions of pt. II of ch. 631, F.S.;
133 creating s. 689.263, F.S.; specifying requirements that a
134 title insurance agent or agency must meet in order to
135 distribute funds relating to certain real estate sales or
136 purchases; amending ss. 395.106, 624.488, 627.442,
137 627.974, and 631.252, F.S.; conforming cross-references;
138 reenacting s. 624.488(3), F.S., relating to applicability
139 of specified sections of pt. IV, ch. 626, F.S., to self-
140 insurance funds, to incorporate the amendment to s.

141 626.9541, F.S., in reference thereto; reenacting s.
 142 626.8437(8) , F.S., relating to unlawful rebating of title
 143 insurance premiums as grounds for denial, suspension,
 144 revocation, or refusal to renew a license or appointment,
 145 to incorporate the amendment to s. 626.9541, F.S., in
 146 reference thereto; reenacting s. 627.776(1)(j), F.S.,
 147 relating to applicability to title insurers of provisions
 148 that prohibit premium rebates, to incorporate the
 149 amendment to s. 626.9541, F.S., in reference thereto;
 150 reenacting s. 628.6016(3), F.S., relating to applicability
 151 of specified sections of pt. VI, ch. 626, F.S., to
 152 assessable mutual insurers, to incorporate the amendment
 153 to s. 626.9541, F.S., in reference thereto; providing an
 154 effective date.

155
 156 Be It Enacted by the Legislature of the State of Florida:
 157

158 Section 1. Paragraph (o) of subsection (2) of section
 159 20.121, Florida Statutes, is redesignated as paragraph (p), and
 160 paragraph (o) is added to that subsection, to read:

161 20.121 Department of Financial Services.—There is created
 162 a Department of Financial Services.

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

165 (o) The Division of Title Insurance.

166 Section 2. Sections 624.3095, 624.630, 624.631, 624.632,
 167 624.633, 624.634, 624.635, 624.636, 624.637, 624.638, and
 168 624.639, Florida Statutes, are created to read:

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169 624.3095 Rules as to title insurance.-

170 (1) In addition to the authority to adopt rules relating
171 to title insurance authorized elsewhere in the Florida Insurance
172 Code, the department may adopt rules that:

173 (a) Define the license and appointment requirements for
174 title insurance agents and agencies.

175 (b) Establish penalty guidelines for enforcing the
176 requirements of the Florida Insurance Code.

177 (c) Describe the fiduciary responsibilities and duties of
178 title insurers, title insurance agents, and agencies, including,
179 but not limited to, responsibilities and duties related to
180 escrow accounts.

181 (d) Identify the responsibilities, duties, and
182 designations of the agent in charge of the title insurance
183 agency.

184 (e) Enable the collection and analysis of information
185 relating to the title insurance business submitted by title
186 insurers, title insurance agents, and agencies.

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

189 (g) Set reasonable requirements for the timely
190 disbursement of escrow funds unless a written escrow agreement
191 specifies a longer holding period.

192 (h) Establish rules for the protection, calculation, and
193 timely remittance of premiums that are owed to title insurers.

194 (i) Prohibit the markup of the cost of any third-party
195 goods and services that do not add value.

196 (2) In addition to any other penalty provided for under
 197 the Florida Insurance Code for a violation of a rule, a title
 198 insurer or title insurance agent or agency is subject to
 199 suspension or revocation of a certificate of authority or
 200 license, as may be applicable, for the willful violation of any
 201 rule.

202 624.630 Short title.—Sections 624.630-624.639 may be cited
 203 as the "Title Insurance Regulatory Reform Act of 2011."

204 624.631 Legislative findings; purpose; intent.—

205 (1) The Legislature finds that a stable real estate
 206 marketplace is central to the economic foundations of this state
 207 and that the need to achieve certainty in the ownership,
 208 transfer, and encumbrance of real property benefits the public
 209 and supports regulation of the title insurance industry under
 210 this act.

211 (2) The Legislature finds that a stable and efficient
 212 title insurance industry is essential to instilling the
 213 confidence demanded by all purchasers of Florida real property
 214 in this state and their lenders and investors since such
 215 stability and efficiency improves property valuations, lowers
 216 borrowing costs, and fosters capital investment in real estate.

217 (3) The Legislature finds that it is sound public policy
 218 to encourage and support the delivery of title insurance
 219 products and services statewide and recognizes that this can be
 220 achieved most economically by ensuring a solvent industry that
 221 is responsive and responsible to all consumers, supportive of
 222 the agent delivery business model, and protective of the public
 223 land records. Central to this finding is the fact that the

224 public welfare is better served by delivering fiscally sound
 225 legal remedies founded in contract law rather than the mere
 226 possibility of relief under tort law.

227 (4) The Legislature recognizes that a single premium title
 228 insurance policy provides coverage for many years and that it is
 229 fundamentally unfair to the insured and against the public
 230 interest for failed insurers to cancel title policies that
 231 insure real property interests in this state.

232 (5) The Legislature, recognizing that a title issuer may
 233 deliver primary title services directly or through a licensed
 234 and appointed agent or agency, finds that a viable title
 235 insurance delivery system requires comprehensive state oversight
 236 and uniform regulation of title insurers, agents, and agencies.
 237 Accordingly, the Legislature intends to establish the unitary
 238 regulation of the title insurance industry by a type two
 239 transfer from the Financial Services Commission and the Office
 240 of Insurance Regulation to the Department of Financial Services,
 241 as provided in this act. The department shall have comprehensive
 242 authority to regulate the solvency, education, licensing, and
 243 discipline of title insurers, title agents, and title agencies
 244 and to establish title insurance premium rates and forms.

245 (6) The Legislature recognizes that the title insurance
 246 industry has a unique compensatory structure that includes
 247 unregulated fees for escrow and closing services and regulated
 248 premiums for the performance of services related to the primary
 249 title insurance obligation. The delivery of these separate but
 250 related services is predominated by title insurance agents and
 251 agencies that place the title insurance agent at the center of

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252 the delivery system. Therefore, it is essential to maintain a
253 sufficient number of title insurance agents in order to promote
254 price competition in the marketplace for escrow and settlement
255 services and foster the availability of these services to all
256 Floridians.

257 (7) The Legislature finds that the rebating of title
258 insurance premiums and the negotiation of closing service costs
259 are unique issues that require clarification for the protection
260 and benefit of the insurer, agent, and consumer. The Legislature
261 finds that the established premiums for the performance of
262 primary title services, although often paid to an agent under a
263 contract with an agency, actually pay for the performance of
264 joint underwriting functions, including loss mitigation and
265 avoidance and do not pay for direct services to the consumer.
266 The Legislature further finds that negotiating or rebating
267 closing services fees or costs should not be restricted, but
268 that the discounting of premiums by either the title agent or
269 title insurer jeopardizes the solvency of insurers, defeats the
270 goal of maintaining an efficient delivery system for title
271 insurance, and fails to protect consumers.

272 624.632 Division of Title Insurance.—

273 (1) The Division of Title Insurance shall exercise all
274 powers and duties with respect to title insurance regulation,
275 including those exercised by the Office of Insurance Regulation
276 and the Division of Insurance Agents and Agency Services of the
277 Department of Financial Services before July 1, 2011. The
278 division director shall be appointed by the Chief Financial
279 Officer and shall have experience, education, and expertise in

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280 the field of title insurance in this state. The director may
281 also be known and referred to as the Florida Title Insurance
282 Coordinator.

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

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

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

286 624.633 Transfer of rules.—Effective October 15, 2011, the
287 rules of the Financial Services Commission and the Office of
288 Insurance Regulation with respect to the regulation of title
289 insurance shall become the rules of the Department of Financial
290 Services and shall remain in effect until specifically amended
291 or repealed in the manner provided by law.

292 624.634 Transfer of statutory powers.—All of the statutory
293 powers, duties, and functions, records, personnel, property, and
294 unexpended balances of appropriations, allocations, or other
295 funds for the administration of chapters 624, 626, and 627,
296 related to title insurance, shall be transferred by a type two
297 transfer, as defined in s. 20.06(2), from the Financial Services
298 Commission and the Office of Insurance Regulation to the
299 Department of Financial Services.

300 624.635 Transfer of regulatory authority.—The transfer of
301 regulatory authority under chapters 624, 626, and 627 provided
302 in this act shall not affect the validity of any judicial or
303 administrative action relating to title insurance pending as of
304 11:59 p.m. on June 30, 2011, to which action the Financial
305 Services Commission or the Office of Insurance Regulation are
306 then parties, and the Department of Financial Services shall be
307 substituted as a party in interest in any such action.

308 624.636 Transfer of orders.—All lawful orders of the
 309 Financial Services Commission or the Office of Insurance
 310 Regulation implementing, enforcing, or otherwise acting under
 311 authority provided under any provision of chapter 624, chapter
 312 626, or chapter 627, relating to title insurance, issued before
 313 July 1, 2011, shall remain in effect and be enforceable after
 314 that date, unless thereafter modified in accordance with law.

315 624.637 Conforming of statutes.—The Legislature recognizes
 316 that there is a need to conform the Florida Statutes to the
 317 policy decisions reflected in the provisions of this act. The
 318 Division of Statutory Revision shall provide the appropriate
 319 substantive committees of the Senate and the House of
 320 Representatives with assistance, upon request, to enable such
 321 committees to prepare draft legislation to conform the Florida
 322 Statutes to the provisions of this act.

323 624.638 References to commission, department, and office.—
 324 All references in the Florida Insurance Code to the Financial
 325 Services Commission, the Department of Financial Services, or
 326 the Office of Insurance Regulation that apply to title
 327 insurance, or the regulation of title insurers, title agents, or
 328 title agencies shall be deemed references to the Title Insurance
 329 Division of the Department of Financial Services and shall be
 330 applied accordingly, unless the context clearly requires a
 331 different construction or application.

332 624.639 Consolidation of chapter.—The Division of Title
 333 Insurance is directed to consult with the parties affected by
 334 the revisions made in this act and to recommend to the
 335 Legislature a plan for consolidating title insurance governance

336 into a single chapter of the Florida Statutes, implementing
 337 other recommendations of the Title Insurance Study Advisory
 338 Council, and implementing other suggestions to improve the
 339 regulation of the title insurance industry.

340 Section 3. Paragraph (d) is added to subsection (1) of
 341 section 624.4213, Florida Statutes, to read:

342 624.4213 Trade secret documents.—

343 (1) If any person who is required to submit documents or
 344 other information to the office or department pursuant to the
 345 insurance code or by rule or order of the office, department, or
 346 commission claims that such submission contains a trade secret,
 347 such person may file with the office or department a notice of
 348 trade secret as provided in this section. Failure to do so
 349 constitutes a waiver of any claim by such person that the
 350 document or information is a trade secret.

351 (d) Any data submitted by a title insurance agent or title
 352 insurer pursuant to s. 627.782 is presumed to be a trade secret
 353 under this section whether or not so designated.

354 Section 4. Paragraph (d) of subsection (3) of section
 355 626.2815, Florida Statutes, is amended, paragraph (1) is added
 356 to that subsection, and subsection (8) is added to that section,
 357 to read:

358 626.2815 Continuing education required; application;
 359 exceptions; requirements; penalties.—

360 (3)

361 (d) Any person who holds a license as a customer
 362 representative, limited customer representative, ~~title agent,~~
 363 motor vehicle physical damage and mechanical breakdown insurance

364 agent, crop or hail and multiple-peril crop insurance agent, or
 365 as an industrial fire insurance or burglary insurance agent and
 366 who is not a licensed life or health insurance agent, shall be
 367 required to complete 10 hours of continuing education courses
 368 every 2 years.

369 (1) Any person who holds a license as a title insurance
 370 agent must complete a minimum of 10 hours of continuing
 371 education courses every 2 years in title insurance and escrow
 372 management specific to this state approved by the Division of
 373 Title Insurance, which shall include at least 3 hours of
 374 continuing education on the subject matter of ethics, rules, or
 375 compliance with state and federal regulations relating to title
 376 insurance and closing services.

377 (8) The department may contract with a private entity for
 378 services related to the administration, review, or approval of a
 379 continuing education program for title insurance agents. The
 380 contract shall be procured as a contract for a contractual
 381 service pursuant to s. 287.057.

382 Section 5. Subsection (3) is added to section 626.841,
 383 Florida Statutes, to read:

384 626.841 Definitions.—The term:

385 (3) "Agent in charge of a title insurance agency" means an
 386 attorney or a licensed and appointed title insurance agent who
 387 is designated as agent in charge pursuant to s. 626.8422.

388 Section 6. Subsection (1) of section 626.8411, Florida
 389 Statutes, is amended to read:

390 626.8411 Application of Florida Insurance Code provisions
 391 to title insurance agents or agencies.—

392 (1) The following provisions of part II, as applicable to
 393 general lines agents or agencies, also apply to title insurance
 394 agents or agencies:

395 (a) Section 626.734, relating to liability of certain
 396 agents.

397 (b) Section 626.175, relating to temporary licenses.

398 ~~(c) Section 626.747, relating to branch agencies.~~

399 (c)~~(d)~~ Section 626.753, relating to sharing of
 400 commissions.

401 (d)~~(e)~~ Section 626.754, relating to rights of agent
 402 following termination of appointment.

403 Section 7. Paragraph (c) of subsection (4) of section
 404 626.8417, Florida Statutes, is amended to read:

405 626.8417 Title insurance agent licensure; exemptions.—

406 (4)

407 (c) If one or more ~~an attorney or~~ attorneys own a
 408 corporation or other legal entity which is doing business as a
 409 title insurance agency other than an entity engaged in the
 410 active practice of law, the agency must be licensed and
 411 appointed as a title insurance agency with an agent in charge
 412 designated for the agency.

413 Section 8. Section 626.8418, Florida Statutes, is amended
 414 to read:

415 626.8418 Application for title insurance agency license.—

416 Prior to doing business in this state as a title insurance
 417 agency, a title insurance agency ~~must meet all of the following~~
 418 ~~requirements:~~

419 ~~(1) The applicant~~ must file with the department an

420 application for a license as a title insurance agency, on
 421 printed forms furnished by the department, that includes all of
 422 the following:

423 (1)~~(a)~~ The name of each majority owner, partner, officer,
 424 and director of the agency.

425 (2)~~(b)~~ The residence address of each person required to be
 426 listed under subsection (1) ~~paragraph (a)~~.

427 (3)~~(c)~~ The name of the agency and its principal business
 428 address.

429 (4)~~(d)~~ The location of each agency office and the name
 430 under which each agency office conducts or will conduct
 431 business.

432 (5)~~(e)~~ The name of each agent to be in full-time charge of
 433 an agency office and specification of which office.

434 (6)~~(f)~~ Such additional information as the department
 435 requires by rule to ascertain the trustworthiness and competence
 436 of persons required to be listed on the application and to
 437 ascertain that such persons meet the requirements of this code.

438 ~~(2) The applicant must have deposited with the department~~
 439 ~~securities of the type eligible for deposit under s. 625.52 and~~
 440 ~~having at all times a market value of not less than \$35,000. In~~
 441 ~~place of such deposit, the title insurance agency may post a~~
 442 ~~surety bond of like amount payable to the department for the~~
 443 ~~benefit of any appointing insurer damaged by a violation by the~~
 444 ~~title insurance agency of its contract with the appointing~~
 445 ~~insurer. If a properly documented claim is timely filed with the~~
 446 ~~department by a damaged title insurer, the department may remit~~
 447 ~~an appropriate amount of the deposit or the proceeds that are~~

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448 ~~received from the surety in payment of the claim. The required~~
449 ~~deposit or bond must be made by the title insurance agency, and~~
450 ~~a title insurer may not provide the deposit or bond directly or~~
451 ~~indirectly on behalf of the title insurance agency. The deposit~~
452 ~~or bond must secure the performance by the title insurance~~
453 ~~agency of its duties and responsibilities under the issuing~~
454 ~~agency contracts with each title insurer for which it is~~
455 ~~appointed. The agency may exchange or substitute other~~
456 ~~securities of like quality and value for securities on deposit,~~
457 ~~may receive the interest and other income accruing on such~~
458 ~~securities, and may inspect the deposit at all reasonable times.~~
459 ~~Such deposit or bond must remain unimpaired as long as the title~~
460 ~~insurance agency continues in business in this state and until 1~~
461 ~~year after termination of all title insurance agency~~
462 ~~appointments held by the title insurance agency. The title~~
463 ~~insurance agency is entitled to the return of the deposit or~~
464 ~~bond together with accrued interest after such year has passed,~~
465 ~~if no claim has been made against the deposit or bond. If a~~
466 ~~surety bond is unavailable generally, the department may adopt~~
467 ~~rules for alternative methods to comply with this subsection.~~
468 ~~With respect to such alternative methods for compliance, the~~
469 ~~department must be guided by the past business performance and~~
470 ~~good reputation and character of the proposed title insurance~~
471 ~~agency. A surety bond is deemed to be unavailable generally if~~
472 ~~the prevailing annual premium exceeds 25 percent of the~~
473 ~~principal amount of the bond.~~

474 Section 9. Paragraph (a) of subsection (1) of section
475 626.8419, Florida Statutes, is amended to read:

476 626.8419 Appointment of title insurance agency.—

477 (1) The title insurer engaging or employing the title
 478 insurance agency must file with the department, on printed forms
 479 furnished by the department, an application certifying that the
 480 proposed title insurance agency meets all of the following
 481 requirements:

482 (a) The agency must have obtained a fidelity bond in an
 483 amount, not less than \$250,000 with a deductible not exceeding 1
 484 percent of the bond amount ~~\$50,000~~, acceptable to the insurer
 485 appointing the agency. If a fidelity bond is unavailable
 486 generally, the department must adopt rules for alternative
 487 methods to comply with this paragraph.

488 Section 10. Section 626.8422, Florida Statutes, is created
 489 to read:

490 626.8422 Agent in charge.—

491 (1) Each location within this state of a title insurance
 492 agency or branch office of an insurer where closing services as
 493 defined in s. 627.7711, and disbursement of escrow funds or
 494 policy issuance services are regularly performed shall have a
 495 separate agent in charge designated by the title insurance
 496 agency or insurer. The failure of a title insurance agency or
 497 insurer to designate an agent in charge, on a form prescribed by
 498 the department, within 10 working days after an agency begins
 499 business at a location or a makes a change of the agent in
 500 charge, is a violation of this chapter, punishable as provided
 501 in s. 626.844.

502 (2) The agent in charge shall perform his or her duties as
 503 required in subsection (1) at the location where he or she is

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504 agent in charge.

505 (3) An agency or insurer shall designate an attorney duly
506 admitted to practice law in this state and in good standing with
507 The Florida Bar or a title agent licensed in this state as agent
508 in charge for each location of the agency or insurer as
509 described in subsection (1). In the case of multiple locations
510 where the activities as described in subsection (1) are
511 performed, the agency or insurer shall designate a separate
512 agent in charge for each location.

513 Section 11. Subsections (11) and (12) are added to section
514 626.8437, Florida Statutes, to read:

515 626.8437 Grounds for denial, suspension, revocation, or
516 refusal to renew license or appointment.—The department shall
517 deny, suspend, revoke, or refuse to renew or continue the
518 license or appointment of any title insurance agent or agency,
519 and it shall suspend or revoke the eligibility to hold a license
520 or appointment of such person, if it finds that as to the
521 applicant, licensee, appointee, or any principal thereof, any
522 one or more of the following grounds exist:

523 (11) Failure to timely submit data as required by the
524 department.

525 (12) A licensee has been charged with an insurance or
526 financial-related felony, a crime involving moral turpitude, or
527 a crime punishable by imprisonment of 1 year or more under the
528 law of any state, territory, or country.

529 Section 12. Subsection (8) is added to section 626.8473,
530 Florida Statutes, to read:

531 626.8473 Escrow; trust fund.—

532 (8) An attorney shall deposit and maintain all funds
 533 received in connection with transactions in which the attorney
 534 is serving as a title or real estate settlement agent into a
 535 separate trust account that is maintained exclusively for funds
 536 received in connection with such transactions and permit the
 537 account to be audited by its title insurers, unless maintaining
 538 funds in the separate account for a particular client would
 539 violate applicable rules of The Florida Bar.

540 Section 13. Paragraph (h) of subsection (1) of section
 541 626.9541, Florida Statutes, is amended to read:

542 626.9541 Unfair methods of competition and unfair or
 543 deceptive acts or practices defined.—

544 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 545 ACTS.—The following are defined as unfair methods of competition
 546 and unfair or deceptive acts or practices:

547 (h) Unlawful rebates.—

548 1. Except as otherwise expressly provided by law, or in an
 549 applicable filing with the office, knowingly:

550 a. Permitting, or offering to make, or making, any
 551 contract or agreement as to such contract other than as plainly
 552 expressed in the insurance contract issued thereon;

553 b. Paying, allowing, or giving, or offering to pay, allow,
 554 or give, directly or indirectly, as inducement to such insurance
 555 contract, any unlawful rebate of premiums payable on the
 556 contract, any special favor or advantage in the dividends or
 557 other benefits thereon, or any valuable consideration or
 558 inducement whatever not specified in the contract;

559 c. Giving, selling, or purchasing, or offering to give,

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560 | sell, or purchase, as inducement to such insurance contract or
561 | in connection therewith, any stocks, bonds, or other securities
562 | of any insurance company or other corporation, association, or
563 | partnership, or any dividends or profits accrued thereon, or
564 | anything of value whatsoever not specified in the insurance
565 | contract.

566 | 2. Nothing in paragraph (g) or subparagraph 1. of this
567 | paragraph shall be construed as including within the definition
568 | of discrimination or unlawful rebates:

569 | a. In the case of any contract of life insurance or life
570 | annuity, paying bonuses to all policyholders or otherwise
571 | abating their premiums in whole or in part out of surplus
572 | accumulated from nonparticipating insurance; provided that any
573 | such bonuses or abatement of premiums is fair and equitable to
574 | all policyholders and for the best interests of the company and
575 | its policyholders.

576 | b. In the case of life insurance policies issued on the
577 | industrial debit plan, making allowance to policyholders who
578 | have continuously for a specified period made premium payments
579 | directly to an office of the insurer in an amount which fairly
580 | represents the saving in collection expenses.

581 | c. Readjustment of the rate of premium for a group
582 | insurance policy based on the loss or expense thereunder, at the
583 | end of the first or any subsequent policy year of insurance
584 | thereunder, which may be made retroactive only for such policy
585 | year.

586 | d. Issuance of life insurance policies or annuity
587 | contracts at rates less than the usual rates of premiums for

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588 such policies or contracts, as group insurance or employee
589 insurance as defined in this code.

590 e. Issuing life or disability insurance policies on a
591 salary savings, bank draft, preauthorized check, payroll
592 deduction, or other similar plan at a reduced rate reasonably
593 related to the savings made by the use of such plan.

594 3.a. The Legislature finds that in Chicago Title Insurance
595 Co. v. Butler, 70 So. 2d 1210 (Fla. 2000), the Florida Supreme
596 Court, when construing a previous version of this section,
597 concluded that the Legislature did not sufficiently demonstrate
598 an adequate relationship to the public welfare to justify
599 restraining the negotiation of title insurance premiums by
600 prohibiting deviations from the promulgated premiums. By the
601 reenactment of substantially the same prohibitions on rebating
602 premiums in this subparagraph, the Legislature intends to
603 effectively override Chicago Title Insurance. v. Butler and
604 reinstate the previous law. As a rational basis for doing so,
605 the Legislature provides for the court's consideration the
606 detailed public policy rationale supporting those prohibitions
607 in ss. 624.630-627.637.

608 b. No title insurer, or any member, employee, attorney,
609 agent, or agency thereof, shall pay, allow, or give, or offer to
610 pay, allow, or give, directly or indirectly, as inducement to
611 title insurance, or after such insurance has been effected, any
612 rebate or abatement of the premium or any other charge or fee,
613 or provide any special favor or advantage, or any monetary
614 consideration or inducement whatever.

615 ~~c.b.~~ Nothing in this subparagraph shall be construed as

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616 prohibiting the payment of fees to attorneys at law duly
 617 licensed to practice law in the courts of this state, for
 618 professional services, or as prohibiting the payment of earned
 619 portions of the premium to duly appointed agents or agencies who
 620 actually perform services for the title insurer. Nothing in this
 621 subparagraph shall be construed as prohibiting a rebate or
 622 abatement of an attorney's fee charged for professional
 623 services, ~~or that portion of the premium that is not required to~~
 624 ~~be retained by the insurer pursuant to s. 627.782(1), or any~~
 625 ~~other agent charge or fee to the person responsible for paying~~
 626 ~~the premium, charge, or fee.~~

627 d.e. No insured named in a policy, or any other person
 628 directly or indirectly connected with the transaction involving
 629 the issuance of such policy, including, but not limited to, any
 630 mortgage broker, real estate broker, builder, or attorney, any
 631 employee, agent, agency, or representative thereof, or any other
 632 person whatsoever, shall knowingly receive or accept, directly
 633 or indirectly, any rebate or abatement of any portion of the
 634 title insurance premium or of any other charge or fee or any
 635 monetary consideration or inducement whatsoever, except as set
 636 forth in sub-subparagraph b.; provided, in no event shall any
 637 portion of the attorney's fee, any portion of the premium ~~that~~
 638 ~~is not required to be retained by the insurer pursuant to s.~~
 639 ~~627.782(1), any agent charge or fee, or any other monetary~~
 640 consideration or inducement be paid directly or indirectly for
 641 the referral of title insurance business.

642 Section 14. Section 627.777, Florida Statutes, is amended
 643 to read:

644 627.777 Approval of forms.—

645 (1) A title insurer may not issue or agree to issue any
 646 form of title insurance commitment, title insurance policy,
 647 other contract of title insurance, or related form until it is
 648 filed with and approved by the office. The office may not
 649 disapprove a title guarantee or policy form on the ground that
 650 it has on it a blank form for an attorney's opinion on the
 651 title.

652 (2) If the form filed for approval is a form certified and
 653 adopted by the American Land Title Association at time of
 654 filing, the department shall approve or disapprove the form
 655 within 180 days after receipt. If the form is not a form
 656 certified by the American Land Title Association at time of
 657 filing, the department shall approve or disapprove the form
 658 within 1 year after receipt.

659 (3) When the department approves any form, it shall
 660 determine if the current rate in effect applies or if the
 661 coverages require the adoption of a rule pursuant to s. 627.782.

662 (4) The department may revoke approval of any form after
 663 providing 180 days' notice to the title insurer if the basis for
 664 revocation is that the American Land Title Association has
 665 decertified a previously approved form.

666 (5) An insurer may not achieve a competitive advantage
 667 over any other insurer, agency, or agent as to rates or forms.
 668 If a form or rate is approved for an insurer, the department
 669 shall expeditiously approve the forms of other insurers who
 670 apply for approval if those forms contain identical coverages,
 671 rates, or deviations which have been approved under s. 627.783.

672 Section 15. Section 627.780, Florida Statutes, is amended
 673 to read:

674 627.780 Illegal dealings in premium.-

675 (1) A person may not knowingly quote, charge, accept,
 676 collect, or receive a premium for title insurance other than the
 677 premium adopted by the division ~~commission, except as provided~~
 678 ~~in s. 626.9541(1)(h)3.b.~~

679 (2) A title insurer may not knowingly accept, collect, or
 680 receive any sum as premium for title insurance, if the title
 681 insurance is not then provided or is not to be provided, subject
 682 to acceptance of the risk, in due course, unless the title
 683 insurer promptly enters the sum on its books of account as
 684 premium collected in advance.

685 Section 16. Subsection (8) of section 627.782, Florida
 686 Statutes, is amended to read:

687 627.782 Adoption of rates.-

688 (8) Collection of title insurance information.- Each title
 689 insurance agency licensed to do business in this state and each
 690 insurer engaging in direct, retail, or affiliated business in
 691 this state shall maintain and submit information, including
 692 revenue, loss, and expense data, as the department determines
 693 necessary to assist in the analysis of title insurance premium
 694 rates, title search costs, and the condition of the title
 695 insurance industry in this state. This information must be
 696 transmitted annually after the reporting year to the department
 697 no later than March 31. The department shall adopt rules to
 698 assist in the collection and analysis of the data from the title
 699 insurance industry ~~The commission may, by rule, require~~

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700 ~~licensees under this part to annually submit statistical~~
701 ~~information, including loss and expense data, as the department~~
702 ~~determines to be necessary to analyze premium rates, retention~~
703 ~~rates, and the condition of the title insurance industry.~~

704 Section 17. Parts II, III, IV, and V of chapter 631,
705 Florida Statutes, are redesignated as parts III, IV, V, and VI,
706 respectively, and a new part II, consisting of sections 631.400,
707 631.401, 631.402, 631.403, 631.404, 631.405, 631.406, 631.407,
708 631.408, 631.409, and 631.410, Florida Statutes, is created to
709 read:

710 631.400 Legislative findings; application.—

711 (1) The Legislature finds:

712 (a) That title insurance policies differ from most other
713 types of insurance in that the title insurance policy provides
714 protection for many years based on a single premium paid at the
715 time of issuance. This is in contrast to most other lines of
716 insurance, which are paid annually.

717 (b) That the practice under part I of chapter 631 of
718 terminating title insurance policies after notice without making
719 reservation for future potential claims is highly prejudicial to
720 an insured, who often does not know or have any way of
721 determining at the time of termination that a claim under their
722 policy may arise many years in the future, and that, therefore,
723 the termination of a policy adversely shifts the burden for
724 paying a claim from the assets of the title insurer to the
725 assets of lower classes of creditors.

726 (c) Where an impaired title insurer has issued policies in
727 this state and other jurisdictions, the policyholders in each

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728 jurisdiction equitably have a claim against the pro rata portion
729 of assets, with the proration based on the best actuarial
730 estimate of the policy obligations in each jurisdiction.

731 (d) Because title insurance policies are essential to a
732 strong real estate economy, there is a public policy purpose in
733 supplementing the pro rata allocation of assets of an impaired
734 title insurer with a surcharge on Florida title insurance
735 transactions in this state in order to provide a mechanism to
736 ensure the continuing viability of policy obligations in this
737 state and payment of claims in accord with policy terms over the
738 life of the policy.

739 (e) The additional protections provided for policy
740 obligations in this state through assessments, assumption of
741 policy obligations, and surcharges on title policies under this
742 part must be implemented in a way that ensures that the assets
743 of an impaired title insurer are allocated fairly without
744 discrimination as to all policyholders and that the surcharge on
745 policies in this state does not directly or indirectly subsidize
746 policies in other jurisdictions.

747 (f) The facts and circumstances surrounding an impaired
748 title insurer are unique and make it impossible to anticipate
749 every possible scenario. Accordingly, a court supervising the
750 liquidation of a title insurer must be accorded great latitude
751 and flexibility in exercising legal and equitable powers
752 designed to balance the many competing interests while at the
753 same time advancing the public policy goals of continuing the
754 bargained for coverage and minimizing the effect of assessments

755 or surcharges on a business, the solvency of other title
 756 insurers, and the overall economy.

757 (2) Where an impaired or insolvent insurer is a title
 758 insurer, the provisions and procedures of part I shall be
 759 modified and supplemented as provided in this part.

760 631.401 Definitions.—For purposes of this part, the
 761 definitions contained in part I shall be modified and
 762 supplemented as follows:

763 (1) "Contributing title insurer" means a title insurer who
 764 has assumed policy obligations pursuant to s. 631.404 or paid an
 765 assessment pursuant to s. 631.405.

766 (2) "Contribution amount" is, as to each contributing
 767 title insurer, the sum of assessments paid pursuant to s.
 768 631.405 and the actuarial estimate of the policy obligations
 769 assumed pursuant to s. 631.404.

770 (3) "Florida policy obligation" means all unsatisfied or
 771 unceded obligations of an impaired title insurer, under:

772 (a) Title insurance policies insuring interests in real
 773 property in this state.

774 (b) Policies insuring interests under the uniform
 775 commercial code, where the underlying personal property is
 776 normally or predominantly located in this state.

777 (c) Closing protection letters or insured closing letters
 778 issued in connection with a transaction involving real property
 779 in this state.

780 (d) Any reinsurance policy, assumption agreement, and
 781 reinsurance certificate, reinsuring title insurance policies
 782 issued with regard to real property in this state or personal

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783 property that is normally or predominantly located in this
784 state.

785 (4) "Florida portion of assets" means an amount equal to
786 an impaired title insurer's total general assets reduced by the
787 Class 1 costs of administration, multiplied by a fraction, the
788 numerator of which is the actuarially determined liability for
789 the impaired title insurer's Florida policy obligations and the
790 denominator of which is the actuarially determined liability for
791 the impaired title insurer's total policy obligations.

792 (5) "Foreign ancillary administrator" means, for reference
793 purposes, any receiver, administrator, or liquidator appointed
794 by a court of another state or nation with regard to the
795 rehabilitation or liquidation of a domestic title insurer.

796 (6) "Impaired title insurer" means a title insurer which
797 meets the standards for an impairment of capital, impairment of
798 surplus, or insolvency or other conditions permitting
799 rehabilitation or liquidation as provided in part I or this
800 part.

801 (7) "Policy obligations" means the unsatisfied or unceded
802 liability of a title insurer for:

803 (a) Outstanding title insurance policies insuring
804 interests in real property, wherever located;

805 (b) Policies insuring interests under the uniform
806 commercial code;

807 (c) Closing protection letters or insured closing letters
808 issued in connection with a transaction involving real property
809 wherever located; and

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810 (d) Obligations under any reinsurance policy, assumption
811 agreement, and reinsurance certificate, reinsuring title
812 insurance policies.

813 (8) "Primary administrator" means the receiver or
814 liquidator, however termed, of a foreign or alien title insurer
815 appointed pursuant to the law of its domiciliary jurisdiction.

816 (9) "Primary proceeding" means the judicial,
817 administrative, or other proceeding effecting the rehabilitation
818 or liquidation of an alien or foreign title insurer in its
819 domiciliary jurisdiction.

820 (10) "Title insurer" has the meaning ascribed in s.
821 624.608 and also includes any entity which has surrendered its
822 certificate of authority or ceased to qualify as a title insurer
823 since January 1, 2009.

824 (11) "Total policy obligation" means all unsatisfied or
825 unceded policy obligations of an impaired title insurer.

826 631.402 Rehabilitation of title insurer.-

827 (1) After the entry of an order of rehabilitation pursuant
828 to part I, the receiver shall review the condition of the
829 impaired title insurer and file a plan of rehabilitation with
830 the court.

831 (2) The plan of rehabilitation shall be approved only if
832 the court finds both that the impaired title insurer is capable
833 of continuing the management and payment of its policy
834 obligations in this state during rehabilitation and that there
835 is a reasonable likelihood that the impaired title insurer will
836 be able to exit rehabilitation as a financially stable title
837 insurer.

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838 (3) The plan of rehabilitation shall provide that all
839 policy obligations of the impaired title insurer shall remain in
840 force.

841 (4) The department may prohibit or limit the issuance of
842 new policies during rehabilitation or condition the issuance of
843 new policies on such terms and conditions as it deems
844 appropriate to protect the solvency of the impaired title
845 insurer and the new policyholders. Terms and conditions may
846 include requiring reinsurance of policy and closing protection
847 letter liabilities.

848 (5) An assessment under s. 631.405 or a surcharge under s.
849 631.406 shall not be levied as to an impaired insurer in
850 rehabilitation.

851 631.403 Liquidation of title insurer.—

852 (1) The department or a receiver may apply to the court
853 for an order appointing it as receiver if its appointment as
854 receiver is not then in effect and directing it to liquidate the
855 business and assets of an impaired title insurer if it
856 determines that rehabilitation is not appropriate or has not
857 been successful and such insurer satisfies any of the grounds
858 for rehabilitation provided in s. 631.051 or any of the grounds
859 for liquidation provided in s. 631.061.

860 (2) In liquidation, all policy obligations in this state
861 of the impaired title insurer shall remain in force. The
862 continuation of policy obligations in other jurisdictions is to
863 be determined under the laws of the respective jurisdiction
864 after consultation with the regulator or foreign ancillary
865 administrator in the affected jurisdiction.

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866 (3) Any or all assets of the impaired title insurer may be
867 liquidated. If policy obligations in this state are assumed or
868 assessments made under this part, this state's portion of assets
869 shall be made available as an offset or partial repayment.

870 (4) The portion of assets of other jurisdictions shall be
871 made available pro rata to the foreign ancillary administrator
872 or regulator of the various jurisdictions in which the impaired
873 insurer has policy obligations.

874 (a) The pro rata allocation of another jurisdiction's
875 portion of assets shall be based on the actuarially determined
876 liability for the impaired title insurer's policy obligations in
877 each affected jurisdiction.

878 (b) The amount allocated to any jurisdiction shall not
879 exceed the estimated administrative costs in that jurisdiction
880 and the estimated cost of resolving policy claims in the
881 jurisdiction under the applicable law.

882 (5) As provided in section 631.404, the court may order,
883 as it deems necessary and appropriate, all of the impaired title
884 insurer's policy obligations in this state to be assumed.

885 (6) The liquidator must require an actuarial estimate to
886 be made of the policy obligations of the impaired insurer in
887 each jurisdiction in which the insurer has issued policies. Upon
888 approval by the court, those actuarial estimates must be used
889 for all computations under this part.

890 631.404 Continuation of policy obligations; authority of
891 court to order assumption of policy obligations and other
892 remedies in liquidation.—

893 (1) The law of this state has long provided that as a
894 condition of doing business in this state, each title insurer
895 shall be liable for an assessment to pay all unpaid title
896 insurance claims for any title insurer that is liquidated. In
897 addition, and as a further condition for doing business in this
898 state, each title insurer shall be obligated to assume
899 liabilities and handle claims for policy obligations in this
900 state of an impaired title insurer in liquidation or to comply
901 with requirements pertaining to any other similar remedy or
902 structure ordered by the court pursuant to this part, including
903 but not limited to, those described in this section.

904 (2) The court, without limiting the scope of its authority
905 to do equity and impose a workable resolution on solvent title
906 insurers, may include any of the following elements in its
907 orders:

908 (a) Authorizing the department to waive liquidity and
909 solvency standards for up to 120 days so as to permit an
910 impaired title insurer to continue to do business, while
911 ordering the sale of the impaired title insurer as a going
912 concern.

913 (b) After distribution of information reasonably necessary
914 to permit informed bids, soliciting bids on how much the bidder
915 would be willing to pay or would have to receive as a condition
916 to assuming all of the policy obligations in this state. A
917 person who is not a title insurer may bid to assume the
918 obligations of the impaired title insurer only if the person
919 commits to adequately capitalize and obtain a certificate of

920 authority or become a domestic insurer within 90 days after the
 921 acceptance of the person's bid.

922 1. The assumption of the policy obligations may be coupled
 923 with the acquisition of some or all of the assets of the
 924 impaired title insurer.

925 2. If the best bid would require the payment of additional
 926 funds to the acquiring person, the amount of additional funds
 927 required shall be immediately assessed pro rata among the other
 928 title insurers as provided in section 631.405.

929 3. The court may direct the successful bidder to take over
 930 the claims phone numbers of the impaired title insurer and to
 931 cause mail to be forwarded from the claims address of the
 932 impaired title insurer to an appropriate address of the
 933 successful bidder.

934 (c) Directing the liquidator or department to assign each
 935 of the policy obligations of the impaired title insurer in this
 936 state pro rata to a specific title insurer and ordering each
 937 title insurer to assume the assigned obligations.

938 1. In making the assignments of specific policy
 939 obligations, the liquidator or department shall attempt to make
 940 a pro rata allocation of each class or type of obligation for
 941 each policy year, net of any reinsurance affecting a policy or
 942 group of policies. In making assignments the liquidator or
 943 department shall attempt to take into account any internal risk
 944 retention limits of a title insurer. No title insurer shall be
 945 required to assume a policy liability where the face amount, net
 946 of applicable reinsurance, exceeds the maximum policy it is
 947 authorized to write in this state.

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948 2. The liquidator or department shall make a list of all
949 policy obligations in this state that are assigned and provide
950 the list to each title insurer that assumes any of the policy
951 obligations in this state of the impaired title insurer.

952 3. The court may direct any title insurer to take over the
953 phone number of an impaired title insurer and to cause mail to
954 be forwarded from the claims address of the impaired title
955 insurer and be responsible for directing any claims to the
956 appropriate title insurer.

957 (d) Such other procedures, structures, and remedies as the
958 court may deem appropriate under the circumstances.

959 (3) As to any policy obligations assumed, the assuming
960 title insurer is subrogated to all rights of the impaired title
961 insurer.

962 (4) Title insurers other than the impaired title insurer
963 are not a necessary party to a liquidation or a receivership
964 proceeding; however, each title insurer potentially liable for
965 assessments or assumption of policy obligations in this state
966 under this part shall receive notice and an opportunity to be
967 heard in those portions of the liquidation proceeding dealing
968 with the setting of assessments or assumption of policy
969 obligations.

970 (5) A title insurer assuming policy obligations in this
971 state under this part shall not be required to set aside
972 additional reserves under s. 625.111(1)(b) as to the obligations
973 assumed, but the obligations assumed shall be included in
974 determining actuarially required reserves under s.
975 625.111(1)(c).

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976 631.405 Assessment of title insurers.—If an assessment is
977 made pursuant to s. 627.7865 or this part:

978 (1) The assessment must be in an aggregate amount approved
979 by the court.

980 (2) The department must assess all title insurers, other
981 than the impaired insurer, on a pro rata basis calculated on the
982 total title insurance gross premiums written in this state,
983 excluding premiums on reinsurance, as reported to the department
984 for the most recent calendar year. If multiple proceedings are
985 pending simultaneously, the assessments from each proceeding
986 shall be aggregated. A title insurer shall not be required to
987 pay an amount, net of reimbursements previously repaid under s.
988 631.406, in excess of one-tenth of its surplus as to
989 policyholders as to all impaired title insurers. The department
990 may exempt or limit the assessment of a title insurer if such
991 assessment would result in a reduction of surplus as to
992 policyholders below the minimum required to maintain the title
993 insurer's certificate of authority in this state.

994 (3) Assessments shall be paid to the receiver within 90
995 days after notice of the assessment or pursuant to a quarterly
996 installment plan approved by the receiver. Any title insurer
997 that elects to pay an assessment on an installment plan shall
998 also pay a financing charge to be determined by the receiver.

999 (4) Assessments and emergency assessments once ordered by
1000 the department shall be considered assets of the estate and
1001 subject to the provisions of s. 631.154.

1002 631.406 Recovery of assessments and assumed policy
1003 obligations.—

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1004 (1) Each contributing title insurer shall be entitled to
1005 be reimbursed for its contribution amount together with interest
1006 from a surcharge to be established under this section. In
1007 determining the amount to be reimbursed, the following shall be
1008 treated as a reduction of each title insurer's contribution
1009 amount and accrued interest:

1010 (a) The value of any assets or reserves transferred to a
1011 contributing title insurer. The court shall make a finding as to
1012 the value of any assets or reserves transferred as part of the
1013 liquidation proceeding.

1014 (b) All amounts distributed from the estate of the
1015 impaired title insurer to that contributing title insurer.

1016 (c) Amounts previously repaid from surcharges.

1017 (2) Upon the making of any assessment under s. 631.405 or
1018 a court ordering the assumption of policy obligations in this
1019 state under s. 631.404, the department shall order a surcharge
1020 on each title insurance policy thereafter issued insuring an
1021 interest in real property in this state in an amount determined
1022 by the court. The court shall set the per transaction surcharge
1023 at an amount estimated to generate sufficient funds to reimburse
1024 the contribution amount of every contributing title insurer, net
1025 of estimated liquidation or sale proceeds of the impaired title
1026 insurer, over a period of not more than 5 years. The amount of
1027 the per transaction surcharge ordered under this section shall
1028 not exceed \$25 per transaction for each impaired title insurer.
1029 If additional surcharges are occasioned by additional title
1030 insurers becoming impaired, the department shall order an

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1031 increase in the amount of the surcharge to reflect the aggregate
1032 surcharge ordered by all courts.

1033 (a) The party responsible for payment of title insurance
1034 premium, unless otherwise agreed between the parties, shall be
1035 responsible for the payment of the surcharge. A surcharge shall
1036 not be due or owing as to any policy of title insurance issued
1037 at the simultaneous issue rate. For all other purposes, the
1038 surcharge shall be considered a governmental assessment to be
1039 separately stated on any settlement statement. The surcharge is
1040 not subject to premium tax or reserve requirements under chapter
1041 625.

1042 (b) Each title insurance agent and agency shall collect
1043 the surcharge as to each title insurance policy written and
1044 timely remit the surcharge to the title insurer issuing the
1045 policy. Each title insurer shall collect the surcharge as to
1046 each title insurance policy written by it directly to an
1047 insured.

1048 (c) Each title insurer shall remit all surcharges
1049 collected to the department on a monthly basis within 10 days
1050 after the end of each month. At least monthly, the department
1051 shall disburse the surcharges received pro rata to each
1052 contributing title insurer until that title insurer's full
1053 contribution amount, together with interest has been repaid.

1054 (3) When the department has disbursed surcharge proceeds
1055 sufficient to reimburse each contributing title insurer's
1056 contribution amount with interest, the department shall
1057 immediately terminate future surcharges. Any excess surcharges

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1058 collected shall be deemed properly collected and remitted to the
 1059 department for deposit into the Insurance Regulatory Trust Fund.

1060 (4) At any time before the termination of the surcharge, a
 1061 contributing title insurer may petition the court for a
 1062 modification of the contribution amount to be reimbursed based
 1063 upon a showing that it has experienced claims significantly in
 1064 excess of the actuarial estimate with regard to policies
 1065 assumed.

1066 631.407 Treatment of recovery amounts as admitted assets.-
 1067 The future right for each contributing title insurer to be
 1068 reimbursed for its contribution amount under s. 631.406(1) shall
 1069 be booked as a receivable at face value and treated for all
 1070 purposes as an admitted asset without limitation as to a
 1071 percentage of reserves or any requirement for diversification.

1072 631.408 Application to foreign and alien title insurers.-
 1073 If a foreign or alien title insurer has become impaired and
 1074 subject to a primary proceeding:

1075 (1) The department may, in consultation with the primary
 1076 administrator, file an ancillary liquidation proceeding in this
 1077 state for purposes of marshalling any assets located in this
 1078 state and authorizing the additional protection of those holding
 1079 policy obligations in this state through assessments, assumption
 1080 of policy liabilities, or surcharges under this part.

1081 (2) In an ancillary liquidation proceeding the provisions
 1082 of this part, including, without limitation, the authority to
 1083 make assessments, mandate assumption of policy obligations in
 1084 this state, and establish surcharges shall apply as to the
 1085 policy obligations in this state of the impaired insurer.

1086 (3) The court may judicially recognize and use actuarial
 1087 estimates approved in the primary proceeding without the need
 1088 for separate analyses or taking of evidence.

1089 (4) The department is authorized to intervene in the
 1090 primary proceeding or seek to remove the matter to federal court
 1091 in order to assert a right to this state's portion of assets as
 1092 an offset to contribution amounts under this part.

1093 (5) The court shall not order any assessment, assumption
 1094 of policy obligations in this state, or surcharge, unless the
 1095 primary administrator has paid or confirmed its agreement to pay
 1096 an amount that roughly approximates this state's portion of
 1097 assets, net of the pro rata costs of administration to the
 1098 receiver or to the contributing title insurers as a partial
 1099 offset of their contribution amounts.

1100 631.409 Priority of claims.—The priority of distribution
 1101 of claims from the impaired title insurer's estate shall be in
 1102 accordance with the order in which each class of claims is
 1103 provided for in s. 631.271, except that in the case of an
 1104 impaired title insurer, Class 2 means the total policy
 1105 obligations of the impaired insurer. In determining the amount
 1106 to be reserved for Class 2 claims, the court shall use the
 1107 actuarial estimate of total policy obligations as reduced for
 1108 those jurisdictions where the law provides for a limited period
 1109 for making or filing claims or the termination of policies.

1110 631.410 Rulemaking authority.—The department may adopt
 1111 rules to implement the provisions of this part, including, but
 1112 not limited to, establishing procedures for allocating and
 1113 assigning policy liabilities under s. 631.404; assessing and

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1114 collecting assessments from title insurers under s. 631.405; the
 1115 making and collecting of surcharges and repayment of
 1116 contribution amounts under s. 631.406; and the accounting
 1117 treatment and actuarial treatment of the right to be reimbursed
 1118 for contribution amounts.

1119 Section 18. Section 689.263, Florida Statutes, is created
 1120 to read:

1121 689.263 Sale of residential property; settlement statement
 1122 requirements.—A title insurance agent or title insurance agency
 1123 may not disburse funds pursuant to a completed purchase and sale
 1124 transaction subject to the Real Estate Settlement Procedures Act
 1125 of 1974, 12 U.S.C. ss. 2601 et seq.(RESPA), as amended, without
 1126 requiring a statement of settlement costs meeting the following
 1127 requirements:

1128 (1) The settlement statement must be executed by the
 1129 buyer, borrower, seller, if any, and settlement agent as defined
 1130 by RESPA.

1131 (2) If a title insurance premium is to be disbursed, the
 1132 title insurer and the title insurance agent or title insurance
 1133 agency, if any, must be disclosed.

1134 Section 19. Subsection (4) of section 395.106, Florida
 1135 Statutes, is amended to read:

1136 395.106 Risk pooling by certain hospitals and hospital
 1137 systems.—

1138 (4) An alliance that meets the requirements of this
 1139 section is not an insurer for purposes of participation in or
 1140 coverage by the Florida Insurance Guaranty Association
 1141 established in part III ~~II~~ of chapter 631. Alliance self-insured

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1142 coverage is not subject to insurance premium tax, and any such
 1143 alliance formed pursuant to this section may not be assessed for
 1144 purposes of s. 215.555 or s. 627.351.

1145 Section 20. Subsection (6) of section 624.488, Florida
 1146 Statutes, is amended to read:

1147 624.488 Applicability of related laws.—In addition to
 1148 other provisions of the code cited in ss. 624.460-624.488:

1149 (6) Parts I and VI ~~∅~~ of chapter 631,

1150
 1151 apply to self-insurance funds. Only those sections of the code
 1152 that are expressly and specifically cited in ss. 624.460-624.489
 1153 apply to self-insurance funds.

1154 Section 21. Section 627.442, Florida Statutes, is amended
 1155 to read:

1156 627.442 Insurance contracts.—A person who requires a
 1157 workers' compensation insurance policy pursuant to a
 1158 construction contract may not reject a workers' compensation
 1159 insurance policy issued by a self-insurance fund that is subject
 1160 to part VI ~~∅~~ of chapter 631 based upon the self-insurance fund
 1161 not being rated by a nationally recognized insurance rating
 1162 service.

1163 Section 22. Subsection (1) of section 627.974, Florida
 1164 Statutes, is amended to read:

1165 627.974 Filing of policy forms and rates.—

1166 (1) Policy forms and any amendments thereto must be filed
 1167 with the office within 30 days after their use by the insurer. A
 1168 policy may not provide coverage of the acceleration of payments
 1169 due under the guaranteed obligations, including any payment in

1170 advance of scheduled maturity to be made by the issuer of the
 1171 guaranteed obligations at the sole option of the owner of the
 1172 guaranteed obligations, unless the acceleration is at the sole
 1173 option of the insurer. Each policy must disclose that the
 1174 insurance provided by the policy is not covered by the Florida
 1175 Insurance Guaranty Association created under part III ~~II~~ of
 1176 chapter 631. The commission may prescribe additional minimum
 1177 policy provisions which are determined by the commission to be
 1178 necessary or appropriate to protect policyholders, claimants,
 1179 obligees, or indemnitees.

1180 Section 23. Subsections (1) and (5) of section 631.252,
 1181 Florida Statutes, are amended to read:

1182 631.252 Continuation of coverage.—

1183 (1) All insurance policies or similar contracts of
 1184 coverage, other than coverages defined in s. 631.713 or health
 1185 maintenance organization coverage under part V ~~IV~~, issued by the
 1186 insurer shall be canceled upon the earliest to occur of the
 1187 following:

1188 (a) The date of entry of the liquidation or, if the court
 1189 so provides in its order, the expiration of 30 days from the
 1190 date of entry of the liquidation order;

1191 (b) The normal expiration of the policy or contract
 1192 coverage;

1193 (c) The replacement of the coverage by the insured, or the
 1194 replacement of the policy or contract of coverage, with a policy
 1195 or contract acceptable to the insured by the receiver with
 1196 another insurer; or

1197 (d) The termination of the coverage by the insured.

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1198 (5) Benefits under membership in a health maintenance
 1199 organization shall continue in force for such period as provided
 1200 in part V ~~IV~~.

1201 Section 24. For the purpose of incorporating the amendment
 1202 made by this act to section 626.9541, Florida Statutes, in a
 1203 reference thereto, subsection (3) of section 624.488, Florida
 1204 Statutes, is reenacted to read:

1205 624.488 Applicability of related laws.—In addition to
 1206 other provisions of the code cited in ss. 624.460-624.488:

1207 (3) Applicable sections of part VI of chapter 626; s.
 1208 626.9541(1)(a), (b), (c), (d), (e), (f), (h), (i), (j), (k),
 1209 (l), (m), (n), (o), (q), (u), (w), and (x); and ss. 626.9561-
 1210 626.9641;

1211
 1212 apply to self-insurance funds. Only those sections of the code
 1213 that are expressly and specifically cited in ss. 624.460-624.489
 1214 apply to self-insurance funds.

1215 Section 25. For the purpose of incorporating the amendment
 1216 made by this act to section 626.9541, Florida Statutes, in a
 1217 reference thereto, subsection (8) of section 626.8437, Florida
 1218 Statutes, is reenacted to read:

1219 626.8437 Grounds for denial, suspension, revocation, or
 1220 refusal to renew license or appointment.—The department shall
 1221 deny, suspend, revoke, or refuse to renew or continue the
 1222 license or appointment of any title insurance agent or agency,
 1223 and it shall suspend or revoke the eligibility to hold a license
 1224 or appointment of such person, if it finds that as to the
 1225 applicant, licensee, appointee, or any principal thereof, any

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1226 one or more of the following grounds exist:

1227 (8) Unlawful rebating, or attempting to unlawfully rebate,
 1228 or unlawfully dividing, or offering to unlawfully divide, title
 1229 insurance premiums, fees, or charges with another, as prohibited
 1230 by s. 626.9541(1)(h)3.

1231 Section 26. For the purpose of incorporating the amendment
 1232 made by this act to section 626.9541, Florida Statutes, in a
 1233 reference thereto, paragraph (j) of subsection (1) of section
 1234 627.776, Florida Statutes, is reenacted to read:

1235 627.776 Applicability or inapplicability of Florida
 1236 Insurance Code provisions to title insurers.—

1237 (1) In addition to any other provisions of law applicable
 1238 to title insurers, title insurers are subject to the following
 1239 provisions of this code:

1240 (j) Section 626.9541(1)(h) (rebates prohibited; title
 1241 insurance).

1242 Section 27. For the purpose of incorporating the amendment
 1243 made by this act to section 626.9541, Florida Statutes, in a
 1244 reference thereto, Subsection (3) of section 628.6016, Florida
 1245 Statutes, is reenacted to read:

1246 628.6016 Applicability of related laws.—In addition to
 1247 other provisions of the code cited in ss. 628.6011-628.6018:

1248 (3) Applicable sections of part VI of chapter 626; s.
 1249 626.9541(1)(a), (b), (c), (d), (e), (f), (h), (i), (j), (k),
 1250 (l), (m), (n), (o), (q), (u), (w), and (x); and ss. 626.9561-
 1251 626.9641;

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1253 | apply to assessable mutual insurers; however, ss. 628.255,
1254 | 628.411, and 628.421 do not apply. No section of the code not
1255 | expressly and specifically cited in ss. 628.6011-628.6018
1256 | applies to assessable mutual insurers. The term "assessable
1257 | mutual insurer" shall be substituted for the term "commercial
1258 | self-insurer" as appropriate.

1259 | Section 28. This act shall take effect July 1, 2011.