



138472

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2011	.	
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The Committee on Budget (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (17) of section 120.80, Florida
Statutes, is created to read:

120.80 Exceptions and special requirements; agencies.-

(17) DEPARTMENT OF FINANCIAL SERVICES.-Notwithstanding ss.
120.569, 120.57, and 120.60, if an applicant for licensure as an
agent or adjuster pursuant to the Florida Insurance Code has
been convicted of, or pled guilty or nolo contendere to, a
felony, the disqualifying periods have been met, and the
department has denied the application pursuant to s. 626.207(6),



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14 the division shall have final order authority.

15 Section 2. Subsection (1) of section 440.12, Florida
16 Statutes, is amended to read:

17 440.12 Time for commencement and limits on weekly rate of
18 compensation.—

19 (1) ~~No~~ Compensation is not shall be allowed for the first 7
20 days of the disability, except for benefits provided under ~~for~~
21 ~~in~~ s. 440.13. However, if the injury results in disability of
22 more than 21 days, compensation shall be allowed from the
23 commencement of the disability.

24 (a) All weekly compensation payments, except for the first
25 payment, shall be paid by check or, if authorized by the
26 employee, on a prepaid card pursuant to paragraph (b) or
27 deposited directly into the employee's account at a financial
28 institution. As used in this subsection, the term "financial
29 institution" means a financial institution as defined in s.
30 655.005(1) (h).

31 (b) Upon receipt of authorization by the employee as
32 provided in paragraph (a), a carrier may use a prepaid card to
33 deliver compensation payments to an employee if the employee:

- 34 1. Has at least one means of accessing his or her entire
35 compensation payment once per week without incurring fees;
36 2. Has the ability to make point-of-sale purchases without
37 incurring fees from the financial institution issuing the
38 prepaid card; and
39 3. Is provided with terms and conditions of the prepaid
40 card program, including a description of any fees that may be
41 assessed.

42 (c) Each carrier shall keep a record of all payments made



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43 under this subsection and the time and manner of such payments,
44 and shall furnish these records, or a report based on these
45 records, to the Division of Insurance Fraud and the Division of
46 Workers' Compensation upon request.

47 (d) The department may adopt rules to administer this
48 subsection.

49 Section 3. Paragraph (a) of subsection (1) of section
50 440.20, Florida Statutes, is amended to read:

51 440.20 Time for payment of compensation and medical bills;
52 penalties for late payment.—

53 (1) (a) Unless the carrier ~~it~~ denies compensability or
54 entitlement to benefits, the carrier shall pay compensation
55 directly to the employee as required by ss. 440.14, 440.15, and
56 440.16, in accordance with the obligations set forth in those
57 such sections. Upon receipt of the employee's authorization as
58 provided in s. 440.12(1) ~~If authorized by the employee,~~ the
59 carrier's obligation to pay compensation directly to the
60 employee is satisfied when the carrier directly deposits, by
61 electronic transfer or other means, compensation into the
62 employee's account at a financial institution or onto a prepaid
63 card in accordance with s. 440.12(1). As used in this paragraph,
64 the term "financial institution" means a financial institution
65 as defined in s. 655.005(1) ~~(h)~~. Compensation by direct deposit
66 or through the use of a prepaid card is considered paid on the
67 date the funds become available for withdrawal by the employee.

68 Section 4. Subsection (8) of section 624.402, Florida
69 Statutes, is amended to read:

70 624.402 Exceptions, certificate of authority required.—A
71 certificate of authority shall not be required of an insurer



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72 with respect to:

73 (8) An insurer domiciled outside the United States covering
74 only persons who, at the time of issuance or renewal, are
75 nonresidents of the United States.

76 (a) In order to qualify for this exemption, the insurer:

77 1. Must register with the office via a letter of
78 notification upon commencing business from this state.

79 2. Must provide the following information to the office
80 annually by March 1:

81 a. The name of the insurer; the insurer's country of
82 domicile; the address of the insurer's principal office and
83 office in this state; the names of the owners of the insurer and
84 their percentage of ownership; the names of the officers and
85 directors of the insurer; the name, e-mail, and telephone number
86 of a contact person for the insurer; and the number of
87 individuals who are employed by the insurer or its affiliates in
88 this state;

89 b. The type of products offered by the insurer;

90 c. A statement from the applicable regulatory body of the
91 insurer's domicile certifying that the insurer is licensed or
92 registered in that domicile; and

93 d. A copy of the filings required by the applicable
94 regulatory body of the insurer's domicile.

95 3. Or any affiliated person as defined in s. 624.04 under
96 common ownership or control with the insurer, may not solicit,
97 sell, or accept an application for any insurance policy or
98 contract to be delivered or issued for delivery to any
99 individual other than a nonresident.

100 (b) All policies or certificates delivered to nonresidents



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101 in this state must include the following statement in a
102 contrasting color and at least 10-point type: "The policy
103 providing your coverage and the insurer providing this policy
104 have not been approved by the Florida Office of Insurance
105 Regulation."

106 (c) If the insurer ceases to do business from this state,
107 the insurer must agree to provide written notification to the
108 office within 30 days after cessation.

109 (d) Subject to the limitations contained in this
110 subsection, services, including those listed in s. 624.10, may
111 be provided by the insurer or an affiliated person as defined in
112 s. 624.04 under common ownership or control with the insurer.

113 (e) An alien insurer transacting insurance in this state
114 without complying with this subsection is in violation of this
115 chapter and subject to the penalties under s. 624.15.

116 (f) An insurer that holds a certificate of authority in
117 this state may issue and deliver policies to nonresidents at
118 temporary or secondary addresses in this state, along with a
119 notice that the policy form and rate is not subject to the
120 approval of the Office of Insurance Regulation.

121 (g) The term "nonresident" means an individual who resides
122 in and maintains a physical place of domicile in a country other
123 than the United States, which he or she recognizes as and
124 intends to maintain as his or her permanent home. The term does
125 not include an unauthorized immigrant present in the United
126 States. Notwithstanding any other provision of law, it is
127 conclusively presumed that an individual is a resident of the
128 United States if such individual:

129 1. Has had his or her principal place of domicile in the



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130 United States for 180 days or more in the 365 days before
131 issuance or renewal the policy;

132 2. Has registered to vote in any state;

133 3. Has made a statement of domicile in any state; or

134 4. Has filed for homestead tax exemption on property in any
135 state.

136 ~~(a) Life insurance policies or annuity contracts issued by~~
137 ~~an insurer domiciled outside the United States covering only~~
138 ~~persons who, at the time of issuance, are not residents of the~~
139 ~~United States and are not nonresidents illegally residing in the~~
140 ~~United States, provided:~~

141 ~~1. The insurer must currently be an authorized insurer in~~
142 ~~its country of domicile as to the kind or kinds of insurance~~
143 ~~proposed to be offered and must have been such an insurer for~~
144 ~~not fewer than the immediately preceding 3 years, or must be the~~
145 ~~wholly owned subsidiary of such authorized insurer or must be~~
146 ~~the wholly owned subsidiary of an already eligible authorized~~
147 ~~insurer as to the kind or kinds of insurance proposed for a~~
148 ~~period of not fewer than the immediately preceding 3 years.~~
149 ~~However, the office may waive the 3-year requirement if the~~
150 ~~insurer has operated successfully for a period of at least the~~
151 ~~immediately preceding year and has capital and surplus of not~~
152 ~~less than \$25 million.~~

153 ~~2. Before the office may grant eligibility, the requesting~~
154 ~~insurer shall furnish the office with a duly authenticated copy~~
155 ~~of its current annual financial statement, in English, and with~~
156 ~~all monetary values therein expressed in United States dollars,~~
157 ~~at an exchange rate then current and shown in the statement, in~~
158 ~~the case of statements originally made in the currencies of~~



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159 ~~other countries, and with such additional information relative~~
160 ~~to the insurer as the office may request.~~

161 ~~3. The insurer must have and maintain surplus as to~~
162 ~~policyholders of not less than \$15 million. Any such surplus as~~
163 ~~to policyholders shall be represented by investments consisting~~
164 ~~of eligible investments for like funds of like domestic insurers~~
165 ~~under part II of chapter 625; however, any such surplus as to~~
166 ~~policyholders may be represented by investments permitted by the~~
167 ~~domestic regulator of such alien insurance company if such~~
168 ~~investments are substantially similar in terms of quality,~~
169 ~~liquidity, and security to eligible investments for like funds~~
170 ~~of like domestic insurers under part II of chapter 625.~~

171 ~~4. The insurer must be of good reputation as to the~~
172 ~~providing of service to its policyholders and the payment of~~
173 ~~losses and claims.~~

174 ~~5. To maintain eligibility, the insurer shall furnish the~~
175 ~~office within the time period specified in s. 624.424(1)(a) a~~
176 ~~duly authenticated copy of its current annual and quarterly~~
177 ~~financial statements, in English, and with all monetary values~~
178 ~~therein expressed in United States dollars, at an exchange rate~~
179 ~~then-current and shown in the statement, in the case of~~
180 ~~statements originally made in the currencies of other countries,~~
181 ~~and with such additional information relative to the insurer as~~
182 ~~the office may request.~~

183 ~~6. An insurer receiving eligibility under this subsection~~
184 ~~shall agree to make its books and records pertaining to its~~
185 ~~operations in this state available for inspection during normal~~
186 ~~business hours upon request of the office.~~

187 ~~7. The insurer shall provide to the applicant for the~~



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188 ~~policy or contract a copy of the most recent quarterly financial~~
189 ~~statements of the insurer providing, in clear and conspicuous~~
190 ~~language:~~

191 ~~a. The date of organization of the insurer.~~

192 ~~b. The identity of and rating assigned by each recognized~~
193 ~~insurance company rating organization that has rated the insurer~~
194 ~~or, if applicable, that the insurer is unrated.~~

195 ~~c. That the insurer does not hold a certificate of~~
196 ~~authority issued in this state and that the office does not~~
197 ~~exercise regulatory oversight over the insurer.~~

198 ~~d. The identity and address of the regulatory authority~~
199 ~~exercising oversight of the insurer.~~

200
201 ~~This paragraph does not impose upon the office any duty or~~
202 ~~responsibility to determine the actual financial condition or~~
203 ~~claims practices of any unauthorized insurer, and the status of~~
204 ~~eligibility, if granted by the office, indicates only that the~~
205 ~~insurer appears to be financially sound and to have satisfactory~~
206 ~~claims practices and that the office has no credible evidence to~~
207 ~~the contrary.~~

208 ~~(b) If at any time the office has reason to believe that an~~
209 ~~insurer issuing policies or contracts pursuant to this~~
210 ~~subsection is insolvent or is in unsound financial condition,~~
211 ~~does not make reasonable prompt payment of benefits, or is no~~
212 ~~longer eligible under the conditions specified in this~~
213 ~~subsection, the office may conduct an examination or~~
214 ~~investigation in accordance with s. 624.316, s. 624.3161, or s.~~
215 ~~624.320 and, if the findings of such examination or~~
216 ~~investigation warrant, may withdraw the eligibility of the~~



217 ~~insurer to issue policies or contracts pursuant to this~~
218 ~~subsection without having a certificate of authority issued by~~
219 ~~the office.~~

220 ~~(c) This subsection does not provide an exception to the~~
221 ~~agent licensure requirements of chapter 626. Any insurer issuing~~
222 ~~policies or contracts pursuant to this subsection shall appoint~~
223 ~~the agents that the insurer uses to sell such policies or~~
224 ~~contracts as provided in chapter 626.~~

225 ~~(d) An insurer issuing policies or contracts pursuant to~~
226 ~~this subsection is subject to part IX of chapter 626, Unfair~~
227 ~~Insurance Trade Practices, and the office may take such actions~~
228 ~~against the insurer for a violation as are provided in that~~
229 ~~part.~~

230 ~~(e) Policies and contracts issued pursuant to this~~
231 ~~subsection are not subject to the premium tax specified in s.~~
232 ~~624.509.~~

233 ~~(f) Applications for life insurance coverage offered under~~
234 ~~this subsection must contain, in contrasting color and not less~~
235 ~~than 12-point type, the following statement on the same page as~~
236 ~~the applicant's signature:~~

237
238 ~~This policy is primarily governed by the laws of a~~
239 ~~foreign country. As a result, all of the rating and~~
240 ~~underwriting laws applicable to policies filed in this~~
241 ~~state do not apply to this coverage, which may result~~
242 ~~in your premiums being higher than would be~~
243 ~~permissible under a Florida-approved policy. Any~~
244 ~~purchase of individual life insurance should be~~
245 ~~considered carefully, as future medical conditions may~~



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246 ~~make it impossible to qualify for another individual~~
247 ~~life policy. If the insurer issuing your policy~~
248 ~~becomes insolvent, this policy is not covered by the~~
249 ~~Florida Life and Health Insurance Guaranty~~
250 ~~Association. For information concerning individual~~
251 ~~life coverage under a Florida-approved policy, consult~~
252 ~~your agent or the Florida Department of Financial~~
253 ~~Services.~~

254
255 ~~(g) All life insurance policies and annuity contracts~~
256 ~~issued pursuant to this subsection must contain on the first~~
257 ~~page of the policy or contract, in contrasting color and not~~
258 ~~less than 10-point type, the following statement:~~

259
260 ~~The benefits of the policy providing your coverage are~~
261 ~~governed primarily by the law of a country other than~~
262 ~~the United States.~~

263
264 ~~(h) All single premium life insurance policies and single~~
265 ~~premium annuity contracts issued to persons who are not~~
266 ~~residents of the United States and are not nonresidents~~
267 ~~illegally residing in the United States pursuant to this~~
268 ~~subsection shall be subject to the provisions of chapter 896.~~

269 Section 5. Effective upon becoming a law, section 626.207,
270 Florida Statutes, is amended to read:

271 626.207 ~~Department rulemaking authority; waiting periods~~
272 ~~for applicants; Penalties against licensees.—~~

273 (1) As used in this section, the term:

274 (a) "Financial services business" means any financial



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275 activity regulated by the Department of Financial Services, the
276 Office of Insurance Regulation, or the Office of Financial
277 Regulation.

278 (b) "First-degree felony" and "capital felony" include all
279 felonies designated as such by state law, as well as any felony
280 so designated in the jurisdiction in which the plea is entered
281 or judgment is rendered.

282 ~~(1) The department shall adopt rules establishing specific~~
283 ~~waiting periods for applicants to become eligible for licensure~~
284 ~~following denial, suspension, or revocation pursuant to s.~~
285 ~~626.611, s. 626.621, s. 626.8437, s. 626.844, s. 626.935, s.~~
286 ~~634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.~~
287 ~~634.423, s. 642.041, or s. 642.043. The purpose of the waiting~~
288 ~~periods is to provide sufficient time to demonstrate reformation~~
289 ~~of character and rehabilitation. The waiting periods shall vary~~
290 ~~based on the type of conduct and the length of time since the~~
291 ~~conduct occurred and shall also be based on the probability that~~
292 ~~the propensity to commit illegal conduct has been overcome. The~~
293 ~~waiting periods may be adjusted based on aggravating and~~
294 ~~mitigating factors established by rule and consistent with this~~
295 ~~purpose.~~

296 (2) An applicant who commits a first-degree felony; a
297 capital felony; a felony involving money laundering, fraud, or
298 embezzlement; or a felony directly related to a financial
299 services business is permanently barred from applying for a
300 license under this part. This bar applies to convictions, guilty
301 pleas, or nolo contendere pleas, regardless of adjudication, by
302 an applicant, officer, director, majority owner, partner,
303 manager, or other person who manages or controls an applicant.



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304 (3) For all other crimes not included in subsection (2),
305 the department shall adopt rules establishing the process and
306 application of disqualifying periods:

307 (a) A 15-year disqualifying period for all felonies
308 involving moral turpitude that are not specifically included in
309 the permanent bar in subsection (2).

310 (b) A 7-year disqualifying period for all felonies to which
311 the permanent bar in subsection (2) and the 15 year
312 disqualifying period in paragraph (a) do not apply.

313 (c) A 7-year disqualifying period for all misdemeanors
314 directly related to the financial services business.

315 (4) The department shall adopt rules providing for
316 additional disqualifying periods due to the commitment of
317 multiple crimes and other factors reasonably related to the
318 applicant's criminal history. The rules shall provide for
319 mitigating and aggravating factors. However, mitigation may not
320 result in a period of disqualification of less than 7 years and
321 may not mitigate the disqualifying periods in paragraphs (3) (b)
322 and (c).

323 (5) For purposes of this section, the disqualifying periods
324 begin upon the applicant's final release from supervision or
325 upon completion of the applicant's criminal sentence, including
326 payment of fines, restitution, and court costs, for the crime
327 for which the disqualifying period applies.

328 (6) After the disqualifying period has been met, the burden
329 is on the applicant to demonstrate that the applicant has been
330 rehabilitated, does not pose a risk to the insurance buying
331 public, is fit and trustworthy to engage in the business of
332 insurance pursuant to s. 626.611(7), and is otherwise qualified



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333 for licensure. Hearings shall be conducted in accordance with s.
334 120.80(17).

335 (7)~~(2)~~ The department shall adopt rules establishing
336 specific penalties against licensees in accordance with ss.
337 626.641 and 626.651 for violations of s. 626.611, s. 626.621, s.
338 626.8437, s. 626.844, s. 626.935, s. 634.181, s. 634.191, s.
339 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s.
340 642.043. The purpose of the revocation or suspension is to
341 provide a sufficient penalty to deter future violations of the
342 Florida Insurance Code. The imposition of a revocation or the
343 length of suspension shall be based on the type of conduct and
344 the probability that the propensity to commit further illegal
345 conduct has been overcome at the time of eligibility for
346 relicensure. The ~~revocation or the~~ length of suspension may be
347 adjusted based on aggravating or mitigating factors, established
348 by rule and consistent with this purpose.

349 (8) The provisions of s. 112.011 do not apply to applicants
350 for licensure under the Florida Insurance Code, including, but
351 not limited to agents, agencies, adjusters, adjusting firms,
352 customer representatives, or managing general agents.

353 Section 6. Paragraphs (a) and (b) of subsection (1),
354 paragraphs (a) and (b) of subsection (2), and subsection (4) of
355 section 627.4133, Florida Statutes, are amended to read:

356 627.4133 Notice of cancellation, nonrenewal, or renewal
357 premium.—

358 (1) Except as provided in subsection (2):

359 (a) An insurer issuing a policy providing coverage for
360 workers' compensation and employer's liability insurance,
361 property, casualty, except mortgage guaranty, surety, or marine



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362 insurance, other than motor vehicle insurance subject to s.
363 627.728, shall give the first-named ~~named~~ insured at least 45
364 days' advance written notice of nonrenewal or of the renewal
365 premium. If the policy is not to be renewed, the written notice
366 must ~~shall~~ state the reason or reasons ~~as to~~ why the policy is
367 not to be renewed. This requirement applies only if the insured
368 has furnished all of the necessary information so as to enable
369 the insurer to develop the renewal premium before ~~prior to~~ the
370 expiration date of the policy ~~to be renewed~~.

371 (b) An insurer issuing a policy providing coverage for
372 property, casualty, except mortgage guaranty, surety, or marine
373 insurance, other than motor vehicle insurance subject to s.
374 627.728 or s. 627.7281, shall give the first-named ~~named~~ insured
375 written notice of cancellation or termination other than
376 nonrenewal at least 45 days before ~~prior to~~ the effective date
377 of the cancellation or termination, including in the written
378 notice the reason or reasons for the cancellation or
379 termination, except that:

380 1. If ~~When~~ cancellation is for nonpayment of premium, at
381 least 10 days' written notice of cancellation accompanied by the
382 reason for cancellation must ~~therefor shall~~ be given. As used in
383 this subparagraph and s. 440.42(3), the term "nonpayment of
384 premium" means failure of the named insured to discharge when
385 due any of her or his obligations in connection with the payment
386 of premiums on a policy or any installment of such premium,
387 whether the premium is payable directly to the insurer or its
388 agent or indirectly under any premium finance plan or extension
389 of credit, or failure to maintain membership in an organization
390 if such membership is a condition precedent to insurance



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391 coverage. The term "Nonpayment of premium" also means the
392 failure of a financial institution to honor an insurance
393 applicant's check after delivery to a licensed agent for payment
394 of a premium, even if the agent has previously delivered or
395 transferred the premium to the insurer. If a dishonored check
396 represents the initial premium payment, the contract and all
397 contractual obligations are ~~shall be~~ void ab initio unless the
398 nonpayment is cured within the earlier of 5 days after actual
399 notice by certified mail is received by the applicant or 15 days
400 after notice is sent to the applicant by certified mail or
401 registered mail. ~~and~~ If the contract is void, any premium
402 received by the insurer from a third party must ~~shall~~ be
403 refunded to that party in full. ~~and~~

404 2. If ~~When~~ such cancellation or termination occurs during
405 the first 90 days during which the insurance is in force and the
406 insurance is canceled or terminated for reasons other than
407 nonpayment of premium, at least 20 days' written notice of
408 cancellation or termination accompanied by the reason for
409 cancellation must ~~therefor shall~~ be given except where there has
410 been a material misstatement or misrepresentation or failure to
411 comply with the underwriting requirements established by the
412 insurer.

413
414 After the policy has been in effect for 90 days, ~~no~~ such policy
415 may not ~~shall~~ be canceled by the insurer except when there has
416 been a material misstatement, a nonpayment of premium, a failure
417 to comply with underwriting requirements established by the
418 insurer within 90 days after ~~of~~ the date of effectuation of
419 coverage, or a substantial change in the risk covered by the



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420 policy or when the cancellation is for all insureds under such
421 policies for a given class of insureds. This subsection does not
422 apply to individually rated risks having a policy term of less
423 than 90 days.

424 (2) With respect to any personal lines or commercial
425 residential property insurance policy, including, but not
426 limited to, any homeowner's, mobile home owner's, farmowner's,
427 condominium association, condominium unit owner's, apartment
428 building, or other policy covering a residential structure or
429 its contents:

430 (a) The insurer shall give the first-named ~~named~~ insured at
431 least 45 days' advance written notice of the renewal premium.

432 (b) The insurer shall give the first-named ~~named~~ insured
433 written notice of nonrenewal, cancellation, or termination at
434 least 100 days before ~~prior to~~ the effective date of the
435 nonrenewal, cancellation, or termination. However, the insurer
436 shall give at least 100 days' written notice, or written notice
437 by June 1, whichever is earlier, for any nonrenewal,
438 cancellation, or termination that would be effective between
439 June 1 and November 30. The notice must include the reason or
440 reasons for the nonrenewal, cancellation, or termination, except
441 that:

442 1. The insurer shall give the first-named ~~named~~ insured
443 written notice of nonrenewal, cancellation, or termination at
444 least 180 days before ~~prior to~~ the effective date of the
445 nonrenewal, cancellation, or termination for a first-named ~~named~~
446 insured whose residential structure has been insured by that
447 insurer or an affiliated insurer for at least a 5-year period
448 immediately before ~~prior to~~ the date of the written notice.



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449 2. ~~If~~ When cancellation is for nonpayment of premium, at
450 least 10 days' written notice of cancellation accompanied by the
451 reason for cancellation must ~~therefor shall~~ be given. As used in
452 this subparagraph, the term "nonpayment of premium" means
453 failure of the named insured to discharge when due any of her or
454 his obligations in connection with the payment of premiums on a
455 policy or any installment of such premium, whether the premium
456 is payable directly to the insurer or its agent or indirectly
457 under any premium finance plan or extension of credit, or
458 failure to maintain membership in an organization if such
459 membership is a condition precedent to insurance coverage. The
460 term ~~"Nonpayment of premium"~~ also means the failure of a
461 financial institution to honor an insurance applicant's check
462 after delivery to a licensed agent for payment of a premium,
463 even if the agent has previously delivered or transferred the
464 premium to the insurer. If a dishonored check represents the
465 initial premium payment, the contract and all contractual
466 obligations are ~~shall be~~ void ab initio unless the nonpayment is
467 cured within the earlier of 5 days after actual notice by
468 certified mail is received by the applicant or 15 days after
469 notice is sent to the applicant by certified mail or registered
470 mail, ~~and~~ If the contract is void, any premium received by the
471 insurer from a third party must ~~shall~~ be refunded to that party
472 in full.

473 3. ~~If~~ When such cancellation or termination occurs during
474 the first 90 days during which the insurance is in force and the
475 insurance is canceled or terminated for reasons other than
476 nonpayment of premium, at least 20 days' written notice of
477 cancellation or termination accompanied by the reason for



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478 cancellation must ~~therefor shall~~ be given except where there has
479 been a material misstatement or misrepresentation or failure to
480 comply with the underwriting requirements established by the
481 insurer.

482 4. The requirement for providing written notice of
483 nonrenewal by June 1 of any nonrenewal that would be effective
484 between June 1 and November 30 does not apply to the following
485 situations, but the insurer remains subject to the requirement
486 to provide such notice at least 100 days before ~~prior to~~ the
487 effective date of nonrenewal:

488 a. A policy that is nonrenewed due to a revision in the
489 coverage for sinkhole losses and catastrophic ground cover
490 collapse pursuant to s. 627.706, as amended by s. 30, chapter
491 2007-1, Laws of Florida.

492 b. A policy that is nonrenewed by Citizens Property
493 Insurance Corporation, pursuant to s. 627.351(6), for a policy
494 that has been assumed by an authorized insurer offering
495 replacement or renewal coverage to the policyholder.

496
497 After the policy has been in effect for 90 days, the policy may
498 ~~shall~~ not be canceled by the insurer except when there has been
499 a material misstatement, a nonpayment of premium, a failure to
500 comply with underwriting requirements established by the insurer
501 within 90 days of the date of effectuation of coverage, or a
502 substantial change in the risk covered by the policy or if ~~when~~
503 the cancellation is for all insureds under such policies for a
504 given class of insureds. This paragraph does not apply to
505 individually rated risks having a policy term of less than 90
506 days.



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507 (4) Notwithstanding ~~the provisions of~~ s. 440.42(3), if
508 cancellation of a policy providing coverage for workers'
509 compensation and employer's liability insurance is requested in
510 writing by the insured, such cancellation is shall be effective
511 on the date requested by the insured, or if no date is
512 specified, cancellation is effective as of the date of the
513 written request the carrier sends the notice of cancellation to
514 the insured. The carrier is not required to send notice of
515 cancellation to the insured if the cancellation is requested in
516 writing. Any retroactive assumption of coverage and liabilities
517 under a policy providing workers' compensation and employer's
518 liability insurance may not exceed 21 days.

519 Section 7. Subsection (3) is added to section 627.4137,
520 Florida Statutes, to read:

521 627.4137 Disclosure of certain information required.—

522 (3) Any request made to a self-insured corporation pursuant
523 to this section shall be sent by certified mail to the
524 registered agent of the disclosing entity.

525 Section 8. Section 627.442, Florida Statutes, is amended to
526 read:

527 627.442 Insurance contracts.—

528 (1) A person who requires a workers' compensation insurance
529 policy pursuant to a construction contract may not reject a
530 workers' compensation insurance policy issued by a self-
531 insurance fund that is subject to part V of chapter 631 based
532 upon the self-insurance fund not being rated by a nationally
533 recognized insurance rating service.

534 (2) Notwithstanding s. 440.381(3), premium audits are not
535 required for workers' compensation or property and casualty



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536 coverages, except as provided by the insurance policy, by an
537 order of the office, or at least every 2 years if requested by
538 the employer.

539 Section 9. Subsection (2) of section 627.7277, Florida
540 Statutes, is amended to read:

541 627.7277 Notice of renewal premium.—

542 (2) An insurer shall mail or deliver to the first-named
543 insured ~~its policyholder~~ at least 30 days' advance written
544 notice of the renewal premium for the policy.

545 Section 10. Paragraph (a) of subsection (3), paragraphs (a)
546 and (d) of subsection (4), and subsections (5) and (6) of
547 section 627.728, Florida Statutes, are amended to read:

548 627.728 Cancellations; nonrenewals.—

549 (3) (a) ~~No~~ Notice of cancellation of a policy to which this
550 section applies is not ~~shall be~~ effective unless mailed or
551 delivered by the insurer to the first-named ~~named~~ insured and to
552 the first-named ~~named~~ insured's insurance agent at least 45 days
553 before ~~prior to~~ the effective date of cancellation, except that,
554 if ~~when~~ cancellation is for nonpayment of premium, at least 10
555 days' notice of cancellation accompanied by the reason for
556 cancellation must ~~therefor shall~~ be given. A ~~No~~ notice of
557 cancellation is not ~~of a policy to which this section applies~~
558 ~~shall be~~ effective unless the ~~reason or~~ reasons for cancellation
559 accompany the notice ~~of cancellation~~.

560 (4) (a) An ~~No~~ insurer must ~~shall fail to~~ renew a policy
561 unless it mails or delivers to the first-named ~~named~~ insured, at
562 the address shown in the policy, and to the first-named ~~named~~
563 insured's insurance agent at her or his business address, at
564 least 45 days' advance notice of its intention not to renew; and



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565 the reasons for refusal to renew must accompany such notice.

566 This subsection does not apply:

567 1. If the insurer has manifested its willingness to renew;

568 or

569 2. In case of nonpayment of premium.

570

571 Notwithstanding the failure of an insurer to comply with this
572 subsection, the policy terminates ~~shall terminate~~ on the
573 effective date of any other automobile liability insurance
574 policy procured by the insured with respect to any automobile
575 designated in both policies. Unless a written explanation for
576 refusal to renew accompanies the notice of intention not to
577 renew, the policy remains ~~shall remain~~ in full force and effect.

578 (d) Instead of canceling or nonrenewing a policy, an
579 insurer may, upon expiration of the policy term, transfer a
580 policy to another insurer under the same ownership or management
581 as the transferring insurer, by giving the first-named ~~named~~
582 insured at least 45 days' advance notice of its intent to
583 transfer the policy and of the premium and the specific reasons
584 for any increase in the premium.

585 (5) United States postal proof of mailing or certified or
586 registered mailing of notice of cancellation, of intention not
587 to renew, or of reasons for cancellation, or of the intention of
588 the insurer to issue a policy by an insurer under the same
589 ownership or management, to the first-named ~~named~~ insured at the
590 address shown in the policy is ~~shall be~~ sufficient proof of
591 notice.

592 (6) If ~~When~~ a policy is canceled, other than for nonpayment
593 of premium, or in the event of failure to renew a policy to



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594 which subsection (4) applies, the insurer shall notify the
595 first-named ~~named~~ insured of her or his possible eligibility for
596 insurance through the Automobile Joint Underwriting Association.
597 Such notice must ~~shall~~ accompany or be included in the notice of
598 cancellation or the notice of intent not to renew and ~~shall~~
599 state that the ~~such~~ notice of availability of the Automobile
600 Joint Underwriting Association is given pursuant to this
601 section.

602 Section 11. Section 627.7281, Florida Statutes, is amended
603 to read:

604 627.7281 Cancellation notice.—An insurer issuing a policy
605 of motor vehicle insurance not covered under the cancellation
606 provisions of s. 627.728 shall give the first-named ~~named~~
607 insured notice of cancellation at least 45 days before ~~prior to~~
608 the effective date of cancellation, except that if, ~~when~~
609 cancellation is for nonpayment of premium, at least 10 days'
610 notice of cancellation accompanied by the reason for
611 cancellation must ~~therefor shall~~ be given. As used in this
612 section, the term "policy" does not include a binder as defined
613 in s. 627.420 unless the duration of the binder period exceeds
614 60 days.

615 Section 12. Section 634.1711, Florida Statutes, is created
616 to read:

617 634.1711 Premium payable.—Notwithstanding s. 634.1815 and
618 s. 634.282(6), (7), and (13), a consumer may purchase a service
619 agreement for a premium amount negotiated with the salesperson.
620 The service agreement company is responsible for establishing
621 minimum premium rates to ensure its solvency under this part.
622 Other than the premium rates, no other terms or conditions of



623 the service agreement may be revised, amended, or changed by the
624 salesperson.

625 Section 13. Section 634.403, Florida Statutes, is amended
626 to read:

627 634.403 License required; exemptions.-

628 (1) No person in this state shall provide or offer to
629 provide service warranties to residents of this state unless
630 authorized ~~therefor~~ under a subsisting license issued by the
631 office. The service warranty association shall pay to the office
632 a license fee of \$200 for such license for each license year, or
633 part thereof, the license is in force.

634 (2) An insurer, while authorized to transact property or
635 casualty insurance in this state, may also transact a service
636 warranty business without additional qualifications or
637 authority, but is ~~shall be~~ otherwise subject to the applicable
638 provisions of this part.

639 (3) The office may, pursuant to s. 120.569, ~~in its~~
640 ~~discretion and~~ without advance notice and hearing, issue an
641 immediate final order to cease and desist to any person or
642 entity which violates this section. The Legislature finds that a
643 violation of this section constitutes an imminent and immediate
644 threat to the public health, safety, and welfare of the
645 residents of this state.

646 (4) Any person that is an affiliate of a domestic insurer
647 as defined in chapter 624 is exempt from application of this
648 part if the person does not issue, or market or cause to be
649 marketed, service warranties to residents of this state and does
650 not administer service warranties that were originally issued to
651 residents of this state. The domestic insurer or its wholly



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652 owned Florida licensed insurer must be the direct obligor of all
653 service warranties issued by such affiliate or must issue a
654 contractual liability insurance policy to such affiliate that
655 meets the conditions described in s. 634.406(3). If the office
656 ~~of Insurance Regulation~~ determines, after notice and opportunity
657 for a hearing, that a person's intentional business practices do
658 not comply with any of the exemption requirements of this
659 subsection, the person is ~~shall be~~ subject to this part.

660 (5) A person is exempt from licensure under this section if
661 it complies with the following:

662 (a) The service warranties are sold only to persons who are
663 not residents of this state and the person does not issue,
664 market, or cause to be marketed service warranties to residents
665 of this state and does not administer service warranties that
666 were originally issued to residents of this state.

667 (b) The person submits a letter of notification to the
668 office upon the start of business from this state and annually
669 by March 1, which provides the following information:

670 1. The type of products offered and a statement certifying
671 that the products are not regulated in the state in which it is
672 transacting business or that the person is licensed in the state
673 in which it is transacting business.

674 2. The name of the person; the state of domicile; the home
675 address and Florida address of the person; the names of the
676 owners and their percentage of ownership; the names of the
677 officers and directors; the name, e-mail, and telephone number
678 of a contact person; the states in which it is transacting
679 business; and how many individuals are employed in this state.

680 (c) If the person ceases to do business from this state, it



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681 provides written notification to the office within 30 days after
682 cessation.

683 (6)~~(5)~~ Any person who provides, offers to provide, or holds
684 oneself out as providing or offering to provide a service
685 warranty to residents of in this state ~~or from this state~~
686 without holding a subsisting license commits, in addition to any
687 other violation, a misdemeanor of the first degree, punishable
688 as provided in s. 775.082 or s. 775.083.

689 Section 11. Except as otherwise expressly provided in this
690 act and except for this section, which shall take effect upon
691 this act becoming law, this act shall take effect July 1, 2011.

692
693 ===== T I T L E A M E N D M E N T =====

694 And the title is amended as follows:

695 Delete everything before the enacting clause
696 and insert:

697 A bill to be entitled
698 An act relating to insurance; amending s. 120.80,
699 F.S.; allowing the Division of Administrative Hearings
700 to have final order authority with respect to certain
701 license applicants; amending ss. 440.12 and 440.20,
702 F.S.; authorizing the payment of workers' compensation
703 benefits through the use of a prepaid card; providing
704 requirements; amending s. 624.402, F.S.; revising
705 provisions relating to certain insurers serving
706 nonresidents domiciled outside the United States who
707 are exempt from requirements to obtain a certificate
708 of authority; amending s. 626.207, F.S., relating to
709 penalties; providing definitions; barring persons



710 convicted of certain crimes from licensure as an
711 insurance agent; revising provisions relating to
712 disqualifying periods for persons convicted of other
713 crimes; providing an exemption from the limitation
714 against state employment for persons convicted of
715 certain crimes; amending s. 627.4133, F.S.; changing
716 the designated person or persons who must be notified
717 by an insurer from the "insured" to the "first-named
718 insured" in situations involving the nonrenewal,
719 renewal premium, cancellation, or termination of
720 workers' compensation, employer liability, or certain
721 property and casualty insurance coverage; specifying
722 the effective date for the cancellation of a policy
723 requested in writing by the insured; amending s.
724 627.4137, F.S.; requiring a claimant's request about
725 insurance coverage to be appropriately served upon the
726 disclosing entity; amending s. 627.442, F.S.;
727 providing that premium audits for workers'
728 compensation or property and casualty coverages are
729 not required; providing exceptions; amending s.
730 627.7277, F.S.; making a conforming change that
731 specifies the "first-named insured" as the person who
732 is to receive notification of a renewal premium;
733 amending s. 627.728, F.S.; changing the designated
734 person or persons who must be notified by an insurer
735 from the "insured" to the "first-named insured" in
736 certain situations involving the cancellation or
737 nonrenewal of motor vehicle insurance coverage; making
738 a conforming change that specifies the "first-named



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739 insured's insurance agent" as a person who is to
740 receive certain notifications relating to motor
741 vehicle insurance coverage; amending s. 627.7281,
742 F.S.; making a conforming change that specifies the
743 "first-named insured" as the person who is to receive
744 notification of cancellation of motor vehicle
745 insurance coverage; creating s. 634.1711, F.S.;
746 allowing a consumer to purchase a service agreement
747 for a premium negotiated with the salesperson;
748 authorizing the service agreement company to establish
749 the premium rate; amending s. 634.403, F.S.; exempting
750 certain persons from service warranty licensure
751 requirements under certain circumstances; providing
752 effective dates.