

By the Committees on Rules; and Budget; and Senator Smith

595-05124A-11

20111252c2

1 A bill to be entitled
2 An act relating to insurance; amending s. 120.80,
3 F.S.; allowing the Division of Administrative Hearings
4 to have final order authority with respect to certain
5 license applicants; amending s. 316.066, F.S.;
6 revising the type of information that must be included
7 in crash reports; authorizing the investigating
8 officer to testify at trial or provide an affidavit
9 concerning the content of the reports; amending ss.
10 440.12 and 440.20, F.S.; authorizing the payment of
11 workers' compensation benefits through the use of a
12 prepaid card; providing requirements; amending s.
13 440.49, F.S.; specifying that the assessment for the
14 Special Disability Trust Fund be applied on a calendar
15 year basis; amending s. 624.402, F.S.; revising
16 provisions relating to certain insurers covering
17 nonresidents domiciled outside the United States who
18 are exempt from requirements to obtain a certificate
19 of authority; amending s. 626.207, F.S., relating to
20 penalties; providing definitions; barring persons
21 convicted of certain crimes from licensure as an
22 insurance agent; revising provisions relating to
23 disqualifying periods for persons convicted of other
24 crimes; providing an exemption from the limitation
25 against state employment for persons convicted of
26 certain crimes; amending s. 627.4133, F.S.; changing
27 the designated person or persons who must be notified
28 by an insurer from the "insured" to the "first-named
29 insured" in situations involving the nonrenewal,

595-05124A-11

20111252c2

30 renewal premium, cancellation, or termination of
31 workers' compensation, employer liability, or certain
32 property and casualty insurance coverage; specifying
33 the effective date for the cancellation of a policy
34 requested in writing by the insured; amending s.
35 627.4137, F.S.; requiring a claimant's request about
36 insurance coverage to be appropriately served upon the
37 disclosing entity; amending s. 627.442, F.S.;
38 providing that premium audits for workers'
39 compensation coverage is not required; providing
40 exceptions; amending s. 627.7277, F.S.; making a
41 conforming change that specifies the "first-named
42 insured" as the person who is to receive notification
43 of a renewal premium; amending s. 627.728, F.S.;
44 changing the designated person or persons who must be
45 notified by an insurer from the "insured" to the
46 "first-named insured" in certain situations involving
47 the cancellation or nonrenewal of motor vehicle
48 insurance coverage; making a conforming change that
49 specifies the "first-named insured's insurance agent"
50 as a person who is to receive certain notifications
51 relating to motor vehicle insurance coverage; amending
52 s. 627.7281, F.S.; making a conforming change that
53 specifies the "first-named insured" as the person who
54 is to receive notification of cancellation of motor
55 vehicle insurance coverage; amending s. 627.7295,
56 F.S.; providing that a binder or policy for motor
57 vehicle insurance is not effective until a certain
58 amount of the premium is paid; amending s. 628.901,

595-05124A-11

20111252c2

59 F.S.; providing definitions; repealing s. 628.903,
60 F.S., relating to the definition of the term
61 "industrial insured captive insurer"; amending s.
62 628.905, F.S.; requiring a captive insurer to obtain a
63 license and to file evidence that a person or firm
64 with whom it intends to conduct business is reputable;
65 providing that a certificate of insurance for an
66 association captive insurer does not exceed the total
67 funds of the association members; creating s. 628.908,
68 F.S.; requiring a licensed captive insurer to maintain
69 its principal place of business in this state and hold
70 an annual meeting in this state; amending s. 628.909,
71 F.S.; applying additional provisions of the insurance
72 code to captive insurers; amending s. 634.403, F.S.;
73 exempting certain persons from service warranty
74 licensure requirements under certain circumstances;
75 amending s. 817.234, F.S.; providing civil penalties
76 for fraudulent insurance claims; providing effective
77 dates.

78
79 Be It Enacted by the Legislature of the State of Florida:

80
81 Section 1. Subsection (17) of section 120.80, Florida
82 Statutes, is created to read:

83 120.80 Exceptions and special requirements; agencies.—

84 (17) DEPARTMENT OF FINANCIAL SERVICES.—Notwithstanding ss.
85 120.569, 120.57, and 120.60, if an applicant for licensure as an
86 agent or adjuster pursuant to the Florida Insurance Code has
87 been convicted of, or pled guilty or nolo contendere to, a

595-05124A-11

20111252c2

88 felony, the disqualifying periods have been met, and the
89 department has denied the application pursuant to s. 626.207(6),
90 the division shall have final order authority.

91 Section 2. Subsection (1) of section 316.066, Florida
92 Statutes, is amended to read:

93 316.066 Written reports of crashes.—

94 (1) (a) A Florida Traffic Crash Report, Long Form, must ~~is~~
95 ~~required to~~ be completed and submitted to the department within
96 10 days after ~~completing~~ an investigation is completed by the
97 ~~every~~ law enforcement officer who in the regular course of duty
98 investigates a motor vehicle crash:

99 1. That resulted in death, ~~or~~ personal injury, or any
100 indication of complaints of pain or discomfort by any of the
101 parties or passengers involved in the crash;

102 2. That involved one or more passengers, other than the
103 drivers of the vehicles, in any of the vehicles involved in the
104 crash;

105 ~~3.2.~~ That involved a violation of s. 316.061(1) or s.
106 316.193; ~~or.~~

107 ~~4.3.~~ In which a vehicle was rendered inoperative to a
108 degree that required a wrecker to remove it from traffic, if
109 such action is appropriate, in the officer's discretion.

110 (b) In every crash for which a Florida Traffic Crash
111 Report, Long Form, is not required by this section, the law
112 enforcement officer may complete a short-form crash report or
113 provide a short-form crash report to be completed by each party
114 involved in the crash. Short-form crash reports prepared by the
115 law enforcement officer shall be maintained by the officer's
116 agency.

595-05124A-11

20111252c2

117 (c) The long-form and the short-form report must include:

118 1. The date, time, and location of the crash.

119 2. A description of the vehicles involved.

120 3. The names and addresses of the parties involved.

121 4. The names and addresses of all passengers in all
122 vehicles involved in the crash, each clearly identified as being
123 a passenger and the identification of the vehicle in which they
124 were a passenger.

125 ~~5.4.~~ The names and addresses of witnesses.

126 ~~6.5.~~The name, badge number, and law enforcement agency of
127 the officer investigating the crash.

128 ~~7.6.~~ The names of the insurance companies for the
129 respective parties involved in the crash.

130 (d)~~(e)~~ Each party to the crash must ~~shall~~ provide the law
131 enforcement officer with proof of insurance, which must ~~to~~ be
132 included in the crash report. If a law enforcement officer
133 submits a report on the accident, proof of insurance must be
134 provided to the officer by each party involved in the crash. Any
135 party who fails to provide the required information commits a
136 noncriminal traffic infraction, punishable as a nonmoving
137 violation as provided in chapter 318, unless the officer
138 determines that due to injuries or other special circumstances
139 such insurance information cannot be provided immediately. If
140 the person provides the law enforcement agency, within 24 hours
141 after the crash, proof of insurance that was valid at the time
142 of the crash, the law enforcement agency may void the citation.

143 (e)~~(d)~~ The driver of a vehicle that was in any manner
144 involved in a crash resulting in damage to any vehicle or other
145 property in an amount of \$500 or more, ~~which crash~~ was not

595-05124A-11

20111252c2

146 investigated by a law enforcement agency, shall, within 10 days
147 after the crash, submit a written report of the crash to the
148 department or traffic records center. The entity receiving the
149 report may require witnesses of the crash ~~crashes~~ to render
150 reports and may require any driver of a vehicle involved in a
151 crash of which a written report must be made ~~as provided in this~~
152 ~~section~~ to file supplemental written reports if ~~whenever~~ the
153 original report is deemed insufficient by the receiving entity.

154 (f) The investigating law enforcement officer may testify
155 at trial or provide a signed affidavit to confirm or supplement
156 the information included on the long-form or short-form report.

157 ~~(e) Short form crash reports prepared by law enforcement~~
158 ~~shall be maintained by the law enforcement officer's agency.~~

159 Section 3. Subsection (1) of section 440.12, Florida
160 Statutes, is amended to read:

161 440.12 Time for commencement and limits on weekly rate of
162 compensation.—

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

168 (a) All weekly compensation payments, except for the first
169 payment, shall be paid by check or, if authorized by the
170 employee, on a prepaid card pursuant to paragraph (b) or
171 deposited directly into the employee's account at a financial
172 institution. As used in this subsection, the term "financial
173 institution" means a financial institution as defined in s.
174 655.005(1) ~~(h)~~.

595-05124A-11

20111252c2

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

178 1. Has at least one means of accessing his or her entire
179 compensation payment once per week without incurring fees;

180 2. Has the ability to make point-of-sale purchases without
181 incurring fees from the financial institution issuing the
182 prepaid card; and

183 3. Is provided with terms and conditions of the prepaid
184 card program, including a description of any fees that may be
185 assessed.

186 (c) Each carrier shall keep a record of all payments made
187 under this subsection and the time and manner of such payments,
188 and shall furnish these records, or a report based on these
189 records, to the Division of Insurance Fraud and the Division of
190 Workers' Compensation upon request.

191 (d) The department may adopt rules to administer this
192 subsection.

193 Section 4. Paragraph (a) of subsection (1) of section
194 440.20, Florida Statutes, is amended to read:

195 440.20 Time for payment of compensation and medical bills;
196 penalties for late payment.-

197 (1) (a) Unless the carrier ~~it~~ denies compensability or
198 entitlement to benefits, the carrier shall pay compensation
199 directly to the employee as required by ss. 440.14, 440.15, and
200 440.16, in accordance with the obligations set forth in those
201 ~~such~~ sections. Upon receipt of the employee's authorization as
202 provided in s. 440.12(1) ~~If authorized by the employee,~~ the
203 carrier's obligation to pay compensation directly to the

595-05124A-11

20111252c2

204 employee is satisfied when the carrier directly deposits, by
205 electronic transfer or other means, compensation into the
206 employee's account at a financial institution or onto a prepaid
207 card in accordance with s. 440.12(1). As used in this paragraph,
208 the term "financial institution" means a financial institution
209 as defined in s. 655.005(1) ~~(h)~~. Compensation by direct deposit
210 or through the use of a prepaid card is considered paid on the
211 date the funds become available for withdrawal by the employee.

212 Section 5. Paragraph (b) of subsection (9) of section
213 440.49, Florida Statutes, is amended to read:

214 440.49 Limitation of liability for subsequent injury
215 through Special Disability Trust Fund.—

216 (9) SPECIAL DISABILITY TRUST FUND.—

217 (b) ~~1~~. The Special Disability Trust Fund shall be maintained
218 by annual assessments on ~~upon~~ the insurance companies writing
219 compensation insurance in the state, the commercial self-
220 insurers under ss. 624.462 and 624.4621, the assessable mutuals
221 as defined in s. 628.6011, and the self-insurers under this
222 chapter, which assessments are due and payable ~~shall become due~~
223 ~~and be paid~~ quarterly at the same time and in addition to the
224 assessments provided in s. 440.51.

225 1. The department shall estimate annually in advance the
226 amount necessary for the administration of this subsection and
227 the maintenance of this fund and shall make such assessment as
228 provided in this subparagraph ~~in the manner hereinafter~~
229 ~~provided~~.

230 a.2. The annual assessment shall be calculated to produce
231 during the ensuing fiscal year an amount which, when combined
232 with that part of the balance in the fund on June 30 of the

595-05124A-11

20111252c2

233 current fiscal year which is in excess of \$100,000, is equal to
234 the average of:

235 (I)~~a.~~ The sum of disbursements from the fund during the
236 immediate past 3 calendar years;~~r~~ and

237 (II)~~b.~~ Two times the disbursements of the most recent
238 calendar year.

239 b. The assessment shall be applied on a calendar year basis
240 beginning January 1, 2012, and be included in the workers'
241 compensation rate filings approved by the office which become
242 effective on or after January 1, 2012. The assessment effective
243 January 1, 2011, also applies to the interim period from July 1,
244 2011, through December 31, 2011, and is included in the workers'
245 compensation rate filings, whether regular or amended, approved
246 by the office which are effective on or after July 1, 2011.
247 Thereafter, the annual assessment takes effect January 1 of the
248 next calendar year and is included in the workers' compensation
249 rate filings approved by the office which become effective on or
250 after January 1 of the next calendar year.

251 c. Such amount shall be prorated among the insurance
252 companies writing compensation insurance in the state and the
253 self-insurers. ~~Provided~~ However, for those carriers that have
254 excluded ceded reinsurance premiums from their assessments on or
255 before January 1, 2000, ~~no~~ assessments on ceded reinsurance
256 premiums may not shall be paid by those carriers until ~~such time~~
257 ~~as~~ the ~~former~~ Division of Workers' Compensation ~~of the~~
258 ~~Department of Labor and Employment Security or the department~~
259 advises each of those carriers of the impact that the inclusion
260 of ceded reinsurance premiums has on their assessment. The
261 division ~~department~~ may not recover any past underpayments of

595-05124A-11

20111252c2

262 assessments levied against any carrier that on or before January
263 1, 2000, excluded ceded reinsurance premiums from their
264 assessment before ~~prior to~~ the point that the ~~former~~ Division of
265 Workers' Compensation ~~of the Department of Labor and Employment~~
266 ~~Security or the department~~ advises of the appropriate assessment
267 that should have been paid.

268 3. The net premiums written by the companies for workers'
269 compensation in this state and the net premium written
270 applicable to the self-insurers in this state are the basis for
271 computing the amount to be assessed as a percentage of net
272 premiums. Such payments shall be made by each carrier and self-
273 insurer to the department for the Special Disability Trust Fund
274 in accordance with such regulations as the department
275 prescribes.

276 4. The Chief Financial Officer may ~~is authorized to~~ receive
277 and credit to such Special Disability Trust Fund any sum or sums
278 that may at any time be contributed to the state by the United
279 States under any Act of Congress, or otherwise, to which the
280 state may be or become entitled by reason of any payments made
281 out of such fund.

282 Section 6. Subsection (8) of section 624.402, Florida
283 Statutes, is amended to read:

284 624.402 Exceptions, certificate of authority required.—A
285 certificate of authority shall not be required of an insurer
286 with respect to:

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

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

595-05124A-11

20111252c2

- 291 1. Must register with the office via a letter of
292 notification upon commencing business from this state.
- 293 2. Must provide the following information to the office
294 annually by March 1:
- 295 a. The name of the insurer; the insurer's country of
296 domicile; the address of the insurer's principal office and
297 office in this state; the names of the owners of the insurer and
298 their percentage of ownership; the names of the officers and
299 directors of the insurer; the name, e-mail, and telephone number
300 of a contact person for the insurer; and the number of
301 individuals who are employed by the insurer or its affiliates in
302 this state;
- 303 b. The type of products offered by the insurer;
- 304 c. A statement from the applicable regulatory body of the
305 insurer's domicile certifying that the insurer is licensed or
306 registered in that domicile; and
- 307 d. A copy of the filings required by the applicable
308 regulatory body of the insurer's domicile.
- 309 3. Or any affiliated person as defined in s. 624.04 under
310 common ownership or control with the insurer, may not solicit,
311 sell, or accept an application for any insurance policy or
312 contract to be delivered or issued for delivery to any
313 individual other than a nonresident.
- 314 (b) All policies or certificates delivered to nonresidents
315 in this state must include the following statement in a
316 contrasting color and at least 10-point type: "The policy
317 providing your coverage and the insurer providing this policy
318 have not been approved by the Florida Office of Insurance
319 Regulation."

595-05124A-11

20111252c2

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

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

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

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

335 (g) The term "nonresident" means an individual who resides
336 in and maintains a physical place of domicile in a country other
337 than the United States, which he or she recognizes as and
338 intends to maintain as his or her permanent home. The term does
339 not include an unauthorized immigrant present in the United
340 States. Notwithstanding any other provision of law, it is
341 conclusively presumed that an individual is a resident of the
342 United States if such individual:

343 1. Has had his or her principal place of domicile in the
344 United States for 180 days or more in the 365 days before
345 issuance or renewal the policy;

346 2. Has registered to vote in any state;

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

348 4. Has filed for homestead tax exemption on property in any

595-05124A-11

20111252c2

349 state.

350 ~~(a) Life insurance policies or annuity contracts issued by~~
351 ~~an insurer domiciled outside the United States covering only~~
352 ~~persons who, at the time of issuance, are not residents of the~~
353 ~~United States and are not nonresidents illegally residing in the~~
354 ~~United States, provided:~~

355 ~~1. The insurer must currently be an authorized insurer in~~
356 ~~its country of domicile as to the kind or kinds of insurance~~
357 ~~proposed to be offered and must have been such an insurer for~~
358 ~~not fewer than the immediately preceding 3 years, or must be the~~
359 ~~wholly owned subsidiary of such authorized insurer or must be~~
360 ~~the wholly owned subsidiary of an already eligible authorized~~
361 ~~insurer as to the kind or kinds of insurance proposed for a~~
362 ~~period of not fewer than the immediately preceding 3 years.~~
363 ~~However, the office may waive the 3-year requirement if the~~
364 ~~insurer has operated successfully for a period of at least the~~
365 ~~immediately preceding year and has capital and surplus of not~~
366 ~~less than \$25 million.~~

367 ~~2. Before the office may grant eligibility, the requesting~~
368 ~~insurer shall furnish the office with a duly authenticated copy~~
369 ~~of its current annual financial statement, in English, and with~~
370 ~~all monetary values therein expressed in United States dollars,~~
371 ~~at an exchange rate then current and shown in the statement, in~~
372 ~~the case of statements originally made in the currencies of~~
373 ~~other countries, and with such additional information relative~~
374 ~~to the insurer as the office may request.~~

375 ~~3. The insurer must have and maintain surplus as to~~
376 ~~policyholders of not less than \$15 million. Any such surplus as~~
377 ~~to policyholders shall be represented by investments consisting~~

595-05124A-11

20111252c2

378 ~~of eligible investments for like funds of like domestic insurers~~
379 ~~under part II of chapter 625; however, any such surplus as to~~
380 ~~policyholders may be represented by investments permitted by the~~
381 ~~domestic regulator of such alien insurance company if such~~
382 ~~investments are substantially similar in terms of quality,~~
383 ~~liquidity, and security to eligible investments for like funds~~
384 ~~of like domestic insurers under part II of chapter 625.~~

385 ~~4. The insurer must be of good reputation as to the~~
386 ~~providing of service to its policyholders and the payment of~~
387 ~~losses and claims.~~

388 ~~5. To maintain eligibility, the insurer shall furnish the~~
389 ~~office within the time period specified in s. 624.424(1)(a) a~~
390 ~~duly authenticated copy of its current annual and quarterly~~
391 ~~financial statements, in English, and with all monetary values~~
392 ~~therein expressed in United States dollars, at an exchange rate~~
393 ~~then-current and shown in the statement, in the case of~~
394 ~~statements originally made in the currencies of other countries,~~
395 ~~and with such additional information relative to the insurer as~~
396 ~~the office may request.~~

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

401 ~~7. The insurer shall provide to the applicant for the~~
402 ~~policy or contract a copy of the most recent quarterly financial~~
403 ~~statements of the insurer providing, in clear and conspicuous~~
404 ~~language:~~

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

406 ~~b. The identity of and rating assigned by each recognized~~

595-05124A-11

20111252c2

407 ~~insurance company rating organization that has rated the insurer~~
408 ~~or, if applicable, that the insurer is unrated.~~

409 ~~e. That the insurer does not hold a certificate of~~
410 ~~authority issued in this state and that the office does not~~
411 ~~exercise regulatory oversight over the insurer.~~

412 ~~d. The identity and address of the regulatory authority~~
413 ~~exercising oversight of the insurer.~~

414

415 ~~This paragraph does not impose upon the office any duty or~~
416 ~~responsibility to determine the actual financial condition or~~
417 ~~claims practices of any unauthorized insurer, and the status of~~
418 ~~eligibility, if granted by the office, indicates only that the~~
419 ~~insurer appears to be financially sound and to have satisfactory~~
420 ~~claims practices and that the office has no credible evidence to~~
421 ~~the contrary.~~

422 ~~(b) If at any time the office has reason to believe that an~~
423 ~~insurer issuing policies or contracts pursuant to this~~
424 ~~subsection is insolvent or is in unsound financial condition,~~
425 ~~does not make reasonable prompt payment of benefits, or is no~~
426 ~~longer eligible under the conditions specified in this~~
427 ~~subsection, the office may conduct an examination or~~
428 ~~investigation in accordance with s. 624.316, s. 624.3161, or s.~~
429 ~~624.320 and, if the findings of such examination or~~
430 ~~investigation warrant, may withdraw the eligibility of the~~
431 ~~insurer to issue policies or contracts pursuant to this~~
432 ~~subsection without having a certificate of authority issued by~~
433 ~~the office.~~

434 ~~(c) This subsection does not provide an exception to the~~
435 ~~agent licensure requirements of chapter 626. Any insurer issuing~~

595-05124A-11

20111252c2

436 ~~policies or contracts pursuant to this subsection shall appoint~~
437 ~~the agents that the insurer uses to sell such policies or~~
438 ~~contracts as provided in chapter 626.~~

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

444 ~~(e) Policies and contracts issued pursuant to this~~
445 ~~subsection are not subject to the premium tax specified in s.~~
446 ~~624.509.~~

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

451
452 ~~This policy is primarily governed by the laws of a~~
453 ~~foreign country. As a result, all of the rating and~~
454 ~~underwriting laws applicable to policies filed in this~~
455 ~~state do not apply to this coverage, which may result~~
456 ~~in your premiums being higher than would be~~
457 ~~permissible under a Florida-approved policy. Any~~
458 ~~purchase of individual life insurance should be~~
459 ~~considered carefully, as future medical conditions may~~
460 ~~make it impossible to qualify for another individual~~
461 ~~life policy. If the insurer issuing your policy~~
462 ~~becomes insolvent, this policy is not covered by the~~
463 ~~Florida Life and Health Insurance Guaranty~~
464 ~~Association. For information concerning individual~~

595-05124A-11

20111252c2

465 ~~life coverage under a Florida approved policy, consult~~
466 ~~your agent or the Florida Department of Financial~~
467 ~~Services.~~

468
469 ~~(g) All life insurance policies and annuity contracts~~
470 ~~issued pursuant to this subsection must contain on the first~~
471 ~~page of the policy or contract, in contrasting color and not~~
472 ~~less than 10-point type, the following statement:~~

473
474 ~~The benefits of the policy providing your coverage are~~
475 ~~governed primarily by the law of a country other than~~
476 ~~the United States.~~

477
478 ~~(h) All single premium life insurance policies and single-~~
479 ~~premium annuity contracts issued to persons who are not~~
480 ~~residents of the United States and are not nonresidents~~
481 ~~illegally residing in the United States pursuant to this~~
482 ~~subsection shall be subject to the provisions of chapter 896.~~

483 Section 7. Effective upon this act becoming a law, section
484 626.207, Florida Statutes, is amended to read:

485 626.207 ~~Department rulemaking authority; waiting periods~~
486 ~~for applicants; Penalties against licensees.-~~

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

488 (a) "Financial services business" means any financial
489 activity regulated by the Department of Financial Services, the
490 Office of Insurance Regulation, or the Office of Financial
491 Regulation.

492 (b) "First-degree felony" and "capital felony" include all
493 felonies so designated by the laws of this state, as well as any

595-05124A-11

20111252c2

494 felony so designated in the jurisdiction in which the plea is
495 entered or judgment is rendered.

496 ~~(1) The department shall adopt rules establishing specific~~
497 ~~waiting periods for applicants to become eligible for licensure~~
498 ~~following denial, suspension, or revocation pursuant to s.~~
499 ~~626.611, s. 626.621, s. 626.8437, s. 626.844, s. 626.935, s.~~
500 ~~634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.~~
501 ~~634.423, s. 642.041, or s. 642.043. The purpose of the waiting~~
502 ~~periods is to provide sufficient time to demonstrate reformation~~
503 ~~of character and rehabilitation. The waiting periods shall vary~~
504 ~~based on the type of conduct and the length of time since the~~
505 ~~conduct occurred and shall also be based on the probability that~~
506 ~~the propensity to commit illegal conduct has been overcome. The~~
507 ~~waiting periods may be adjusted based on aggravating and~~
508 ~~mitigating factors established by rule and consistent with this~~
509 ~~purpose.~~

510 (2) An applicant who commits a first-degree felony; a
511 capital felony; a felony involving money laundering, fraud, or
512 embezzlement; or a felony directly related to a financial
513 services business is permanently barred from applying for a
514 license under this part. This bar applies to convictions, guilty
515 pleas, or nolo contendere pleas, regardless of adjudication, by
516 an applicant, officer, director, majority owner, partner,
517 manager, or other person who manages or controls an applicant.

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

521 (a) A 15-year disqualifying period for all felonies
522 involving moral turpitude that are not specifically included in

595-05124A-11

20111252c2

523 the permanent bar in subsection (2).

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

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

529 (4) The department shall adopt rules providing for
530 additional disqualifying periods due to the commitment of
531 multiple crimes and other factors reasonably related to the
532 applicant's criminal history. The rules shall provide for
533 mitigating and aggravating factors. However, mitigation may not
534 result in a period of disqualification of less than 7 years and
535 may not mitigate the disqualifying periods in paragraphs (3) (b)
536 and (c).

537 (5) For purposes of this section, the disqualifying periods
538 begin upon the applicant's final release from supervision or
539 upon completion of the applicant's criminal sentence, including
540 payment of fines, restitution, and court costs, for the crime
541 for which the disqualifying period applies.

542 (6) After the disqualifying period has been met, the burden
543 is on the applicant to demonstrate that the applicant has been
544 rehabilitated, does not pose a risk to the insurance buying
545 public, is fit and trustworthy to engage in the business of
546 insurance pursuant to s. 626.611(7), and is otherwise qualified
547 for licensure. Hearings shall be conducted in accordance with s.
548 120.80(17).

549 (7) ~~(2)~~ The department shall adopt rules establishing
550 specific penalties against licensees in accordance with ss.
551 626.641 and 626.651 for violations of s. 626.611, s. 626.621, s.

595-05124A-11

20111252c2

552 626.8437, s. 626.844, s. 626.935, s. 634.181, s. 634.191, s.
 553 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s.
 554 642.043. The purpose of the revocation or suspension is to
 555 provide a sufficient penalty to deter future violations of the
 556 Florida Insurance Code. The imposition of a revocation or the
 557 length of suspension shall be based on the type of conduct and
 558 the probability that the propensity to commit further illegal
 559 conduct has been overcome at the time of eligibility for
 560 relicensure. The ~~revocation or the~~ length of suspension may be
 561 adjusted based on aggravating or mitigating factors, established
 562 by rule and consistent with this purpose.

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

567 Section 8. Paragraphs (a) and (b) of subsection (1),
 568 paragraphs (a) and (b) of subsection (2), and subsection (4) of
 569 section 627.4133, Florida Statutes, are amended to read:

570 627.4133 Notice of cancellation, nonrenewal, or renewal
 571 premium.—

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

573 (a) An insurer issuing a policy providing coverage for
 574 workers' compensation and employer's liability insurance,
 575 property, casualty, except mortgage guaranty, surety, or marine
 576 insurance, other than motor vehicle insurance subject to s.
 577 627.728, shall give the first-named ~~named~~ insured at least 45
 578 days' advance written notice of nonrenewal or of the renewal
 579 premium. If the policy is not to be renewed, the written notice
 580 must ~~shall~~ state the reason or reasons ~~as to~~ why the policy is

595-05124A-11

20111252c2

581 not to be renewed. This requirement applies only if the insured
582 has furnished all of the necessary information so as to enable
583 the insurer to develop the renewal premium before ~~prior to~~ the
584 expiration date of the policy ~~to be renewed~~.

585 (b) An insurer issuing a policy providing coverage for
586 property, casualty, except mortgage guaranty, surety, or marine
587 insurance, other than motor vehicle insurance subject to s.
588 627.728 or s. 627.7281, shall give the first-named ~~named~~ insured
589 written notice of cancellation or termination other than
590 nonrenewal at least 45 days before ~~prior to~~ the effective date
591 of the cancellation or termination, including in the written
592 notice the reason or reasons for the cancellation or
593 termination, except that:

594 1. If ~~When~~ cancellation is for nonpayment of premium, at
595 least 10 days' written notice of cancellation accompanied by the
596 reason for cancellation must ~~therefor shall~~ be given. As used in
597 this subparagraph and s. 440.42(3), the term "nonpayment of
598 premium" means failure of the named insured to discharge when
599 due any of her or his obligations in connection with the payment
600 of premiums on a policy or any installment of such premium,
601 whether the premium is payable directly to the insurer or its
602 agent or indirectly under any premium finance plan or extension
603 of credit, or failure to maintain membership in an organization
604 if such membership is a condition precedent to insurance
605 coverage. The term ~~"Nonpayment of premium"~~ also means the
606 failure of a financial institution to honor an insurance
607 applicant's check after delivery to a licensed agent for payment
608 of a premium, even if the agent has previously delivered or
609 transferred the premium to the insurer. If a dishonored check

595-05124A-11

20111252c2

610 represents the initial premium payment, the contract and all
611 contractual obligations are ~~shall be~~ void ab initio unless the
612 nonpayment is cured within the earlier of 5 days after actual
613 notice by certified mail is received by the applicant or 15 days
614 after notice is sent to the applicant by certified mail or
615 registered mail. ~~and~~ If the contract is void, any premium
616 received by the insurer from a third party must ~~shall~~ be
617 refunded to that party in full. ~~and~~

618 2. If ~~When~~ such cancellation or termination occurs during
619 the first 90 days during which the insurance is in force and the
620 insurance is canceled or terminated for reasons other than
621 nonpayment of premium, at least 20 days' written notice of
622 cancellation or termination accompanied by the reason for
623 cancellation must ~~therefor shall~~ be given except where there has
624 been a material misstatement or misrepresentation or failure to
625 comply with the underwriting requirements established by the
626 insurer.

627
628 After the policy has been in effect for 90 days, ~~no~~ such policy
629 may not shall be canceled by the insurer except when there has
630 been a material misstatement, a nonpayment of premium, a failure
631 to comply with underwriting requirements established by the
632 insurer within 90 days after ~~of~~ the date of effectuation of
633 coverage, or a substantial change in the risk covered by the
634 policy or when the cancellation is for all insureds under such
635 policies for a given class of insureds. This subsection does not
636 apply to individually rated risks having a policy term of less
637 than 90 days.

638 (2) With respect to any personal lines or commercial

595-05124A-11

20111252c2

639 residential property insurance policy, including, but not
640 limited to, any homeowner's, mobile home owner's, farmowner's,
641 condominium association, condominium unit owner's, apartment
642 building, or other policy covering a residential structure or
643 its contents:

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

646 (b) The insurer shall give the first-named ~~named~~ insured
647 written notice of nonrenewal, cancellation, or termination at
648 least 100 days before ~~prior to~~ the effective date of the
649 nonrenewal, cancellation, or termination. However, the insurer
650 shall give at least 100 days' written notice, or written notice
651 by June 1, whichever is earlier, for any nonrenewal,
652 cancellation, or termination that would be effective between
653 June 1 and November 30. The notice must include the reason or
654 reasons for the nonrenewal, cancellation, or termination, except
655 that:

656 1. The insurer shall give the first-named ~~named~~ insured
657 written notice of nonrenewal, cancellation, or termination at
658 least 180 days before ~~prior to~~ the effective date of the
659 nonrenewal, cancellation, or termination for a first-named ~~named~~
660 insured whose residential structure has been insured by that
661 insurer or an affiliated insurer for at least a 5-year period
662 immediately before ~~prior to~~ the date of the written notice.

663 2. If ~~When~~ cancellation is for nonpayment of premium, at
664 least 10 days' written notice of cancellation accompanied by the
665 reason for cancellation must ~~therefor shall~~ be given. As used in
666 this subparagraph, the term "nonpayment of premium" means
667 failure of the named insured to discharge when due any of her or

595-05124A-11

20111252c2

668 his obligations in connection with the payment of premiums on a
669 policy or any installment of such premium, whether the premium
670 is payable directly to the insurer or its agent or indirectly
671 under any premium finance plan or extension of credit, or
672 failure to maintain membership in an organization if such
673 membership is a condition precedent to insurance coverage. The
674 term "Nonpayment of premium" also means the failure of a
675 financial institution to honor an insurance applicant's check
676 after delivery to a licensed agent for payment of a premium,
677 even if the agent has previously delivered or transferred the
678 premium to the insurer. If a dishonored check represents the
679 initial premium payment, the contract and all contractual
680 obligations are ~~shall be~~ void ab initio unless the nonpayment is
681 cured within the earlier of 5 days after actual notice by
682 certified mail is received by the applicant or 15 days after
683 notice is sent to the applicant by certified mail or registered
684 mail, ~~and~~ If the contract is void, any premium received by the
685 insurer from a third party must ~~shall~~ be refunded to that party
686 in full.

687 3. If ~~When~~ such cancellation or termination occurs during
688 the first 90 days during which the insurance is in force and the
689 insurance is canceled or terminated for reasons other than
690 nonpayment of premium, at least 20 days' written notice of
691 cancellation or termination accompanied by the reason for
692 cancellation must ~~therefor shall~~ be given except where there has
693 been a material misstatement or misrepresentation or failure to
694 comply with the underwriting requirements established by the
695 insurer.

696 4. The requirement for providing written notice of

595-05124A-11

20111252c2

697 nonrenewal by June 1 of any nonrenewal that would be effective
698 between June 1 and November 30 does not apply to the following
699 situations, but the insurer remains subject to the requirement
700 to provide such notice at least 100 days before ~~prior to~~ the
701 effective date of nonrenewal:

702 a. A policy that is nonrenewed due to a revision in the
703 coverage for sinkhole losses and catastrophic ground cover
704 collapse pursuant to s. 627.706, as amended by s. 30, chapter
705 2007-1, Laws of Florida.

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

710
711 After the policy has been in effect for 90 days, the policy may
712 ~~shall~~ not be canceled by the insurer except when there has been
713 a material misstatement, a nonpayment of premium, a failure to
714 comply with underwriting requirements established by the insurer
715 within 90 days of the date of effectuation of coverage, or a
716 substantial change in the risk covered by the policy or if ~~when~~
717 the cancellation is for all insureds under such policies for a
718 given class of insureds. This paragraph does not apply to
719 individually rated risks having a policy term of less than 90
720 days.

721 (4) Notwithstanding ~~the provisions of~~ s. 440.42(3), if
722 cancellation of a policy providing coverage for workers'
723 compensation and employer's liability insurance is requested in
724 writing by the insured, such cancellation is ~~shall be~~ effective
725 on the date requested by the insured, or if no date is

595-05124A-11

20111252c2

726 specified, cancellation is effective as of the date of the
727 written request ~~the carrier sends the notice of cancellation to~~
728 ~~the insured.~~ The carrier is not required to send notice of
729 cancellation to the insured if the cancellation is requested in
730 writing. Any retroactive assumption of coverage and liabilities
731 under a policy providing workers' compensation and employer's
732 liability insurance may not exceed 21 days.

733 Section 9. Subsection (3) is added to section 627.4137,
734 Florida Statutes, to read:

735 627.4137 Disclosure of certain information required.—

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

739 Section 10. Section 627.442, Florida Statutes, is amended
740 to read:

741 627.442 Insurance contracts.—

742 (1) A person who requires a workers' compensation insurance
743 policy pursuant to a construction contract may not reject a
744 workers' compensation insurance policy issued by a self-
745 insurance fund that is subject to part V of chapter 631 based
746 upon the self-insurance fund not being rated by a nationally
747 recognized insurance rating service.

748 (2) Notwithstanding s. 440.381(3), premium audits are not
749 required for workers' compensation coverage, except as provided
750 by the insurance policy, by an order of the office, or at least
751 once per policy period if requested by the insured.

752 Section 11. Subsection (2) of section 627.7277, Florida
753 Statutes, is amended to read:

754 627.7277 Notice of renewal premium.—

595-05124A-11

20111252c2

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

758 Section 12. Paragraph (a) of subsection (3), paragraphs (a)
759 and (d) of subsection (4), and subsections (5) and (6) of
760 section 627.728, Florida Statutes, are amended to read:

761 627.728 Cancellations; nonrenewals.—

762 (3) (a) ~~No~~ Notice of cancellation of a policy to which this
763 section applies is not ~~shall be~~ effective unless mailed or
764 delivered by the insurer to the first-named ~~named~~ insured and to
765 the first-named ~~named~~ insured's insurance agent at least 45 days
766 before ~~prior to~~ the effective date of cancellation, except that,
767 if when cancellation is for nonpayment of premium, at least 10
768 days' notice of cancellation accompanied by the reason for
769 cancellation must ~~therefor shall~~ be given. A ~~No~~ notice of
770 cancellation is not ~~of a policy to which this section applies~~
771 ~~shall be~~ effective unless the ~~reason or~~ reasons for cancellation
772 accompany the notice ~~of cancellation~~.

773 (4) (a) An ~~No~~ insurer must ~~shall fail to~~ renew a policy
774 unless it mails or delivers to the first-named ~~named~~ insured, at
775 the address shown in the policy, and to the first-named ~~named~~
776 insured's insurance agent at her or his business address, at
777 least 45 days' advance notice of its intention not to renew; and
778 the reasons for refusal to renew must accompany such notice.
779 This subsection does not apply:

- 780 1. If the insurer has manifested its willingness to renew;
781 or
782 2. In case of nonpayment of premium.

783

595-05124A-11

20111252c2

784 Notwithstanding the failure of an insurer to comply with this
785 subsection, the policy terminates ~~shall terminate~~ on the
786 effective date of any other automobile liability insurance
787 policy procured by the insured with respect to any automobile
788 designated in both policies. Unless a written explanation for
789 refusal to renew accompanies the notice of intention not to
790 renew, the policy remains ~~shall remain~~ in full force and effect.

791 (d) Instead of canceling or nonrenewing a policy, an
792 insurer may, upon expiration of the policy term, transfer a
793 policy to another insurer under the same ownership or management
794 as the transferring insurer, by giving the first-named ~~named~~
795 insured at least 45 days' advance notice of its intent to
796 transfer the policy and of the premium and the specific reasons
797 for any increase in the premium.

798 (5) United States postal proof of mailing or certified or
799 registered mailing of notice of cancellation, of intention not
800 to renew, or of reasons for cancellation, or of the intention of
801 the insurer to issue a policy by an insurer under the same
802 ownership or management, to the first-named ~~named~~ insured at the
803 address shown in the policy is ~~shall be~~ sufficient proof of
804 notice.

805 (6) ~~If~~ When a policy is canceled, other than for nonpayment
806 of premium, or in the event of failure to renew a policy to
807 which subsection (4) applies, the insurer shall notify the
808 first-named ~~named~~ insured of her or his possible eligibility for
809 insurance through the Automobile Joint Underwriting Association.
810 Such notice must ~~shall~~ accompany or be included in the notice of
811 cancellation or the notice of intent not to renew and ~~shall~~
812 state that the ~~such~~ notice of availability of the Automobile

595-05124A-11

20111252c2

813 Joint Underwriting Association is given pursuant to this
814 section.

815 Section 13. Section 627.7281, Florida Statutes, is amended
816 to read:

817 627.7281 Cancellation notice.—An insurer issuing a policy
818 of motor vehicle insurance not covered under the cancellation
819 provisions of s. 627.728 shall give the first-named ~~named~~
820 insured notice of cancellation at least 45 days before ~~prior to~~
821 the effective date of cancellation, except that if, ~~when~~
822 cancellation is for nonpayment of premium, at least 10 days'
823 notice of cancellation accompanied by the reason for
824 cancellation must ~~therefor shall~~ be given. As used in this
825 section, the term "policy" does not include a binder as defined
826 in s. 627.420 unless the duration of the binder period exceeds
827 60 days.

828 Section 14. Subsections (4) and (7) of section 627.7295,
829 Florida Statutes, are amended to read:

830 627.7295 Motor vehicle insurance contracts.—

831 (4) If subsection (7) does not apply, the insurer may
832 cancel the policy in accordance with this code except that,
833 notwithstanding s. 627.728, an insurer may not cancel a new
834 policy or binder during the first 60 days immediately following
835 the effective date of the policy or binder for nonpayment of
836 premium unless the reason for the cancellation is the issuance
837 of a check for the premium that is dishonored for any reason.

838 (7) Before the effective date of a binder or policy, a
839 policy of private passenger motor vehicle insurance or a binder
840 for such a policy may be initially issued in this state only if
841 the insurer or agent has collected from the insured an amount

595-05124A-11

20111252c2

842 equal to 2 months' premium. An insurer, agent, or premium
843 finance company may not, directly or indirectly, take any action
844 resulting in the insured having paid from the insured's own
845 funds an amount less than the 2 months' premium required by this
846 subsection. This subsection applies without regard to whether
847 the premium is financed by a premium finance company or ~~is~~ paid
848 pursuant to a periodic payment plan of an insurer or an
849 insurance agent.

850 (a) This subsection does not apply if an insured or member
851 of the insured's family is renewing or replacing a policy or a
852 binder for such policy written by the same insurer or a member
853 of the same insurer group.

854 (b) This subsection does not apply to an insurer that
855 issues private passenger motor vehicle coverage primarily to
856 active duty or former military personnel or their dependents.

857 (c) This subsection does not apply if all policy payments
858 are paid pursuant to a payroll deduction plan or an automatic
859 electronic funds transfer payment plan from the policyholder,
860 ~~provided that the first policy payment is made by cash,~~
861 ~~cashier's check, check, or a money order.~~

862 (d) This subsection and subsection (4) do not apply if all
863 policy payments to an insurer are paid pursuant to an automatic
864 electronic funds transfer payment plan from an agent, a managing
865 general agent, or a premium finance company and if the policy
866 includes, at a minimum, personal injury protection pursuant to
867 ss. 627.730-627.7407 ~~627.730-627.7405~~; motor vehicle property
868 damage liability pursuant to s. 627.7275; and bodily injury
869 liability in at least the amount of \$10,000 because of bodily
870 injury to, or death of, one person in any one accident and in

595-05124A-11

20111252c2

871 the amount of \$20,000 because of bodily injury to, or death of,
872 two or more persons in any one accident.

873 (e) This subsection and subsection (4) do not apply if an
874 insured has had a policy in effect for at least 6 months, the
875 insured's agent is terminated by the insurer that issued the
876 policy, and the insured obtains coverage on the policy's renewal
877 date with a new company through the terminated agent.

878 Section 15. Section 628.901, Florida Statutes, is amended
879 to read:

880 628.901 Definitions ~~"Captive insurer" defined.~~ As used in
881 ~~For the purposes of this part, the term: except as provided in~~
882 ~~s. 628.903, a "captive insurer" is a domestic insurer~~
883 ~~established under part I to insure the risks of a specific~~
884 ~~corporation or group of corporations under common ownership~~
885 ~~owned by the corporation or corporations from which it accepts~~
886 ~~risk under a contract of insurance.~~

887 (1) "Association" means a legal association of nursing
888 homes, hospitals, skilled nursing facilities, assisted living
889 facilities, or continuing care retirement communities.

890 (2) "Association captive insurer" means a company that
891 insures risks of the member organizations of the association and
892 their affiliated companies.

893 (3) "Captive insurer" means a pure captive insurer, an
894 industrial insured captive insurer, or an association captive
895 insurer domiciled in this state and formed or licensed under
896 this part.

897 (4) "Industrial insured" means an insured that:

898 (a) Has gross assets in excess of \$50 million;

899 (b) Procures insurance through the use of a full-time

595-05124A-11

20111252c2

900 employee of the insured who acts as an insurance manager or
901 buyer or through the services of a person licensed as a property
902 and casualty insurance agent, broker, or consultant in such
903 person's state of domicile;

904 (c) Has at least 100 full-time employees; and

905 (d) Pays annual premiums of at least \$200,000 for each line
906 of insurance purchased from the industrial insured captive
907 insurer, or at least \$75,000 for any line of coverage in excess
908 of at least \$25 million in the annual aggregate. The purchase of
909 umbrella or general liability coverage in excess of \$25 million
910 in the annual aggregate is deemed to be the purchase of a single
911 line of insurance.

912 (5) "Industrial insured captive insurer" means a captive
913 insurer that:

914 (a) Has as its stockholders or members only industrial
915 insureds that the captive insurer insures, or has as its sole
916 stockholder a corporation whose sole stockholders are industrial
917 insureds that the captive insurer insures; and

918 1. Provides insurance only to the industrial insureds that
919 are its stockholders or members, and affiliates thereof, or to
920 the stockholders, and affiliates thereof, of its parent
921 corporation; or

922 2. Provides reinsurance only on risks written by insurers
923 of industrial insureds who are the stockholders or members, and
924 affiliates thereof, of the captive insurer, or the stockholders,
925 and affiliates thereof, of the parent corporation of the captive
926 insurer;

927 (b) Maintains unimpaired capital and surplus of at least
928 \$20 million; and

595-05124A-11

20111252c2

929 (c) If licensed in this state before December 31, 1999, or
930 if any subsidiary formed by the licensed insurer on or after
931 December 31, 1999, has:

932 1. Gross assets in excess of \$10 million and procures
933 insurance through the use of a full-time employee of the insured
934 who acts as an insurance manager or buyer or through the
935 services of a person licensed as a property and casualty
936 insurance agent, broker, or consultant in such person's state of
937 domicile;

938 2. At least 25 full-time employees; and

939 3. Annual aggregate premiums for all insurance risks which
940 total at least \$100,000.

941
942 As used in this subsection, the term "affiliate" means a person
943 that directly or indirectly, through one or more intermediaries,
944 controls, is controlled by, or is under common control with one
945 or more of the stockholders or members of an industrial insured
946 captive insurer or one or more of the stockholders of the parent
947 corporation of an industrial insured captive insurer.

948 (6) "Pure captive insurer" means a company that insures the
949 risks of its parent, affiliated companies, controlled
950 unaffiliated businesses, or a combination thereof.

951 Section 16. Section 628.903, Florida Statutes, is repealed.

952 Section 17. Section 628.905, Florida Statutes, is amended
953 to read:

954 628.905 Licensing; authority.—In order to conduct insurance
955 business in this state, a captive insurer must obtain a license
956 from the office.

957 (1) A ~~Any~~ captive insurer, ~~if~~ when permitted by its charter

595-05124A-11

20111252c2

958 or articles of incorporation, may apply to the office for a
959 license to provide commercial property, commercial casualty, and
960 commercial marine insurance. ~~coverage other than workers'~~
961 ~~compensation and employer's liability insurance coverage, except~~
962 ~~that~~ An industrial insured captive insurer may also apply for a
963 license to provide workers' compensation and employer's
964 liability insurance as set forth in subsection (5) ~~(6)~~.

965 (2) A ~~No~~ captive insurer, other than an industrial insured
966 captive insurer, may not ~~shall~~ insure or accept reinsurance on
967 any risks other than those of its parent and affiliated
968 companies.

969 (3) In addition to information otherwise required by this
970 code, each applicant captive insurer shall file with the office
971 evidence:

972 (a) Of the adequacy of the loss prevention program of its
973 insureds.

974 (b) That it intends to employ or contract with a reputable
975 person or firm that possesses the appropriate expertise,
976 experience, and character to manage the association captive
977 insurer.

978 (4) If an association captive insurer operates with
979 separate cells or segregated accounts, a certificate of
980 insurance used to satisfy financial responsibility laws shall be
981 issued in an amount not exceeding the total funds in the
982 segregated accounts or separate cells of each member
983 organization of the association.

984 (5) ~~(4)~~ An industrial insured captive insurer:

985 (a) Need not be incorporated in this state if it has been
986 validly incorporated under the laws of another jurisdiction;

595-05124A-11

20111252c2

987 ~~(b)(5) An industrial insured captive insurer~~ Is subject to
988 all provisions of this part except as otherwise indicated; ~~and-~~

989 ~~(c)(6) An industrial insured captive insurer~~ May not
990 provide workers' compensation and employer's liability insurance
991 except in excess of at least \$25 million in the annual
992 aggregate.

993 Section 18. Section 628.908, Florida Statutes, is created
994 to read:

995 628.908 Principal place of business; annual meeting.-In
996 order to conduct insurance business in this state, a licensed
997 captive insurer must:

998 (1) Maintain its principal place of business in this state;
999 and

1000 (2) Annually hold in this state at least one board of
1001 directors' meeting; or, in the case of a reciprocal insurer, one
1002 subscriber's advisory committee meeting; or, in the case of a
1003 limited liability company, one managing board's meeting.

1004 Section 19. Paragraph (a) of subsection (2) and paragraph
1005 (a) of subsection (3) of section 628.909, Florida Statutes, are
1006 amended to read:

1007 628.909 Applicability of other laws.-

1008 (2) The following provisions of the Florida Insurance Code
1009 shall apply to captive insurers who are not industrial insured
1010 captive insurers to the extent that such provisions are not
1011 inconsistent with this part:

1012 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1013 624.40851, 624.4095, 624.425, and 624.426.

1014 (3) The following provisions of the Florida Insurance Code
1015 shall apply to industrial insured captive insurers to the extent

595-05124A-11

20111252c2

1016 that such provisions are not inconsistent with this part:

1017 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1018 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

1019 Section 20. Section 634.403, Florida Statutes, is amended
1020 to read:

1021 634.403 License required; exemptions.—

1022 (1) No person in this state shall provide or offer to
1023 provide service warranties to residents of this state unless
1024 authorized ~~therefor~~ under a subsisting license issued by the
1025 office. The service warranty association shall pay to the office
1026 a license fee of \$200 for such license for each license year, or
1027 part thereof, the license is in force.

1028 (2) An insurer, while authorized to transact property or
1029 casualty insurance in this state, may also transact a service
1030 warranty business without additional qualifications or
1031 authority, but is ~~shall be~~ otherwise subject to the applicable
1032 provisions of this part.

1033 (3) The office may, pursuant to s. 120.569, ~~in its~~
1034 ~~discretion and~~ without advance notice and hearing, issue an
1035 immediate final order to cease and desist to any person or
1036 entity which violates this section. The Legislature finds that a
1037 violation of this section constitutes an imminent and immediate
1038 threat to the public health, safety, and welfare of the
1039 residents of this state.

1040 (4) Any person that is an affiliate of a domestic insurer
1041 as defined in chapter 624 is exempt from application of this
1042 part if the person does not issue, or market or cause to be
1043 marketed, service warranties to residents of this state and does
1044 not administer service warranties that were originally issued to

595-05124A-11

20111252c2

1045 residents of this state. The domestic insurer or its wholly
1046 owned Florida licensed insurer must be the direct obligor of all
1047 service warranties issued by such affiliate or must issue a
1048 contractual liability insurance policy to such affiliate that
1049 meets the conditions described in s. 634.406(3). If the office
1050 ~~of Insurance Regulation~~ determines, after notice and opportunity
1051 for a hearing, that a person's intentional business practices do
1052 not comply with any of the exemption requirements of this
1053 subsection, the person is ~~shall be~~ subject to this part.

1054 (5) A person is exempt from licensure under this section if
1055 it complies with the following:

1056 (a) The service warranties are sold only to persons who are
1057 not residents of this state and the person does not issue,
1058 market, or cause to be marketed service warranties to residents
1059 of this state.

1060 (b) The person submits a letter of notification to the
1061 office upon the start of business from this state and annually
1062 by March 1, which provides the following information:

1063 1. The type of products offered and a statement certifying
1064 that the products are not regulated in the state in which it is
1065 transacting business or that the person is licensed in the state
1066 in which it is transacting business.

1067 2. The name of the person; the state of domicile; the home
1068 address and Florida address of the person; the names of the
1069 owners and their percentage of ownership; the names of the
1070 officers and directors; the name, e-mail, and telephone number
1071 of a contact person; the states in which it is transacting
1072 business; and how many individuals are employed in this state.

1073 (c) If the person ceases to do business from this state, it

595-05124A-11

20111252c2

1074 provides written notification to the office within 30 days after
1075 cessation.

1076 (6) ~~(5)~~ Any person who provides, offers to provide, or holds
1077 oneself out as providing or offering to provide a service
1078 warranty to residents of in this state ~~or from this state~~
1079 without holding a subsisting license commits, in addition to any
1080 other violation, a misdemeanor of the first degree, punishable
1081 as provided in s. 775.082 or s. 775.083.

1082 Section 21. Subsections (10) and (12) of section 817.234,
1083 Florida Statutes, are amended to read:

1084 817.234 False and fraudulent insurance claims.—

1085 (10) In addition to any criminal liability, a person
1086 convicted of violating any provision of this section for the
1087 purpose of receiving insurance proceeds from a motor vehicle
1088 insurance contract is subject to a civil penalty.

1089 (a) Except for a violation of subsection (9), the civil
1090 penalty shall be:

1091 1. A fine up to \$5,000 for a first offense.

1092 2. A fine greater than \$5,000, but not to exceed \$10,000,
1093 for a second offense.

1094 3. A fine greater than \$10,000, but not to exceed \$15,000,
1095 for a third or subsequent offense.

1096 (b) The civil penalty for a violation of subsection (9)
1097 must be at least \$15,000, but may not exceed \$50,000.

1098 (c) The civil penalty shall be paid to the Insurance
1099 Regulatory Trust Fund within the Department of Financial
1100 Services and used by the department for the investigation and
1101 prosecution of insurance fraud.

1102 (d) This subsection does not prohibit a state attorney from

595-05124A-11

20111252c2

1103 entering into a written agreement in which the person charged
1104 with the violation does not admit to or deny the charges but
1105 consents to payment of the civil penalty. ~~As used in this~~
1106 section, the term "insurer" means any insurer, health
1107 maintenance organization, self-insurer, self-insurance fund, or
1108 other similar entity or person regulated under chapter 440 or
1109 chapter 641 or by the Office of Insurance Regulation under the
1110 Florida Insurance Code.

1111 (12) As used in this section, the term:

1112 (a) "Insurer" means any insurer, health maintenance
1113 organization, self-insurer, self-insurance fund, or similar
1114 entity or person regulated under chapter 440 or chapter 641 or
1115 by the Office of Insurance Regulation under the Florida
1116 Insurance Code.

1117 (b) ~~(a)~~ "Property" means property as defined in s. 812.012.

1118 (c) ~~(b)~~ "Value" has the same meaning ~~means value~~ as defined
1119 in s. 812.012.

1120 Section 22. Except as otherwise expressly provided in this
1121 act and except for this section, which shall take effect upon
1122 this act becoming a law, this act shall take effect July 1,
1123 2011.