



511142

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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	.	
	.	

The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Substitute for Amendment (457546) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (1) of section 316.646, Florida
7 Statutes, is amended, and subsection (5) is added to that
8 section, to read:

9 316.646 Security required; proof of security and display
10 thereof; dismissal of cases.—

11 (1) A ~~Any~~ person required by s. 324.022 to maintain
12 property damage liability security, required by s. 324.023 to



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13 maintain liability security for bodily injury or death, or
14 required by s. 627.733 to maintain personal injury protection
15 security on a motor vehicle shall have in his or her immediate
16 possession at all times while operating such motor vehicle
17 proper proof of maintenance of the required security. Such proof
18 shall be a uniform proof-of-insurance card, in paper or
19 electronic format, in a form prescribed by the department, a
20 valid insurance policy, an insurance policy binder, a
21 certificate of insurance, or such other proof as may be
22 prescribed by the department. If a person presents an electronic
23 device to a law enforcement officer for the purpose of
24 displaying a proof-of-insurance card in an electronic format:

25 (a) The person presenting the device is not deemed to
26 consent to access to any information on the electronic device
27 other than the displayed proof-of-insurance card.

28 (b) The law enforcement officer is not liable for damage to
29 the electronic device.

30 (5) The department may adopt rules to implement this
31 section.

32 Section 2. Paragraph (a) of subsection (5) of section
33 320.02, Florida Statutes, is amended to read:

34 320.02 Registration required; application for registration;
35 forms.—

36 (5) (a) Proof that personal injury protection benefits have
37 been purchased when required under s. 627.733, that property
38 damage liability coverage has been purchased as required under
39 s. 324.022, that bodily injury or death coverage has been
40 purchased if required under s. 324.023, and that combined bodily
41 liability insurance and property damage liability insurance have



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42 been purchased when required under s. 627.7415 shall be provided
43 in the manner prescribed by law by the applicant at the time of
44 application for registration of any motor vehicle that is
45 subject to such requirements. The issuing agent shall refuse to
46 issue registration if such proof of purchase is not provided.
47 Insurers shall furnish uniform proof-of-purchase cards, in paper
48 or electronic format, in a form prescribed by the department and
49 shall include the name of the insured's insurance company, the
50 coverage identification number, and the make, year, and vehicle
51 identification number of the vehicle insured. The card must
52 ~~shall~~ contain a statement notifying the applicant of the penalty
53 specified in s. 316.646(4). The card or insurance policy,
54 insurance policy binder, or certificate of insurance or a
55 photocopy of any of these; an affidavit containing the name of
56 the insured's insurance company, the insured's policy number,
57 and the make and year of the vehicle insured; or such other
58 proof as may be prescribed by the department constitutes ~~shall~~
59 ~~constitute~~ sufficient proof of purchase. If an affidavit is
60 provided as proof, it must ~~shall~~ be in substantially the
61 following form:

62
63 Under penalty of perjury, I ...(Name of insured)... do hereby
64 certify that I have ...(Personal Injury Protection, Property
65 Damage Liability, and, when required, Bodily Injury
66 Liability)... Insurance currently in effect with ...(Name of
67 insurance company)... under ...(policy number)... covering
68 ...(make, year, and vehicle identification number of
69 vehicle).... ...(Signature of Insured)...

70



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71 Such affidavit shall include the following warning:
72

73 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
74 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
75 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
76 SUBJECT TO PROSECUTION.
77

78 When an application is made through a licensed motor vehicle
79 dealer as required in s. 319.23, the original or a photostatic
80 copy of such card, insurance policy, insurance policy binder, or
81 certificate of insurance or the original affidavit from the
82 insured shall be forwarded by the dealer to the tax collector of
83 the county or the Department of Highway Safety and Motor
84 Vehicles for processing. By executing the aforesaid affidavit,
85 no licensed motor vehicle dealer will be liable in damages for
86 any inadequacy, insufficiency, or falsification of any statement
87 contained therein. A card shall also indicate the existence of
88 any bodily injury liability insurance voluntarily purchased.

89 Section 3. Subsection (8) is added to section 554.1021,
90 Florida Statutes, to read:

91 554.1021 Definitions.—As used in ss. 554.1011-554.115:

92 (8) "Authorized inspection agency" means:

93 (a) A county, city, town, or other governmental subdivision
94 that has adopted and administers, at a minimum, Section I of the
95 A.S.M.E. Boiler and Pressure Vessel Code as a legal requirement
96 and whose inspectors hold valid certificates of competency in
97 accordance with s. 554.113; or

98 (b) An insurance company that is licensed or registered by
99 an appropriate authority of any state of the United States or



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100 province of Canada and whose inspectors hold valid certificates
101 of competency in accordance with s. 554.113.

102 Section 4. Section 554.107, Florida Statutes, is amended to
103 read:

104 554.107 Special inspectors.—

105 (1) Upon application by ~~any~~ an authorized inspection agency
106 ~~company licensed to insure boilers in this state,~~ the chief
107 inspector shall issue a certificate of competency as a special
108 inspector to an ~~any~~ inspector employed by the agency if he or
109 she company, ~~provided that such inspector~~ satisfies the
110 competency requirements for inspectors as provided in s.
111 554.113.

112 (2) The certificate of competency of a special inspector
113 remains ~~shall remain~~ in effect only so long as the special
114 inspector is employed by an authorized inspection agency ~~a~~
115 ~~company licensed to insure boilers in this state.~~ Upon
116 termination of employment with such agency ~~company,~~ a special
117 inspector shall, in writing, notify the chief inspector of such
118 termination. Such notice shall be given within 15 days following
119 the date of termination.

120 Section 5. Subsection (1) of section 554.109, Florida
121 Statutes, is amended to read:

122 554.109 Exemptions.—

123 (1) An ~~Any~~ insurance company that insures ~~insuring~~ a boiler
124 located in a public assembly location in this state shall
125 inspect or contract with an authorized inspection agency to
126 inspect such boiler ~~so insured,~~ and shall annually report to the
127 department the identity of the authorized inspection agency that
128 performs a required boiler inspection on behalf of the company.



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129 A any county, city, town, or other governmental subdivision that
130 ~~which~~ has adopted into law the Boiler and Pressure Vessel Code
131 of the American Society of Mechanical Engineers and the National
132 Board Inspection Code for the construction, installation,
133 inspection, maintenance, and repair of boilers, regulating such
134 boilers in public assembly locations, shall inspect such boilers
135 so regulated; provided that such inspection shall be conducted
136 by a special inspector licensed pursuant to ss. 554.1011-
137 554.115. Upon filing of a report of satisfactory inspection with
138 the department, such boiler is exempt from inspection by the
139 department.

140 Section 6. Paragraph (f) of subsection (1) of section
141 624.413, Florida Statutes, is amended to read:

142 624.413 Application for certificate of authority.—

143 (1) To apply for a certificate of authority, an insurer
144 shall file its application therefor with the office, upon a form
145 adopted by the commission and furnished by the office, showing
146 its name; location of its home office and, if an alien insurer,
147 its principal office in the United States; kinds of insurance to
148 be transacted; state or country of domicile; and such additional
149 information as the commission reasonably requires, together with
150 the following documents:

151 (f) If a foreign or alien insurer, a copy of the report of
152 the most recent examination of the insurer certified by the
153 public official having supervision of insurance in its state of
154 domicile or of entry into the United States. The end of the most
155 recent year covered by the examination must be within the 5-year
156 ~~3-year~~ period preceding the date of application. In lieu of the
157 certified examination report, the office may accept an audited



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158 certified public accountant's report prepared on a basis
159 consistent with the insurance laws of the insurer's state of
160 domicile, certified by the public official having supervision of
161 insurance in its state of domicile or of entry into the United
162 States.

163 Section 7. Subsection (4) is added to section 626.0428,
164 Florida Statutes, to read:

165 626.0428 Agency personnel powers, duties, and limitations.—

166 (4) (a) Each place of business established by an agent or
167 agency, firm, corporation, or association must be in the active
168 full-time charge of a licensed and appointed agent holding the
169 required agent licenses to transact the lines of insurance being
170 handled at the location.

171 (b) Notwithstanding paragraph (a), the licensed agent in
172 charge of an insurance agency may also be the agent in charge of
173 additional branch office locations of the agency if insurance
174 activities requiring licensure as an insurance agent do not
175 occur at any location when the agent is not physically present
176 and unlicensed employees at the location do not engage in
177 insurance activities requiring licensure as an insurance agent
178 or customer representative.

179 (c) An insurance agency and each branch place of business
180 of an insurance agency shall designate an agent in charge and
181 file the name and license number of the agent in charge and the
182 physical address of the insurance agency location with the
183 department at the department's designated website. The
184 designation of the agent in charge may be changed at the option
185 of the agency. A change of the designated agent in charge is
186 effective upon notification to the department, which shall be



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187 provided within 30 days after such change.

188 (d) For the purposes of this subsection, an "agent in
189 charge" is the licensed and appointed agent who is responsible
190 for the supervision of all individuals within an insurance
191 agency location, regardless of whether such individuals deal
192 with the general public in the solicitation or negotiation of
193 insurance contracts or the collection or accounting of moneys.

194 (e) An agent in charge of an insurance agency is
195 accountable for wrongful acts, misconduct, or violations of
196 provisions of this code committed by the agent or by any person
197 under his or her supervision while acting on behalf of the
198 agency. This section may not be construed to render the agent in
199 charge criminally liable for an act unless he or she personally
200 committed or knew or should have known of the act and of the
201 facts constituting a violation of this chapter.

202 (f) An insurance agency location may not conduct the
203 business of insurance unless the agency designates an agent in
204 charge at all times. If the agency fails to update the
205 designation of the agent in charge within 90 days after the date
206 of a change in designation, the department shall automatically
207 revoke the agency's license.

208 Section 8. Subsection (7) of section 626.112, Florida
209 Statutes, is amended to read:

210 626.112 License and appointment required; agents, customer
211 representatives, adjusters, insurance agencies, service
212 representatives, managing general agents.—

213 (7) (a) ~~Effective October 1, 2006,~~ No individual, firm,
214 partnership, corporation, association, or any other entity shall
215 act in its own name or under a trade name, directly or



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216 indirectly, as an insurance agency, unless it complies with s.
217 626.172 with respect to possessing an insurance agency license
218 for each place of business at which it engages in an any
219 activity that ~~which~~ may be performed only by a licensed
220 insurance agent. However, an insurance agency that is owned and
221 operated by a single licensed agent conducting business in his
222 or her individual name and not employing or otherwise using the
223 services of or appointing other licensees is exempt from the
224 agency licensing requirements of this subsection. A branch place
225 of business that is established by a licensed agency is
226 considered a branch agency and is not required to be licensed so
227 long as it transacts business under the same name and federal
228 tax identification number as the licensed agency and has
229 designated a licensed agent in charge of the location as
230 required by s. 626.0428 and the address and telephone number of
231 the location have been submitted to the department for inclusion
232 in the licensing record of the licensed agency within 30 days
233 after insurance transactions begin at the location ~~Each agency~~
234 ~~engaged in business in this state before January 1, 2003, which~~
235 ~~is wholly owned by insurance agents currently licensed and~~
236 ~~appointed under this chapter, each incorporated agency whose~~
237 ~~voting shares are traded on a securities exchange, each agency~~
238 ~~designated and subject to supervision and inspection as a branch~~
239 ~~office under the rules of the National Association of Securities~~
240 ~~Dealers, and each agency whose primary function is offering~~
241 ~~insurance as a service or member benefit to members of a~~
242 ~~nonprofit corporation may file an application for registration~~
243 ~~in lieu of licensure in accordance with s. 626.172(3). Each~~
244 ~~agency engaged in business before October 1, 2006, shall file an~~



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245 ~~application for licensure or registration on or before October~~
246 ~~1, 2006.~~

247 ~~(b)1.~~ If an agency is required to be licensed but fails to
248 file an application for licensure in accordance with this
249 section, the department shall impose on the agency an
250 administrative penalty in an amount of up to \$10,000.

251 ~~2.~~ If an agency is eligible for registration but fails to
252 file an application for registration or an application for
253 licensure in accordance with this section, the department shall
254 impose on the agency an administrative penalty in an amount of
255 up to \$5,000.

256 ~~(c)(b)~~ Effective October 1, 2013, the department must
257 automatically convert the registration of an approved a
258 registered insurance agency to shall, as a condition precedent
259 to continuing business, obtain an insurance agency license if
260 the department finds that, with respect to any majority owner,
261 partner, manager, director, officer, or other person who manages
262 or controls the agency, any person has:

263 ~~1.~~ Been found guilty of, or has pleaded guilty or nolo
264 contendere to, a felony in this state or any other state
265 relating to the business of insurance or to an insurance agency,
266 without regard to whether a judgment of conviction has been
267 entered by the court having jurisdiction of the cases.

268 ~~2.~~ Employed any individual in a managerial capacity or in a
269 capacity dealing with the public who is under an order of
270 revocation or suspension issued by the department. An insurance
271 agency may request, on forms prescribed by the department,
272 verification of any person's license status. If a request is
273 mailed within 5 working days after an employee is hired, and the



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274 ~~employee's license is currently suspended or revoked, the agency~~
275 ~~shall not be required to obtain a license, if the unlicensed~~
276 ~~person's employment is immediately terminated.~~

277 ~~3. Operated the agency or permitted the agency to be~~
278 ~~operated in violation of s. 626.747.~~

279 ~~4. With such frequency as to have made the operation of the~~
280 ~~agency hazardous to the insurance buying public or other~~
281 ~~persons:~~

282 ~~a. Solicited or handled controlled business. This~~
283 ~~subparagraph shall not prohibit the licensing of any lending or~~
284 ~~financing institution or creditor, with respect to insurance~~
285 ~~only, under credit life or disability insurance policies of~~
286 ~~borrowers from the institutions, which policies are subject to~~
287 ~~part IX of chapter 627.~~

288 ~~b. Misappropriated, converted, or unlawfully withheld~~
289 ~~moneys belonging to insurers, insureds, beneficiaries, or others~~
290 ~~and received in the conduct of business under the license.~~

291 ~~e. Unlawfully rebated, attempted to unlawfully rebate, or~~
292 ~~unlawfully divided or offered to divide commissions with~~
293 ~~another.~~

294 ~~d. Misrepresented any insurance policy or annuity contract,~~
295 ~~or used deception with regard to any policy or contract, done~~
296 ~~either in person or by any form of dissemination of information~~
297 ~~or advertising.~~

298 ~~e. Violated any provision of this code or any other law~~
299 ~~applicable to the business of insurance in the course of dealing~~
300 ~~under the license.~~

301 ~~f. Violated any lawful order or rule of the department.~~

302 ~~g. Failed or refused, upon demand, to pay over to any~~



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303 ~~insurer he or she represents or has represented any money coming~~
304 ~~into his or her hands belonging to the insurer.~~

305 ~~h. Violated the provision against twisting as defined in s.~~
306 ~~626.9541(1)(1).~~

307 ~~i. In the conduct of business, engaged in unfair methods of~~
308 ~~competition or in unfair or deceptive acts or practices, as~~
309 ~~prohibited under part IX of this chapter.~~

310 ~~j. Willfully overinsured any property insurance risk.~~

311 ~~k. Engaged in fraudulent or dishonest practices in the~~
312 ~~conduct of business arising out of activities related to~~
313 ~~insurance or the insurance agency.~~

314 ~~l. Demonstrated lack of fitness or trustworthiness to~~
315 ~~engage in the business of insurance arising out of activities~~
316 ~~related to insurance or the insurance agency.~~

317 ~~m. Authorized or knowingly allowed individuals to transact~~
318 ~~insurance who were not then licensed as required by this code.~~

319 ~~5. Knowingly employed any person who within the preceding 3~~
320 ~~years has had his or her relationship with an agency terminated~~
321 ~~in accordance with paragraph (d).~~

322 ~~6. Willfully circumvented the requirements or prohibitions~~
323 ~~of this code.~~

324 Section 9. Subsections (2), (3), and (4) of section
325 626.172, Florida Statutes, are amended to read:

326 626.172 Application for insurance agency license.—

327 (2) An application for an insurance agency license must
328 ~~shall~~ be signed by the owner or owners of the agency. If the
329 agency is incorporated, the application must ~~shall~~ be signed by
330 the president and secretary of the corporation. The application
331 for an insurance agency license must ~~shall~~ include:



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332 (a) The name of each majority owner, partner, officer, and
333 director of the insurance agency.

334 (b) The residence address of each person required to be
335 listed in the application under paragraph (a).

336 (c) The name of the insurance agency, ~~and~~ its principal
337 business street address and a valid e-mail address of the
338 insurance agency.

339 (d) The physical address ~~location~~ of each branch agency,
340 including its name, e-mail address, and telephone number and the
341 date that the branch location began transacting insurance ~~office~~
342 ~~and the name under which each agency office conducts or will~~
343 ~~conduct business.~~

344 (e) The name of each agent to be in full-time charge of an
345 agency office and specification of which office, including
346 branch locations.

347 (f) The fingerprints of each of the following:

348 1. A sole proprietor;

349 2. Each partner;

350 3. Each owner of an unincorporated agency;

351 4. Each owner who directs or participates in the management
352 or control of an incorporated agency whose shares are not traded
353 on a securities exchange;

354 5. The president, senior vice presidents, treasurer,
355 secretary, and directors of the agency; and

356 6. Any other person who directs or participates in the
357 management or control of the agency, whether through the
358 ownership of voting securities, by contract, by ownership of
359 agency bank accounts, or otherwise.

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361 Fingerprints must be taken by a law enforcement agency or other
362 entity approved by the department and must be accompanied by the
363 fingerprint processing fee specified in s. 624.501. Fingerprints
364 must ~~shall~~ be processed in accordance with s. 624.34. However,
365 fingerprints need not be filed for an ~~any~~ individual who is
366 currently licensed and appointed under this chapter. This
367 paragraph does not apply to corporations whose voting shares are
368 traded on a securities exchange.

369 (g) Such additional information as the department requires
370 by rule to ascertain the trustworthiness and competence of
371 persons required to be listed on the application and to
372 ascertain that such persons meet the requirements of this code.
373 However, the department may not require that credit or character
374 reports be submitted for persons required to be listed on the
375 application.

376 (h) ~~Beginning October 1, 2005,~~ The department must ~~shall~~
377 accept the uniform application for nonresident agency licensure.
378 The department may adopt by rule revised versions of the uniform
379 application.

380 ~~(3) The department shall issue a registration as an~~
381 ~~insurance agency to any agency that files a written application~~
382 ~~with the department and qualifies for registration. The~~
383 ~~application for registration shall require the agency to provide~~
384 ~~the same information required for an agency licensed under~~
385 ~~subsection (2), the agent identification number for each owner~~
386 ~~who is a licensed agent, proof that the agency qualifies for~~
387 ~~registration as provided in s. 626.112(7), and any other~~
388 ~~additional information that the department determines is~~
389 ~~necessary in order to demonstrate that the agency qualifies for~~



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390 ~~registration. The application must be signed by the owner or~~
391 ~~owners of the agency. If the agency is incorporated, the~~
392 ~~application must be signed by the president and the secretary of~~
393 ~~the corporation. An agent who owns the agency need not file~~
394 ~~fingerprints with the department if the agent obtained a license~~
395 ~~under this chapter and the license is currently valid.~~

396 ~~(a) If an application for registration is denied, the~~
397 ~~agency must file an application for licensure no later than 30~~
398 ~~days after the date of the denial of registration.~~

399 ~~(b) A registered insurance agency must file an application~~
400 ~~for licensure no later than 30 days after the date that any~~
401 ~~person who is not a licensed and appointed agent in this state~~
402 ~~acquires any ownership interest in the agency. If an agency~~
403 ~~fails to file an application for licensure in compliance with~~
404 ~~this paragraph, the department shall impose an administrative~~
405 ~~penalty in an amount of up to \$5,000 on the agency.~~

406 ~~(c) Sections 626.6115 and 626.6215 do not apply to agencies~~
407 ~~registered under this subsection.~~

408 ~~(3)-(4) The department must ~~shall~~ issue a license ~~or~~~~
409 ~~registration to each agency upon approval of the application,~~
410 ~~and each agency location must ~~shall~~ display the license ~~or~~~~
411 ~~registration prominently in a manner that makes it clearly~~
412 ~~visible to a ~~any~~ customer or potential customer who enters the~~
413 ~~agency.~~

414 Section 10. Paragraph (d) of subsection (1) of section
415 626.321, Florida Statutes, is amended to read:

416 626.321 Limited licenses.—

417 (1) The department shall issue to a qualified applicant a
418 license as agent authorized to transact a limited class of



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419 business in any of the following categories of limited lines
420 insurance:

421 (d) *Motor vehicle rental insurance.*—

422 1. License covering only insurance of the risks set forth
423 in this paragraph when offered, sold, or solicited with and
424 incidental to the rental or lease of a motor vehicle and which
425 applies only to the motor vehicle that is the subject of the
426 lease or rental agreement and the occupants of the motor
427 vehicle:

428 a. Excess motor vehicle liability insurance providing
429 coverage in excess of the standard liability limits provided by
430 the lessor in the lessor's lease to a person renting or leasing
431 a motor vehicle from the licensee's employer for liability
432 arising in connection with the negligent operation of the leased
433 or rented motor vehicle.

434 b. Insurance covering the liability of the lessee to the
435 lessor for damage to the leased or rented motor vehicle.

436 c. Insurance covering the loss of or damage to baggage,
437 personal effects, or travel documents of a person renting or
438 leasing a motor vehicle.

439 d. Insurance covering accidental personal injury or death
440 of the lessee and any passenger who is riding or driving with
441 the covered lessee in the leased or rented motor vehicle.

442 2. Insurance under a motor vehicle rental insurance license
443 may be issued only if the lease or rental agreement is for no
444 more than 60 days, the lessee is not provided coverage for more
445 than 60 consecutive days per lease period, and the lessee is
446 given written notice that his or her personal insurance policy
447 providing coverage on an owned motor vehicle may provide



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448 coverage of such risks and that the purchase of the insurance is
449 not required in connection with the lease or rental of a motor
450 vehicle. If the lease is extended beyond 60 days, the coverage
451 may be extended one time only for a period not to exceed an
452 additional 60 days. Insurance may be provided to the lessee as
453 an additional insured on a policy issued to the licensee's
454 employer.

455 3. The license may be issued only to the full-time salaried
456 employee of a licensed general lines agent or to a business
457 entity that offers motor vehicles for rent or lease if insurance
458 sales activities authorized by the license are in connection
459 with and incidental to the rental or lease of a motor vehicle.

460 a. A license issued to a business entity that offers motor
461 vehicles for rent or lease encompasses each office, branch
462 office, employee, or place of business making use of the
463 entity's business name in order to offer, solicit, and sell
464 insurance pursuant to this paragraph.

465 b. The application for licensure must list the name,
466 address, and phone number for each office, branch office, or
467 place of business that is to be covered by the license. The
468 licensee shall notify the department of the name, address, and
469 phone number of any new location that is to be covered by the
470 license before the new office, branch office, or place of
471 business engages in the sale of insurance pursuant to this
472 paragraph. The licensee must notify the department within 30
473 days after closing or terminating an office, branch office, or
474 place of business. Upon receipt of the notice, the department
475 shall delete the office, branch office, or place of business
476 from the license.



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477 c. A licensed and appointed entity is directly responsible
478 and accountable for all acts of the licensee's employees.

479 Section 11. Section 626.382, Florida Statutes, is amended
480 to read:

481 626.382 Continuation, expiration of license; insurance
482 agencies.—An insurance agency license continues ~~The license of~~
483 ~~any insurance agency shall be issued for a period of 3 years and~~
484 ~~shall continue~~ in force until it is canceled, suspended,
485 revoked, or otherwise terminated. ~~A license may be renewed by~~
486 ~~submitting a renewal request to the department on a form adopted~~
487 ~~by department rule.~~

488 Section 12. Section 626.601, Florida Statutes, is amended
489 to read:

490 626.601 Improper conduct; inquiry; fingerprinting.—

491 (1) The department or office may, upon its own motion or
492 upon a written complaint signed by an ~~any~~ interested person and
493 filed with the department or office, inquire into any alleged
494 improper conduct of a ~~any~~ licensed, approved, or certified
495 insurance agency, agent, adjuster, service representative,
496 managing general agent, customer representative, title insurance
497 agent, title insurance agency, mediator, neutral evaluator,
498 continuing education course provider, instructor, school
499 official, or monitor group under this code. The department or
500 office may thereafter initiate an investigation of ~~any~~ such
501 individual or entity licensee if it has reasonable cause to
502 believe that the individual or entity licensee has violated any
503 provision of the insurance code. During the course of its
504 investigation, the department or office shall contact the
505 individual or entity licensee being investigated unless it



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506 determines that contacting such individual or entity ~~person~~
507 could jeopardize the successful completion of the investigation
508 or cause injury to the public.

509 (2) In the investigation by the department or office of the
510 alleged misconduct, the individual or entity ~~licensee~~ shall,
511 whenever so required by the department or office, cause the
512 individual's or entity's ~~his or her~~ books and records to be open
513 for inspection for the purpose of such inquiries.

514 (3) The complaints against an individual or entity ~~any~~
515 ~~licensee~~ may be informally alleged and are not required to
516 include language ~~need not be in any such language as is~~
517 necessary to charge a crime on an indictment or information.

518 (4) The expense for ~~any~~ hearings or investigations
519 conducted under this law, as well as the fees and mileage of
520 witnesses, may be paid out of the appropriate fund.

521 (5) If the department or office, after investigation, has
522 reason to believe that an individual ~~a licensee~~ may have been
523 found guilty of or pleaded guilty or nolo contendere to a felony
524 or a crime related to the business of insurance in this or any
525 other state or jurisdiction, the department or office may
526 require the individual ~~licensee~~ to file with the department or
527 office a complete set of his or her fingerprints, which must
528 ~~shall~~ be accompanied by the fingerprint processing fee set forth
529 in s. 624.501. The fingerprints shall be taken by an authorized
530 law enforcement agency or other department-approved entity.

531 (6) The complaint and ~~any~~ information obtained pursuant to
532 the investigation by the department or office are confidential
533 and are exempt from ~~the provisions of~~ s. 119.07, unless the
534 department or office files a formal administrative complaint,



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535 emergency order, or consent order against the individual or
536 entity licensee. ~~Nothing in~~ This subsection does not shall be
537 ~~construed to~~ prevent the department or office from disclosing
538 the complaint or such information as it deems necessary to
539 conduct the investigation, to update the complainant as to the
540 status and outcome of the complaint, or to share such
541 information with a any law enforcement agency.

542 Section 13. Section 626.747, Florida Statutes, is repealed.

543 Section 14. Paragraph (b) of subsection (1) of section
544 626.8411, Florida Statutes, is amended to read:

545 626.8411 Application of Florida Insurance Code provisions
546 to title insurance agents or agencies.—

547 (1) The following provisions of part II applicable to
548 general lines agents or agencies also apply to title insurance
549 agents or agencies:

550 (b) Section 626.0428(4)(a) and (b) ~~626.747~~, relating to
551 branch agencies.

552 Section 15. Paragraph (c) of subsection (2) and subsection
553 (3) of section 626.8805, Florida Statutes, is amended to read:

554 626.8805 Certificate of authority to act as administrator.—

555 (2) The administrator shall file with the office an
556 application for a certificate of authority upon a form to be
557 adopted by the commission and furnished by the office, which
558 application shall include or have attached the following
559 information and documents:

560 (c) The names, addresses, official positions, and
561 professional qualifications of the individuals who are employed
562 or retained by the administrator and who are responsible for the
563 conduct of the affairs of the administrator, including all



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564 members of the board of directors, board of trustees, executive
565 committee, or other governing board or committee, and the
566 principal officers in the case of a corporation or, the partners
567 or members in the case of a partnership or association of the
568 administrator, ~~and any other person who exercises control or~~
569 ~~influence over the affairs of the administrator.~~

570 (3) The applicant shall make available for inspection by
571 the office copies of all contracts relating to services provided
572 by the administrator to ~~with~~ insurers or other persons utilizing
573 the services of the administrator.

574 Section 16. Subsections (1) and (3) of section 626.8817,
575 Florida Statutes, are amended to read:

576 626.8817 Responsibilities of insurance company with respect
577 to administration of coverage insured.-

578 (1) If an insurer uses the services of an administrator,
579 the insurer is responsible for determining the benefits, premium
580 rates, underwriting criteria, and claims payment procedures
581 applicable to the coverage and for securing reinsurance, if any.
582 The rules pertaining to these matters shall be provided, ~~in~~
583 ~~writing~~, by the insurer, or its designee, to the administrator.
584 The responsibilities of the administrator as to any of these
585 matters shall be set forth in a ~~the~~ written agreement binding
586 upon ~~between~~ the administrator and the insurer.

587 (3) In cases in which an administrator administers benefits
588 for more than 100 certificateholders on behalf of an insurer,
589 the insurer shall, at least semiannually, conduct a review of
590 the operations of the administrator. At least one such review
591 must be an onsite audit of the operations of the administrator.
592 The insurer may contract with a qualified third party to conduct



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593 such examination.

594 Section 17. Subsections (1) and (4) of section 626.882,
595 Florida Statutes, are amended to read:

596 626.882 Agreement between administrator and insurer;
597 required provisions; maintenance of records.—

598 (1) A ~~Ne~~ person may not act as an administrator without a
599 written agreement, as required under s. 626.8817, which
600 specifies the rights, duties and obligations of the ~~between such~~
601 person as administrator and an insurer.

602 (4) If a policy is issued to a trustee or trustees, a copy
603 of the trust agreement and any amendments to that agreement
604 shall be furnished to the insurer or its designee by the
605 administrator and shall be retained as part of the official
606 records of both the administrator and the insurer for the
607 duration of the policy and for 5 years thereafter.

608 Section 18. Subsections (3), (4), and (5) of section
609 626.883, Florida Statutes, are amended to read:

610 626.883 Administrator as intermediary; collections held in
611 fiduciary capacity; establishment of account; disbursement;
612 payments on behalf of insurer.—

613 (3) If charges or premiums deposited in a fiduciary account
614 have been collected on behalf of or for more than one insurer,
615 the administrator shall keep records clearly recording the
616 deposits in and withdrawals from such account on behalf of or
617 for each insurer. The administrator shall, upon request of an
618 insurer or its designee, furnish such insurer with copies of
619 records pertaining to deposits and withdrawals on behalf of or
620 for such insurer.

621 (4) The administrator may not pay a any claim by



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622 withdrawals from a fiduciary account. Withdrawals from such
623 account shall be made as provided in the written agreement
624 required under ss. 626.8817 and 626.882 ~~between the~~
625 ~~administrator and the insurer~~ for any of the following:

626 (a) Remittance to an insurer entitled to such remittance.

627 (b) Deposit in an account maintained in the name of such
628 insurer.

629 (c) Transfer to and deposit in a claims-paying account,
630 with claims to be paid as provided by such insurer.

631 (d) Payment to a group policyholder for remittance to the
632 insurer entitled to such remittance.

633 (e) Payment to the administrator of the commission, fees,
634 or charges of the administrator.

635 (f) Remittance of return premium to the person or persons
636 entitled to such return premium.

637 (5) All claims paid by the administrator from funds
638 collected on behalf of the insurer shall be paid only on drafts
639 of, and as authorized by, such insurer or its designee.

640 Section 19. Subsection (3) of section 626.884, Florida
641 Statutes, is amended to read:

642 626.884 Maintenance of records by administrator; access;
643 confidentiality.—

644 (3) The insurer shall retain the right of continuing access
645 to books and records maintained by the administrator sufficient
646 to permit the insurer to fulfill all of its contractual
647 obligations to insured persons, subject to any restrictions in
648 the written agreement pertaining to ~~between the insurer and the~~
649 ~~administrator~~ on the proprietary rights of the parties in such
650 books and records.



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651 Section 20. Subsections (1) and (2) of section 626.89,
652 Florida Statutes, are amended to read:

653 626.89 Annual financial statement and filing fee; notice of
654 change of ownership.—

655 (1) Each authorized administrator shall file with the
656 office a full and true statement of its financial condition,
657 transactions, and affairs. The statement shall be filed annually
658 on or before April ~~March~~ 1 or within such extension of time
659 therefor as the office for good cause may have granted and shall
660 be for the preceding calendar year or fiscal year, if the
661 administrator's accounting is on a fiscal year basis. The
662 statement shall be in such form and contain such matters as the
663 commission prescribes and shall be verified by at least two
664 officers of such administrator. ~~An administrator whose sole~~
665 ~~stockholder is an association representing health care providers~~
666 ~~which is not an affiliate of an insurer, an administrator of a~~
667 ~~pooled governmental self-insurance program, or an administrator~~
668 ~~that is a university may submit the preceding fiscal year's~~
669 ~~statement within 2 months after its fiscal year end.~~

670 (2) Each authorized administrator shall also file an
671 audited financial statement performed by an independent
672 certified public accountant. The audited financial statement
673 shall be filed with the office on or before July ~~June~~ 1 for the
674 preceding calendar or fiscal year ending ~~December 31~~. ~~An~~
675 ~~administrator whose sole stockholder is an association~~
676 ~~representing health care providers which is not an affiliate of~~
677 ~~an insurer, an administrator of a pooled governmental self-~~
678 ~~insurance program, or an administrator that is a university may~~
679 ~~submit the preceding fiscal year's audited financial statement~~



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680 ~~within 5 months after the end of its fiscal year.~~ An audited
681 financial statement prepared on a consolidated basis must
682 include a columnar consolidating or combining worksheet that
683 must be filed with the statement and must comply with the
684 following:

685 (a) Amounts shown on the consolidated audited financial
686 statement must be shown on the worksheet;

687 (b) Amounts for each entity must be stated separately; and

688 (c) Explanations of consolidating and eliminating entries
689 must be included.

690 Section 21. Section 626.931, Florida Statutes, is amended
691 to read:

692 626.931 ~~Agent affidavit and~~ Insurer reporting
693 requirements.-

694 ~~(1) Each surplus lines agent shall on or before the 45th~~
695 ~~day following each calendar quarter file with the Florida~~
696 ~~Surplus Lines Service Office an affidavit, on forms as~~
697 ~~prescribed and furnished by the Florida Surplus Lines Service~~
698 ~~Office, stating that all surplus lines insurance transacted by~~
699 ~~him or her during such calendar quarter has been submitted to~~
700 ~~the Florida Surplus Lines Service Office as required.~~

701 ~~(2) The affidavit of the surplus lines agent shall include~~
702 ~~efforts made to place coverages with authorized insurers and the~~
703 ~~results thereof.~~

704 (1) ~~(3)~~ Each foreign insurer accepting premiums shall, on or
705 before the end of the month following each calendar quarter,
706 file with the Florida Surplus Lines Service Office a verified
707 report of all surplus lines insurance transacted by such insurer
708 for insurance risks located in this state during such calendar



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709 quarter.

710 ~~(2)~~~~(4)~~ Each alien insurer accepting premiums shall, on or
711 before June 30 of each year, file with the Florida Surplus Lines
712 Service Office a verified report of all surplus lines insurance
713 transacted by such insurer for insurance risks located in this
714 state during the preceding calendar year.

715 ~~(3)~~~~(5)~~ The department may waive the filing requirements
716 described in subsections ~~(1)~~~~(3)~~ and ~~(2)~~~~(4)~~.

717 ~~(4)~~~~(6)~~ Each insurer's report and supporting information
718 shall be in a computer-readable format as determined by the
719 Florida Surplus Lines Service Office or shall be submitted on
720 forms prescribed by the Florida Surplus Lines Service Office and
721 shall show for each applicable agent:

722 (a) A listing of all policies, certificates, cover notes,
723 or other forms of confirmation of insurance coverage or any
724 substitutions thereof or endorsements thereto and the
725 identifying number; and

726 (b) Any additional information required by the department
727 or Florida Surplus Lines Service Office.

728 Section 22. Paragraph (a) of subsection (2) of section
729 626.932, Florida Statutes, is amended to read:

730 626.932 Surplus lines tax.—

731 (2) (a) The surplus lines agent shall make payable to the
732 department the tax related to each calendar quarter's business
733 as reported to the Florida Surplus Lines Service Office, and
734 remit the tax to the Florida Surplus Lines Service Office on or
735 before the 45th day following each calendar quarter ~~at the same~~
736 ~~time as provided for the filing of the quarterly affidavit,~~
737 ~~under s. 626.931.~~ The Florida Surplus Lines Service Office shall



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738 forward to the department the taxes and any interest collected
739 pursuant to paragraph (b), within 10 days after ~~of~~ receipt.

740 Section 23. Subsection (1) of section 626.935, Florida
741 Statutes, is amended to read:

742 626.935 Suspension, revocation, or refusal of surplus lines
743 agent's license.—

744 (1) The department shall deny an application for, suspend,
745 revoke, or refuse to renew the appointment of a surplus lines
746 agent and all other licenses and appointments held by the
747 licensee under this code, on any of the following grounds:

748 (a) Removal of the licensee's office from the licensee's
749 state of residence.

750 (b) Removal of the accounts and records of his or her
751 surplus lines business from this state or the licensee's state
752 of residence during the period when such accounts and records
753 are required to be maintained under s. 626.930.

754 (c) Closure of the licensee's office for more than 30
755 consecutive days.

756 ~~(d) Failure to make and file his or her affidavit or~~
757 ~~reports when due as required by s. 626.931.~~

758 (d)~~(e)~~ Failure to pay the tax or service fee on surplus
759 lines premiums, as provided in the Surplus Lines Law.

760 (e)~~(f)~~ Suspension, revocation, or refusal to renew or
761 continue the license or appointment as a general lines agent,
762 service representative, or managing general agent.

763 (f)~~(g)~~ Lack of qualifications as for an original surplus
764 lines agent's license.

765 (g)~~(h)~~ Violation of this Surplus Lines Law.

766 (h)~~(i)~~ For any other applicable cause for which the license



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767 of a general lines agent could be suspended, revoked, or refused
768 under s. 626.611 or s. 626.621.

769 Section 24. Subsection (1) of section 626.936, Florida
770 Statutes, is amended to read:

771 626.936 Failure to file reports or pay tax or service fee;
772 administrative penalty.—

773 (1) A ~~Any~~ licensed surplus lines agent who neglects to file
774 a report ~~or an affidavit~~ in the form and within the time
775 required or provided for in the Surplus Lines Law may be fined
776 up to \$50 per day for each day the neglect continues, beginning
777 the day after the report ~~or affidavit~~ was due until the date the
778 report ~~or affidavit~~ is received. All sums collected under this
779 section shall be deposited into the Insurance Regulatory Trust
780 Fund.

781 Section 25. Subsection (1) of section 626.9914, Florida
782 Statutes, is amended to read:

783 626.9914 Suspension, revocation, denial, or nonrenewal of
784 viatical settlement provider license; grounds; administrative
785 fine.—

786 (1) The office shall suspend, revoke, deny, or refuse to
787 renew the license of a ~~any~~ viatical settlement provider if the
788 office finds that the licensee:

789 (a) Has made a misrepresentation in the application for the
790 license;

791 (b) Has engaged in fraudulent or dishonest practices, or
792 otherwise has been shown to be untrustworthy or incompetent to
793 act as a viatical settlement provider;

794 (c) Demonstrates a pattern of unreasonable payments to
795 viators;



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796 (d) Has been found guilty of, or has pleaded guilty or nolo
797 contendere to, a ~~any~~ felony, or a misdemeanor involving fraud or
798 moral turpitude, regardless of whether a judgment of conviction
799 has been entered by the court;

800 (e) Has issued viatical settlement contracts that have not
801 been approved pursuant to this act;

802 (f) Has failed to honor contractual obligations related to
803 the business of viatical settlement contracts;

804 (g) Deals in bad faith with viators;

805 (h) Has violated any provision of the insurance code or of
806 this act;

807 (i) Employs a ~~any~~ person who materially influences the
808 licensee's conduct and who fails to meet the requirements of
809 this act; or

810 (j) No longer meets the requirements for initial licensure;
811 ~~or~~

812 ~~(k) Obtains or utilizes life expectancies from life~~
813 ~~expectancy providers who are not registered with the office~~
814 ~~pursuant to this act.~~

815 Section 26. Section 626.99175, Florida Statutes, is amended
816 to read:

817 626.99175 Life expectancy providers; ~~registration required;~~
818 ~~denial, suspension, revocation.~~-

819 ~~(1) After July 1, 2006, a person may not perform the~~
820 ~~functions of a life expectancy provider without first having~~
821 ~~registered as a life expectancy provider, except as provided in~~
822 ~~subsection (6).~~

823 ~~(2) Application for registration as a life expectancy~~
824 ~~provider must be made to the office by the applicant on a form~~



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825 ~~prescribed by the office, under oath and signed by the~~
826 ~~applicant. The application must be accompanied by a fee of \$500.~~

827 ~~(3) A completed application shall be evidenced on a form~~
828 ~~and in a manner prescribed by the office and shall require the~~
829 ~~registered life expectancy provider to update such information~~
830 ~~and renew such registration as required by the office.~~

831 ~~(4) In the application, the applicant must provide all of~~
832 ~~the following:~~

833 ~~(a) The full name, age, residence address, and business~~
834 ~~address, and all occupations engaged in by the applicant during~~
835 ~~the 5 years preceding the date of the application.~~

836 ~~(b) A copy of the applicant's basic organizational~~
837 ~~documents, if any, including the articles of incorporation,~~
838 ~~articles of association, partnership agreement, trust agreement,~~
839 ~~or other similar documents, together with all amendments to such~~
840 ~~documents.~~

841 ~~(c) Copies of all bylaws, rules, regulations, or similar~~
842 ~~documents regulating the conduct of the applicant's internal~~
843 ~~affairs.~~

844 ~~(d) A list showing the name, business and residence~~
845 ~~addresses, and official position of each individual who is~~
846 ~~responsible for conduct of the applicant's affairs, including,~~
847 ~~but not limited to, any member of the board of directors, board~~
848 ~~of trustees, executive committee, or other governing board or~~
849 ~~committee and any other person or entity owning or having the~~
850 ~~right to acquire 10 percent or more of the voting securities of~~
851 ~~the applicant, and any person performing life expectancies by~~
852 ~~the applicant.~~

853 ~~(e) A sworn biographical statement on forms supplied by the~~



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854 ~~office with respect to each individual identified under~~
855 ~~paragraph (d), including whether such individual has been~~
856 ~~associated with any other life expectancy provider or has~~
857 ~~performed any services for a person in the business of viatical~~
858 ~~settlements.~~

859 ~~(f) A sworn statement of any criminal and civil actions~~
860 ~~pending or final against the registrant or any individual~~
861 ~~identified under paragraph (d).~~

862 ~~(g) A general description of the following policies and~~
863 ~~procedures covering all life expectancy determination criteria~~
864 ~~and protocols:~~

865 ~~1. The plan or plans of policies and procedures used to~~
866 ~~determine life expectancies.~~

867 ~~2. A description of the training, including continuing~~
868 ~~training, of the individuals who determine life expectancies.~~

869 ~~3. A description of how the life expectancy provider~~
870 ~~updates its manuals, underwriting guides, mortality tables, and~~
871 ~~other reference works and ensures that the provider bases its~~
872 ~~determination of life expectancies on current data.~~

873 ~~(h) A plan for assuring confidentiality of personal,~~
874 ~~medical, and financial information in accordance with federal~~
875 ~~and state laws.~~

876 ~~(i) An anti-fraud plan as required pursuant to s.~~
877 ~~626.99278.~~

878 ~~(j) A list of any agreements, contracts, or any other~~
879 ~~arrangement to provide life expectancies to a viatical~~
880 ~~settlement provider, viatical settlement broker, or any other~~
881 ~~person in the business of viatical settlements in connection~~
882 ~~with any viatical settlement contract or viatical settlement~~



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883 ~~investment.~~

884 ~~(5) As part of the application, and on or before March 1 of~~
885 ~~every 3 years thereafter, a registered life expectancy provider~~
886 ~~shall file with the office an audit of all life expectancies by~~
887 ~~the life expectancy provider for the 5 calendar years~~
888 ~~immediately preceding such audit, which audit shall be conducted~~
889 ~~and certified by a nationally recognized actuarial firm and~~
890 ~~shall include only the following:~~

891 ~~(a) A mortality table.~~

892 ~~(b) The number, percentage, and an actual to expected ratio~~
893 ~~of life expectancies in the following categories: life~~
894 ~~expectancies of less than 24 months, life expectancies of 25~~
895 ~~months to 48 months, life expectancies of 49 months to 72~~
896 ~~months, life expectancies of 73 months to 108 months, life~~
897 ~~expectancies of 109 months to 144 months, life expectancies of~~
898 ~~145 months to 180 months, and life expectancies of more than 180~~
899 ~~months.~~

900 ~~(6) A viatical settlement broker, viatical settlement~~
901 ~~provider, or insurance agent in the business of viatical~~
902 ~~settlements in this state may not shall directly or indirectly~~
903 ~~own or be an officer, director, or employee of a life expectancy~~
904 ~~provider.~~

905 ~~(7) Each registered life expectancy provider shall provide~~
906 ~~the office, as applicable, at least 30 days' advance notice of~~
907 ~~any change in the registrant's name, residence address,~~
908 ~~principal business address, or mailing address.~~

909 ~~(8) A person required to be registered by this section~~
910 ~~shall for 5 years retain copies of all life expectancies and~~
911 ~~supporting documents and medical records unless those personal~~



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912 ~~medical records are subject to different retention or~~
913 ~~destruction requirements of a federal or state personal health~~
914 ~~information law.~~

915 ~~(9) An application for life expectancy provider~~
916 ~~registration shall be approved or denied by the commissioner~~
917 ~~within 60 calendar days following receipt of a completed~~
918 ~~application by the commissioner. The office shall notify the~~
919 ~~applicant that the application is complete. A completed~~
920 ~~application that is not approved or denied in 60 calendar days~~
921 ~~following its receipt shall be deemed approved.~~

922 ~~(10) The office may, in its discretion, deny the~~
923 ~~application for a life expectancy provider registration or~~
924 ~~suspend, revoke, or refuse to renew or continue the registration~~
925 ~~of a life expectancy provider if the office finds:~~

926 ~~(a) Any cause for which registration could have been~~
927 ~~refused had it then existed and been known to the office;~~

928 ~~(b) A violation of any provision of this code or of any~~
929 ~~other law applicable to the applicant or registrant;~~

930 ~~(c) A violation of any lawful order or rule of the~~
931 ~~department, commission, or office; or~~

932 ~~(d) That the applicant or registrant:~~

933 ~~1. Has been found guilty of or pled guilty or nolo~~
934 ~~contendere to a felony or a crime punishable by imprisonment of~~
935 ~~1 year or more under the law of the United States of America or~~
936 ~~of any state thereof or under the law of any other country;~~

937 ~~2. Has knowingly and willfully aided, assisted, procured,~~
938 ~~advised, or abetted any person in the violation of a provision~~
939 ~~of the insurance code or any order or rule of the department,~~
940 ~~commission, or office;~~



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941 ~~3. Has knowingly and with intent to defraud, provided a~~
942 ~~life expectancy that does not conform to an applicant's or~~
943 ~~registrant's general practice;~~

944 ~~4. Does not have a good business reputation or does not~~
945 ~~have experience, training, or education that qualifies the~~
946 ~~applicant or registrant to conduct the business of a life~~
947 ~~expectancy provider; or~~

948 ~~5. Has demonstrated a lack of fitness or trustworthiness to~~
949 ~~engage in the business of issuing life expectancies.~~

950 ~~(11) The office may, in lieu of or in addition to any~~
951 ~~suspension or revocation, assess an administrative fine not to~~
952 ~~exceed \$2,500 for each nonwillful violation or \$10,000 for each~~
953 ~~willful violation by a registered life expectancy provider. The~~
954 ~~office may also place a registered life expectancy provider on~~
955 ~~probation for a period not to exceed 2 years.~~

956 ~~(12) It is a violation of this section for a person to~~
957 ~~represent, orally or in writing, that a life expectancy~~
958 ~~provider's registration pursuant to this act is in any way a~~
959 ~~recommendation or approval of the entity or means that the~~
960 ~~qualifications or abilities have in any way been approved of.~~

961 ~~(13) The Financial Services Commission may, by rule,~~
962 ~~require that all or part of the statements or filings required~~
963 ~~under this section be submitted by electronic means and in a~~
964 ~~computer-readable format specified by the commission.~~

965 Section 27. Section 626.9919, Florida Statutes, is amended
966 to read:

967 626.9919 Notice of change of licensee ~~or registrant's~~
968 address or name.—Each viatical settlement provider licensee ~~and~~
969 ~~registered life expectancy provider~~ must provide the office at



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970 least 30 days' advance notice of any change in the licensee's ~~or~~
971 ~~registrant's~~ name, residence address, principal business
972 address, or mailing address.

973 Section 28. Section 626.992, Florida Statutes, is amended
974 to read:

975 626.992 Use of licensed viatical settlement providers and
976 viatical settlement brokers, ~~and registered life expectancy~~
977 ~~providers required.~~

978 (1) A licensed viatical settlement provider may not use a
979 ~~any~~ person to perform the functions of a viatical settlement
980 broker as defined in this act unless such person holds a
981 current, valid life agent license and has appointed himself or
982 herself in conformance with this chapter.

983 (2) A viatical settlement broker may not use a ~~any~~ person
984 to perform the functions of a viatical settlement provider as
985 defined in this act unless such person holds a current, valid
986 license as a viatical settlement provider.

987 ~~(3) After July 1, 2006, a person may not operate as a life~~
988 ~~expectancy provider unless such person is registered as a life~~
989 ~~expectancy provider pursuant to this act.~~

990 ~~(4) After July 1, 2006, a viatical settlement provider,~~
991 ~~viatical settlement broker, or any other person in the business~~
992 ~~of viatical settlements may not obtain life expectancies from a~~
993 ~~person who is not registered as a life expectancy provider~~
994 ~~pursuant to this act.~~

995 Section 29. Section 626.9925, Florida Statutes, is amended
996 to read:

997 626.9925 Rules.—The commission may adopt rules to
998 administer this act, including rules establishing standards for



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999 evaluating advertising by licensees; rules providing for the
1000 collection of data, for disclosures to viators, and for the
1001 reporting of life expectancies, ~~and for the registration of life~~
1002 ~~expectancy providers~~; and rules defining terms used in this act
1003 and prescribing recordkeeping requirements relating to executed
1004 viatical settlement contracts.

1005 Section 30. Section 626.99278, Florida Statutes, is amended
1006 to read:

1007 626.99278 Viatical provider anti-fraud plan.—Every licensed
1008 viatical settlement provider ~~and registered life expectancy~~
1009 ~~provider~~ must adopt an anti-fraud plan and file it with the
1010 Division of Insurance Fraud of the department. Each anti-fraud
1011 plan shall include:

1012 (1) A description of the procedures for detecting and
1013 investigating possible fraudulent acts and procedures for
1014 resolving material inconsistencies between medical records and
1015 insurance applications.

1016 (2) A description of the procedures for the mandatory
1017 reporting of possible fraudulent insurance acts and prohibited
1018 practices set forth in s. 626.99275 to the Division of Insurance
1019 Fraud of the department.

1020 (3) A description of the plan for anti-fraud education and
1021 training of its underwriters or other personnel.

1022 (4) A written description or chart outlining the
1023 organizational arrangement of the anti-fraud personnel who are
1024 responsible for the investigation and reporting of possible
1025 fraudulent insurance acts and for the investigation of
1026 unresolved material inconsistencies between medical records and
1027 insurance applications.



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1028 (5) For viatical settlement providers, a description of the
1029 procedures used to perform initial and continuing review of the
1030 accuracy of life expectancies used in connection with a viatical
1031 settlement contract or viatical settlement investment.

1032 Section 31. Paragraph (b) of subsection (2) of section
1033 627.062, Florida Statutes, is amended to read:

1034 627.062 Rate standards.—

1035 (2) As to all such classes of insurance:

1036 (b) Upon receiving a rate filing, the office shall review
1037 the filing to determine if a rate is excessive, inadequate, or
1038 unfairly discriminatory. In making that determination, the
1039 office shall, in accordance with generally accepted and
1040 reasonable actuarial techniques, consider the following factors:

1041 1. Past and prospective loss experience within and without
1042 this state.

1043 2. Past and prospective expenses.

1044 3. The degree of competition among insurers for the risk
1045 insured.

1046 4. Investment income reasonably expected by the insurer,
1047 consistent with the insurer's investment practices, from
1048 investable premiums anticipated in the filing, plus any other
1049 expected income from currently invested assets representing the
1050 amount expected on unearned premium reserves and loss reserves.

1051 The commission may adopt rules using reasonable techniques of
1052 actuarial science and economics to specify the manner in which
1053 insurers calculate investment income attributable to classes of
1054 insurance written in this state and the manner in which
1055 investment income is used to calculate insurance rates. Such
1056 manner must contemplate allowances for an underwriting profit



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1057 factor and full consideration of investment income which produce
1058 a reasonable rate of return; however, investment income from
1059 invested surplus may not be considered.

1060 5. The reasonableness of the judgment reflected in the
1061 filing.

1062 6. Dividends, savings, or unabsorbed premium deposits
1063 allowed or returned to Florida policyholders, members, or
1064 subscribers.

1065 7. The adequacy of loss reserves.

1066 8. The cost of reinsurance. The office may not disapprove a
1067 rate as excessive solely due to the insurer having obtained
1068 catastrophic reinsurance to cover the insurer's estimated 250-
1069 year probable maximum loss or any lower level of loss.

1070 9. Trend factors, including trends in actual losses per
1071 insured unit for the insurer making the filing.

1072 10. Conflagration and catastrophe hazards, if applicable.

1073 11. Projected hurricane losses, if applicable, which must
1074 be estimated using a model or method, or a straight average of
1075 model results or output ranges, independently found to be
1076 acceptable or reliable by the Florida Commission on Hurricane
1077 Loss Projection Methodology, and as further provided in s.
1078 627.0628.

1079 12. A reasonable margin for underwriting profit and
1080 contingencies.

1081 13. The cost of medical services, if applicable.

1082 14. Other relevant factors that affect the frequency or
1083 severity of claims or expenses.

1084 Section 32. Paragraph (d) of subsection (3) of section
1085 627.0628, Florida Statutes, is amended to read:



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1086 627.0628 Florida Commission on Hurricane Loss Projection
1087 Methodology; public records exemption; public meetings
1088 exemption.—

1089 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

1090 (d) With respect to a rate filing under s. 627.062, an
1091 insurer shall employ and may not modify or adjust actuarial
1092 methods, principles, standards, models, or output ranges found
1093 by the commission to be accurate or reliable in determining
1094 hurricane loss factors for use in a rate filing under s.
1095 627.062. An insurer shall employ and may not modify or adjust
1096 models found by the commission to be accurate or reliable in
1097 determining probable maximum loss levels pursuant to paragraph
1098 (b) with respect to a rate filing under s. 627.062 made more
1099 than 180 ~~60~~ days after the commission has made such findings.
1100 This paragraph does not prohibit an insurer from using a
1101 straight average of model results or output ranges or using
1102 straight averages for the purposes of a rate filing under s.
1103 627.062.

1104 Section 33. Present subsections (2) through (4) of section
1105 627.072, Florida Statutes, are renumbered as subsections (3)
1106 through (5), respectively, and a new subsection (2) is added to
1107 that section, to read:

1108 627.072 Making and use of rates.—

1109 (2) A retrospective rating plan may contain a provision
1110 that allows negotiation between the employer and the insurer to
1111 determine the retrospective rating factors used to calculate the
1112 premium for employers that have exposure in more than one state
1113 and an estimated annual countrywide standard premium of \$1
1114 million or more for workers' compensation.



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1115 Section 34. Subsection (2) of section 627.281, Florida
1116 Statutes, is amended to read:

1117 627.281 Appeal from rating organization; workers'
1118 compensation and employer's liability insurance filings.—

1119 (2) If such appeal is based upon the failure of the rating
1120 organization to make a filing on behalf of such member or
1121 subscriber which is based on a system of expense provisions
1122 which differs, in accordance with the right granted in s.
1123 627.072(3) ~~627.072(2)~~, from the system of expense provisions
1124 included in a filing made by the rating organization, the office
1125 shall, if it grants the appeal, order the rating organization to
1126 make the requested filing for use by the appellant. In deciding
1127 such appeal, the office shall apply the applicable standards set
1128 forth in ss. 627.062 and 627.072.

1129 Section 35. Section 627.3519, Florida Statutes, is
1130 repealed.

1131 Section 36. Paragraph (b) of subsection (2) of section
1132 627.4133, Florida Statutes, is amended to read:

1133 627.4133 Notice of cancellation, nonrenewal, or renewal
1134 premium.—

1135 (2) With respect to any personal lines or commercial
1136 residential property insurance policy, including, but not
1137 limited to, any homeowner's, mobile home owner's, farmowner's,
1138 condominium association, condominium unit owner's, apartment
1139 building, or other policy covering a residential structure or
1140 its contents:

1141 (b) The insurer shall give the first-named insured written
1142 notice of nonrenewal, cancellation, or termination at least 120
1143 ~~100~~ days before the effective date of the nonrenewal,



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1144 cancellation, or termination. ~~However, the insurer shall give at~~
1145 ~~least 100 days' written notice, or written notice by June 1,~~
1146 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
1147 ~~termination that would be effective between June 1 and November~~
1148 ~~30.~~ The notice must include the reason or reasons for the
1149 nonrenewal, cancellation, or termination, except that:

1150 ~~1. The insurer shall give the first named insured written~~
1151 ~~notice of nonrenewal, cancellation, or termination at least 120~~
1152 ~~days prior to the effective date of the nonrenewal,~~
1153 ~~cancellation, or termination for a first named insured whose~~
1154 ~~residential structure has been insured by that insurer or an~~
1155 ~~affiliated insurer for at least a 5-year period immediately~~
1156 ~~prior to the date of the written notice.~~

1157 ~~1.2.~~ If cancellation is for nonpayment of premium, at least
1158 10 days' written notice of cancellation accompanied by the
1159 reason therefor must be given. As used in this subparagraph, the
1160 term "nonpayment of premium" means failure of the named insured
1161 to discharge when due her or his obligations for ~~in connection~~
1162 ~~with~~ the payment of premiums on a policy or an ~~any~~ installment
1163 of such premium, whether the premium is payable directly to the
1164 insurer or its agent or indirectly under a ~~any~~ premium finance
1165 plan or extension of credit, or failure to maintain membership
1166 in an organization if such membership is a condition precedent
1167 to insurance coverage. The term also means the failure of a
1168 financial institution to honor an insurance applicant's check
1169 after delivery to a licensed agent for payment of a premium,
1170 even if the agent has previously delivered or transferred the
1171 premium to the insurer. If a dishonored check represents the
1172 initial premium payment, the contract and all contractual



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1173 obligations are void ab initio unless the nonpayment is cured
1174 within the earlier of 5 days after actual notice by certified
1175 mail is received by the applicant or 15 days after notice is
1176 sent to the applicant by certified mail or registered mail, ~~and~~
1177 If the contract is void, any premium received by the insurer
1178 from a third party must be refunded to that party in full.

1179 ~~2.3.~~ If ~~such~~ cancellation or termination occurs during the
1180 first 90 days the insurance is in force and the insurance is
1181 canceled or terminated for reasons other than nonpayment of
1182 premium, at least 20 days' written notice of cancellation or
1183 termination accompanied by the reason therefor must be given
1184 unless there has been a material misstatement or
1185 misrepresentation or failure to comply with the underwriting
1186 requirements established by the insurer.

1187 3. After the policy has been in effect for 90 days, the
1188 policy may not be canceled by the insurer unless there has been
1189 a material misstatement, a nonpayment of premium, a failure to
1190 comply with underwriting requirements established by the insurer
1191 within 90 days after the date of effectuation of coverage, a
1192 substantial change in the risk covered by the policy, or the
1193 cancellation is for all insureds under such policies for a given
1194 class of insureds. This subparagraph does not apply to
1195 individually rated risks having a policy term of less than 90
1196 days.

1197 ~~4. The requirement for providing written notice by June 1~~
1198 ~~of any nonrenewal that would be effective between June 1 and~~
1199 ~~November 30 does not apply to the following situations, but the~~
1200 ~~insurer remains subject to the requirement to provide such~~
1201 ~~notice at least 100 days before the effective date of~~



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1202 ~~nonrenewal:~~

1203 ~~a. A policy that is nonrenewed due to a revision in the~~
1204 ~~coverage for sinkhole losses and catastrophic ground cover~~
1205 ~~collapse pursuant to s. 627.706.~~

1206 ~~4.b.~~ A policy that is nonrenewed by Citizens Property
1207 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1208 that has been assumed by an authorized insurer offering
1209 replacement coverage to the policyholder is exempt from the
1210 notice requirements of paragraph (a) and this paragraph. In such
1211 cases, the corporation must give the named insured written
1212 notice of nonrenewal at least 45 days before the effective date
1213 of the nonrenewal.

1214
1215 ~~After the policy has been in effect for 90 days, the policy may~~
1216 ~~not be canceled by the insurer unless there has been a material~~
1217 ~~misstatement, a nonpayment of premium, a failure to comply with~~
1218 ~~underwriting requirements established by the insurer within 90~~
1219 ~~days after the date of effectuation of coverage, or a~~
1220 ~~substantial change in the risk covered by the policy or if the~~
1221 ~~cancellation is for all insureds under such policies for a given~~
1222 ~~class of insureds. This paragraph does not apply to individually~~
1223 ~~rated risks having a policy term of less than 90 days.~~

1224 5. Notwithstanding any other provision of law, an insurer
1225 may cancel or nonrenew a property insurance policy after at
1226 least 45 days' notice if the office finds that the early
1227 cancellation of some or all of the insurer's policies is
1228 necessary to protect the best interests of the public or
1229 policyholders and the office approves the insurer's plan for
1230 early cancellation or nonrenewal of some or all of its policies.



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1231 The office may base such finding upon the financial condition of
1232 the insurer, lack of adequate reinsurance coverage for hurricane
1233 risk, or other relevant factors. The office may condition its
1234 finding on the consent of the insurer to be placed under
1235 administrative supervision pursuant to s. 624.81 or to the
1236 appointment of a receiver under chapter 631.

1237 6. A policy covering both a home and motor vehicle may be
1238 nonrenewed for any reason applicable to ~~either~~ the property or
1239 motor vehicle insurance after providing 90 days' notice.

1240 Section 37. Subsection (1) of section 627.4137, Florida
1241 Statutes, is amended to read:

1242 627.4137 Disclosure of certain information required.-

1243 (1) Each insurer that provides ~~which does~~ or may provide
1244 liability insurance coverage to pay all or a portion of a ~~any~~
1245 claim that ~~which~~ might be made shall provide, within 30 days
1246 after ~~of~~ the written request of the claimant, a statement, under
1247 oath, of a corporate officer or the insurer's claims manager, ~~or~~
1248 superintendent, or licensed company adjuster setting forth the
1249 following information with regard to each known policy of
1250 insurance, including excess or umbrella insurance:

1251 (a) The name of the insurer.

1252 (b) The name of each insured.

1253 (c) The limits of the liability coverage.

1254 (d) A statement of any policy or coverage defense that the
1255 ~~which such~~ insurer reasonably believes is available to the ~~such~~
1256 insurer at the time of filing such statement.

1257 (e) A copy of the policy.

1258
1259 In addition, the insured, or her or his insurance agent, upon



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1260 written request of the claimant or the claimant's attorney,
1261 shall disclose the name and coverage of each known insurer to
1262 the claimant and shall forward such request for information as
1263 required by this subsection to all affected insurers. The
1264 insurer shall then supply the information required in this
1265 subsection to the claimant within 30 days after ~~of~~ receipt of
1266 such request.

1267 Section 38. Subsection (1) of section 627.421, Florida
1268 Statutes, is amended to read:

1269 627.421 Delivery of policy.—

1270 (1) Subject to the insurer's requirement as to payment of
1271 premium, every policy shall be mailed or delivered to the
1272 insured or to the person entitled thereto not later than 60 days
1273 after the effectuation of coverage. Notwithstanding any other
1274 provision of law, an insurer may allow a policyholder of
1275 personal lines insurance to affirmatively elect delivery of the
1276 policy documents, including, but not limited to, policies,
1277 endorsements, notices, or documents, by electronic means in lieu
1278 of delivery by mail.

1279 Section 39. Subsection (2) of section 627.43141, Florida
1280 Statutes, is amended to read:

1281 627.43141 Notice of change in policy terms.—

1282 (2) A renewal policy may contain a change in policy terms.
1283 If a renewal policy contains ~~does contain~~ such change, the
1284 insurer must give the named insured written notice of the
1285 change, which may either ~~must~~ be enclosed along with the written
1286 notice of renewal premium required by ss. 627.4133 and 627.728
1287 or sent in a separate notice that complies with the nonrenewal
1288 mailing time requirement for that particular line of business.



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1289 The insurer must also provide a sample copy of the notice to the
1290 insured's insurance agent before or at the same time that notice
1291 is given to the insured. Such notice shall be entitled "Notice
1292 of Change in Policy Terms."

1293 Section 40. Section 627.6484, Florida Statutes, is amended
1294 to read:

1295 627.6484 Dissolution of association; termination of
1296 enrollment; availability of other coverage.-

1297 (1) The association shall accept applications for insurance
1298 only until June 30, 1991, after which date no further
1299 applications may be accepted. ~~Upon receipt of an application for~~
1300 ~~insurance, the association shall issue coverage for an eligible~~
1301 ~~applicant. When appropriate, the administrator shall forward a~~
1302 ~~copy of the application to a market assistance plan created by~~
1303 ~~the office, which shall conduct a diligent search of the private~~
1304 ~~marketplace for a carrier willing to accept the application.~~

1305 (2) Coverage for each policyholder of the association
1306 terminates at midnight, June 30, 2014, or on the date that
1307 health insurance coverage is effective with another insurer,
1308 whichever occurs first, and such coverage may not be renewed.

1309 (3) The association shall provide assistance to each
1310 policyholder concerning how to obtain health insurance coverage.
1311 Such assistance must include:

1312 (a) The identification of insurers and health maintenance
1313 organizations offering coverage in the individual market,
1314 including coverage inside and outside of the Health Insurance
1315 Exchange;

1316 (b) A basic explanation of the levels of coverage
1317 available; and



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1318 (c) Specific information relating to local and online
1319 sources from which a policyholder may obtain detailed policy and
1320 premium comparisons and directly obtain coverage.

1321 (4) The association shall provide written notice to all
1322 policyholders by September 1, 2013, which informs each
1323 policyholder with respect to:

1324 (a) The date that coverage with the association is
1325 terminated and that such coverage may not be renewed.

1326 (b) The opportunity for the policyholder to obtain
1327 individual health insurance coverage on a guaranteed-issue
1328 basis, regardless of policyholder's health status, from a health
1329 insurer or health maintenance organization that offers coverage
1330 in the individual market, including the dates of open enrollment
1331 periods for obtaining such coverage.

1332 (c) How to access coverage through the Health Insurance
1333 Exchange established for this state pursuant to the Patient
1334 Protection and Affordable Care Act and the potential for
1335 obtaining reduced premiums and cost-sharing provisions depending
1336 on the policyholder's family income level.

1337 (d) Contact information for a representative of the
1338 association who is able to provide additional information about
1339 obtaining individual health insurance coverage both inside and
1340 outside of the Health Insurance Exchange.

1341 (5) After termination of coverage, the association must
1342 continue to receive and process timely submitted claims in
1343 accordance with the laws of this state.

1344 (6) By March 15, 2015, the association shall determine the
1345 final assessment to be collected from insurers for funding
1346 claims and administrative expenses of the association or, if



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1347 surplus funds remain, shall determine the refund amount to be
1348 provided to each insurer based on the same pro rata formula used
1349 for determining each insurer's assessment.

1350 (7) By September 1, 2015, the board must:

1351 (a) Complete performance of all program responsibilities.

1352 (b) Sell or otherwise dispose of all physical assets of the
1353 association.

1354 (c) Make a final accounting of the finances of the
1355 association.

1356 (d) Transfer all records to the Office of Insurance
1357 Regulation, which shall serve as custodian of such records.

1358 (e) Execute a legal dissolution of the association and
1359 report such action to the Chief Financial Officer, the Insurance
1360 Commissioner, the President of the Senate, and the Speaker of
1361 the House of Representatives.

1362 ~~(2) The office shall, after consultation with the health~~
1363 ~~insurers licensed in this state, adopt a market assistance plan~~
1364 ~~to assist in the placement of risks of Florida Comprehensive~~
1365 ~~Health Association applicants. All health insurers and health~~
1366 ~~maintenance organizations licensed in this state shall~~
1367 ~~participate in the plan.~~

1368 ~~(3) Guidelines for the use of such program shall be a part~~
1369 ~~of the association's plan of operation. The guidelines shall~~
1370 ~~describe which types of applications are to be exempt from~~
1371 ~~submission to the market assistance plan. An exemption shall be~~
1372 ~~based upon a determination that due to a specific health~~
1373 ~~condition an applicant is ineligible for coverage in the~~
1374 ~~standard market. The guidelines shall also describe how the~~
1375 ~~market assistance plan is to be conducted, and how the periodic~~



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1376 ~~reviews to depopulate the association are to be conducted.~~
1377 ~~(4) If a carrier is found through the market assistance~~
1378 ~~plan, the individual shall apply to that company. If the~~
1379 ~~individual's application is accepted, association coverage shall~~
1380 ~~terminate upon the effective date of the coverage with the~~
1381 ~~private carrier. For the purpose of applying a preexisting~~
1382 ~~condition limitation or exclusion, any carrier accepting a risk~~
1383 ~~pursuant to this section shall provide coverage as if it began~~
1384 ~~on the date coverage was effectuated on behalf of the~~
1385 ~~association, and shall be indemnified by the association for~~
1386 ~~claims costs incurred as a result of utilizing such effective~~
1387 ~~date.~~
1388 ~~(5) The association shall establish a policyholder~~
1389 ~~assistance program by July 1, 1991, to assist in placing~~
1390 ~~eligible policyholders in other coverage programs, including~~
1391 ~~Medicare and Medicaid.~~
1392 Section 41. Section 627.64872, Florida Statutes, is
1393 repealed.
1394 Section 42. Effective October 1, 2015, sections 627.648,
1395 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649,
1396 627.6492, 627.6494, 627.6496, 627.6498, and 627.6499, Florida
1397 Statutes, are repealed.
1398 Section 43. Subsection (7) of section 627.701, Florida
1399 Statutes, is amended to read:
1400 627.701 Liability of insureds; coinsurance; deductibles.-
1401 (7) Before ~~Prior to~~ issuing a personal lines residential
1402 property insurance policy on or after January 1, 2014 ~~April 1,~~
1403 ~~1997,~~ or before ~~prior to~~ the first renewal of a residential
1404 property insurance policy on or after January 1, 2014 ~~April 1,~~



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1405 ~~1997~~, the insurer must, at a minimum, offer a deductible equal
1406 to \$750 and a deductible equal to 1 percent of the policy
1407 dwelling limits if such amount is not less than \$750, \$500
1408 applicable to losses from perils other than hurricane. Beginning
1409 July 1, 2018, and every 5 years thereafter, the office shall
1410 calculate and publish an adjustment to the \$750 deductible based
1411 on the average percentage change in the Consumer Price Index for
1412 All Urban Consumers, U.S. City Average, all items, compiled by
1413 the United States Department of Labor for the immediately
1414 preceding 5 calendar years. The adjustment to the \$750
1415 deductible shall be rounded to the nearest \$50 increment and
1416 take effect on the January 1 following the publication of the
1417 adjustment by the office. The first initial adjusted deductible
1418 shall take effect upon the renewal or issuance of policies on or
1419 after January 1, 2019 ~~The insurer must provide the policyholder~~
1420 ~~with notice of the availability of the deductible specified in~~
1421 ~~this subsection in a form approved by the office at least once~~
1422 ~~every 3 years. The failure to provide such notice constitutes a~~
1423 ~~violation of this code but does not affect the coverage provided~~
1424 ~~under the policy.~~ An insurer may require a higher deductible
1425 only as part of a deductible program lawfully in effect on June
1426 1, 1996, or as part of a similar deductible program.

1427 Section 44. Paragraph (b) of subsection (4) of section
1428 627.7015, Florida Statutes, is amended to read:

1429 627.7015 Alternative procedure for resolution of disputed
1430 property insurance claims.—

1431 (4) The department shall adopt by rule a property insurance
1432 mediation program to be administered by the department or its
1433 designee. The department may also adopt special rules which are



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1434 applicable in cases of an emergency within the state. The rules
1435 shall be modeled after practices and procedures set forth in
1436 mediation rules of procedure adopted by the Supreme Court. The
1437 rules shall provide for:

1438 (b) Qualifications, denial of application, suspension,
1439 revocation, and other penalties for ~~of~~ mediators as provided in
1440 s. 627.745 and in the Florida Rules of Certified and Court
1441 Appointed Mediators, ~~and for such other individuals as are~~
1442 ~~qualified by education, training, or experience as the~~
1443 ~~department determines to be appropriate.~~

1444 Section 45. Section 627.70151, Florida Statutes, is created
1445 to read:

1446 627.70151 Appraisal; conflicts of interest.—An insurer that
1447 offers residential coverage, as defined in s. 627.4025, or a
1448 policyholder that uses an appraisal clause in the property
1449 insurance contract to establish a process of estimating or
1450 evaluating the amount of the loss through the use of an
1451 impartial umpire may challenge the umpire's impartiality and
1452 disqualify the proposed umpire only if:

1453 (1) A familial relationship within the third degree exists
1454 between the umpire and any party or a representative of any
1455 party;

1456 (2) The umpire has previously represented any party or a
1457 representative of any party in a professional capacity in the
1458 same or a substantially related matter;

1459 (3) The umpire has represented another person in a
1460 professional capacity on the same or a substantially related
1461 matter, which includes the claim, same property, or an adjacent
1462 property and that other person's interests are materially



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1463 adverse to the interests of any party; or

1464 (4) The umpire has worked as an employer or employee of any
1465 party within the preceding 5 years.

1466 Section 46. Paragraph (c) of subsection (2) of section
1467 627.706, Florida Statutes, is amended to read:

1468 627.706 Sinkhole insurance; catastrophic ground cover
1469 collapse; definitions.—

1470 (2) As used in ss. 627.706-627.7074, and as used in
1471 connection with any policy providing coverage for a catastrophic
1472 ground cover collapse or for sinkhole losses, the term:

1473 (c) "Neutral evaluator" means a professional engineer or a
1474 professional geologist who has completed a course of study in
1475 alternative dispute resolution designed or approved by the
1476 department for use in the neutral evaluation process, and who is
1477 determined by the department to be fair and impartial, and who
1478 is not otherwise ineligible for certification as provided in s.
1479 627.7074.

1480 Section 47. Subsection (1) of section 627.7074, Florida
1481 Statutes, is amended to read:

1482 627.7074 Alternative procedure for resolution of disputed
1483 sinkhole insurance claims.—

1484 (1) The department shall:

1485 (a) Certify and maintain a list of persons who are neutral
1486 evaluators.

1487 (b) Adopt rules for certifying, denying certification,
1488 suspending certification, and revoking certification as a
1489 neutral evaluator, in keeping with qualifications specified in
1490 this section and ss. 627.706 and 627.745(4).

1491 (c) ~~(b)~~ Prepare a consumer information pamphlet for



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1492 distribution by insurers to policyholders which clearly
1493 describes the neutral evaluation process and includes
1494 information necessary for the policyholder to request a neutral
1495 evaluation.

1496 Section 48. Paragraph (a) of subsection (5) of section
1497 627.736, Florida Statutes, is amended to read:

1498 627.736 Required personal injury protection benefits;
1499 exclusions; priority; claims.—

1500 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

1501 (a) A physician, hospital, clinic, or other person or
1502 institution lawfully rendering treatment to an injured person
1503 for a bodily injury covered by personal injury protection
1504 insurance may charge the insurer and injured party only a
1505 reasonable amount pursuant to this section for the services and
1506 supplies rendered, and the insurer providing such coverage may
1507 pay for such charges directly to such person or institution
1508 lawfully rendering such treatment if the insured receiving such
1509 treatment or his or her guardian has countersigned the properly
1510 completed invoice, bill, or claim form approved by the office
1511 upon which such charges are to be paid for as having actually
1512 been rendered, to the best knowledge of the insured or his or
1513 her guardian. However, such a charge may not exceed the amount
1514 the person or institution customarily charges for like services
1515 or supplies. In determining whether a charge for a particular
1516 service, treatment, or otherwise is reasonable, consideration
1517 may be given to evidence of usual and customary charges and
1518 payments accepted by the provider involved in the dispute,
1519 reimbursement levels in the community and various federal and
1520 state medical fee schedules applicable to motor vehicle and



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1521 other insurance coverages, and other information relevant to the
1522 reasonableness of the reimbursement for the service, treatment,
1523 or supply.

1524 1. The insurer may limit reimbursement to 80 percent of the
1525 following schedule of maximum charges:

1526 a. For emergency transport and treatment by providers
1527 licensed under chapter 401, 200 percent of Medicare.

1528 b. For emergency services and care provided by a hospital
1529 licensed under chapter 395, 75 percent of the hospital's usual
1530 and customary charges.

1531 c. For emergency services and care as defined by s. 395.002
1532 provided in a facility licensed under chapter 395 rendered by a
1533 physician or dentist, and related hospital inpatient services
1534 rendered by a physician or dentist, the usual and customary
1535 charges in the community.

1536 d. For hospital inpatient services, other than emergency
1537 services and care, 200 percent of the Medicare Part A
1538 prospective payment applicable to the specific hospital
1539 providing the inpatient services.

1540 e. For hospital outpatient services, other than emergency
1541 services and care, 200 percent of the Medicare Part A Ambulatory
1542 Payment Classification for the specific hospital providing the
1543 outpatient services.

1544 f. For all other medical services, supplies, and care, 200
1545 percent of the allowable amount under:

1546 (I) The participating physicians fee schedule of Medicare
1547 Part B, except as provided in sub-sub-paragraphs (II) and
1548 (III).

1549 (II) Medicare Part B, in the case of services, supplies,



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1550 and care provided by ambulatory surgical centers and clinical
1551 laboratories.

1552 (III) The Durable Medical Equipment Prosthetics/Orthotics
1553 and Supplies fee schedule of Medicare Part B, in the case of
1554 durable medical equipment.

1555
1556 However, if such services, supplies, or care is not reimbursable
1557 under Medicare Part B, as provided in this sub-subparagraph, the
1558 insurer may limit reimbursement to 80 percent of the maximum
1559 reimbursable allowance under workers' compensation, as
1560 determined under s. 440.13 and rules adopted thereunder which
1561 are in effect at the time such services, supplies, or care is
1562 provided. Services, supplies, or care that is not reimbursable
1563 under Medicare or workers' compensation is not required to be
1564 reimbursed by the insurer.

1565 2. For purposes of subparagraph 1., the applicable fee
1566 schedule or payment limitation under Medicare is the fee
1567 schedule or payment limitation in effect on March 1 of the year
1568 in which the services, supplies, or care is rendered and for the
1569 area in which such services, supplies, or care is rendered, and
1570 the applicable fee schedule or payment limitation applies from
1571 March 1 until the last day of the following February ~~throughout~~
1572 ~~the remainder of that year~~, notwithstanding any subsequent
1573 change made to the fee schedule or payment limitation, except
1574 that it may not be less than the allowable amount under the
1575 applicable schedule of Medicare Part B for 2007 for medical
1576 services, supplies, and care subject to Medicare Part B.

1577 3. Subparagraph 1. does not allow the insurer to apply any
1578 limitation on the number of treatments or other utilization



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1579 limits that apply under Medicare or workers' compensation. An
1580 insurer that applies the allowable payment limitations of
1581 subparagraph 1. must reimburse a provider who lawfully provided
1582 care or treatment under the scope of his or her license,
1583 regardless of whether such provider is entitled to reimbursement
1584 under Medicare due to restrictions or limitations on the types
1585 or discipline of health care providers who may be reimbursed for
1586 particular procedures or procedure codes. However, subparagraph
1587 1. does not prohibit an insurer from using the Medicare coding
1588 policies and payment methodologies of the federal Centers for
1589 Medicare and Medicaid Services, including applicable modifiers,
1590 to determine the appropriate amount of reimbursement for medical
1591 services, supplies, or care if the coding policy or payment
1592 methodology does not constitute a utilization limit.

1593 4. If an insurer limits payment as authorized by
1594 subparagraph 1., the person providing such services, supplies,
1595 or care may not bill or attempt to collect from the insured any
1596 amount in excess of such limits, except for amounts that are not
1597 covered by the insured's personal injury protection coverage due
1598 to the coinsurance amount or maximum policy limits.

1599 5. Effective July 1, 2012, an insurer may limit payment as
1600 authorized by this paragraph only if the insurance policy
1601 includes a notice at the time of issuance or renewal that the
1602 insurer may limit payment pursuant to the schedule of charges
1603 specified in this paragraph. A policy form approved by the
1604 office satisfies this requirement. If a provider submits a
1605 charge for an amount less than the amount allowed under
1606 subparagraph 1., the insurer may pay the amount of the charge
1607 submitted.



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1608 Section 49. Subsection (3) of section 627.745, Florida
1609 Statutes, is amended, present subsections (4) and (5) of that
1610 section are renumbered as subsections (5) and (6), respectively,
1611 and a new subsection (4) is added to that section, to read:

1612 627.745 Mediation of claims.—

1613 (3) (a) The department shall approve mediators to conduct
1614 mediations pursuant to this section. All mediators must file an
1615 application under oath for approval as a mediator.

1616 (b) To qualify for approval as a mediator, an individual ~~a~~
1617 ~~person~~ must meet one of the following qualifications:

1618 1. Possess an active certification as a Florida Circuit
1619 Court Mediator. A Florida Circuit Court Mediator in a lapsed,
1620 suspended, or decertified status is not eligible to participate
1621 in the mediation program ~~a masters or doctorate degree in~~
1622 ~~psychology, counseling, business, accounting, or economics, be a~~
1623 ~~member of The Florida Bar, be licensed as a certified public~~
1624 ~~accountant, or demonstrate that the applicant for approval has~~
1625 ~~been actively engaged as a qualified mediator for at least 4~~
1626 ~~years prior to July 1, 1990.~~

1627 2. Be an approved department mediator as of July 1, 2013,
1628 and have conducted at least one mediation on behalf of the
1629 department within 4 years immediately preceding that ~~the~~ date
1630 ~~the application for approval is filed with the department, have~~
1631 ~~completed a minimum of a 40-hour training program approved by~~
1632 ~~the department and successfully passed a final examination~~
1633 ~~included in the training program and approved by the department.~~
1634 ~~The training program shall include and address all of the~~
1635 ~~following:~~

1636 a. ~~Mediation theory.~~



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1637 ~~b. Mediation process and techniques.~~

1638 ~~e. Standards of conduct for mediators.~~

1639 ~~d. Conflict management and intervention skills.~~

1640 ~~e. Insurance nomenclature.~~

1641 (4) The department shall deny an application, or suspend or
1642 revoke its approval of a mediator or its certification of a
1643 neutral evaluator to serve in such capacity, if it finds that
1644 any of the following grounds exist:

1645 (a) Lack of one or more of the qualifications specified in
1646 this section for approval or certification.

1647 (b) Material misstatement, misrepresentation, or fraud in
1648 obtaining or attempting to obtain the approval or certification.

1649 (c) Demonstrated lack of fitness or trustworthiness to act
1650 as a mediator or neutral evaluator.

1651 (d) Fraudulent or dishonest practices in the conduct of
1652 mediation or neutral evaluation or in the conduct of business in
1653 the financial services industry.

1654 (e) Violation of any provision of this code, a lawful order
1655 or rule of the department, the Florida Rules for Certified and
1656 Court-Appointed Mediators, or aiding, instructing, or
1657 encouraging another party in committing such a violation.

1658
1659 The department may adopt rules to administer this subsection.

1660 Section 50. Subsection (4) of section 627.841, Florida
1661 Statutes, is amended to read:

1662 627.841 Delinquency, collection, cancellation, and payment
1663 ~~check~~ return charge ~~charges~~; attorney ~~attorney's~~ fees.—

1664 (4) In the event that a payment is made to a premium
1665 finance company by debit, credit, electronic funds transfer,



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1666 check, or draft and such payment ~~the instrument~~ is returned,
1667 declined, or cannot be processed due to ~~because of~~ insufficient
1668 funds ~~to pay it~~, the premium finance company may, if the premium
1669 finance agreement so provides, impose a return payment charge of
1670 \$15.

1671 Section 51. Paragraph (b) of subsection (1) of section
1672 627.952, Florida Statutes, is amended to read:

1673 627.952 Risk retention and purchasing group agents.—

1674 (1) Any person offering, soliciting, selling, purchasing,
1675 administering, or otherwise servicing insurance contracts,
1676 certificates, or agreements for any purchasing group or risk
1677 retention group to a ~~any~~ resident of this state, either directly
1678 or indirectly, by the use of mail, advertising, or other means
1679 of communication, shall obtain a license and appointment to act
1680 as a resident general lines agent, if a resident of this state,
1681 or a nonresident general lines agent if not a resident. Any such
1682 person shall be subject to all requirements of the Florida
1683 Insurance Code.

1684 (b) A ~~Any~~ person required to be licensed and appointed
1685 under this subsection, in order to place business through
1686 Florida eligible surplus lines carriers, must, if a resident of
1687 this state, be licensed and appointed as a surplus lines agent.
1688 If not a resident of this state, such person must be licensed
1689 and appointed as a nonresident surplus lines agent in this ~~her~~
1690 ~~or his state of residence and file and maintain a fidelity bond~~
1691 ~~in favor of the people of the State of Florida executed by a~~
1692 ~~surety company admitted in this state and payable to the State~~
1693 ~~of Florida; however, such nonresident is limited to the~~
1694 ~~provision of insurance for purchasing groups. The bond must be~~



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1695 ~~continuous in form and in the amount of not less than \$50,000,~~
1696 ~~aggregate liability. The bond must remain in force and effect~~
1697 ~~until the surety is released from liability by the department or~~
1698 ~~until the bond is canceled by the surety. The surety may cancel~~
1699 ~~the bond and be released from further liability upon 30 days'~~
1700 ~~prior written notice to the department. The cancellation does~~
1701 ~~not affect any liability incurred or accrued before the~~
1702 ~~termination of the 30-day period. Upon receipt of a notice of~~
1703 ~~cancellation, the department shall immediately notify the agent.~~

1704 Section 52. Subsection (6) of section 627.971, Florida
1705 Statutes, is amended to read:

1706 627.971 Definitions.—As used in this part:

1707 (6) "Financial guaranty insurance corporation" means a
1708 stock or mutual insurer licensed to transact financial guaranty
1709 insurance business in this state.

1710 Section 53. Subsection (1) of section 627.972, Florida
1711 Statutes, is amended to read:

1712 627.972 Organization; financial requirements.—

1713 (1) A financial guaranty insurance corporation must be
1714 organized and licensed in the manner prescribed in this code for
1715 stock or mutual property and casualty insurers except that:

1716 (a) A corporation organized to transact financial guaranty
1717 insurance may, subject to the provisions of this code, be
1718 licensed to transact:

- 1719 1. Residual value insurance, as defined by s. 624.6081;
- 1720 2. Surety insurance, as defined by s. 624.606;
- 1721 3. Credit insurance, as defined by s. 624.605(1)(i); and
- 1722 4. Mortgage guaranty insurance as defined in s. 635.011,
- 1723 provided that the provisions of chapter 635 are met.



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1724 (b)1. Before ~~Prior to~~ the issuance of a license, a
1725 corporation must submit to the office for approval, a plan of
1726 operation detailing:
1727 a. The types and projected diversification of guaranties to
1728 be issued;
1729 b. The underwriting procedures to be followed;
1730 c. The managerial oversight methods;
1731 d. The investment policies; and
1732 e. ~~Any~~ Other matters prescribed by the office;
1733 2. An insurer which is writing only the types of insurance
1734 allowed under this part on July 1, 1988, and otherwise meets the
1735 requirements of this part, is exempt from the requirements of
1736 this paragraph.
1737 (c) An insurer transacting financial guaranty insurance is
1738 subject to all provisions of this code that are applicable to
1739 property and casualty insurers to the extent that those
1740 provisions are not inconsistent with this part.
1741 (d) The investments of an insurer transacting financial
1742 guaranty insurance in an ~~any~~ entity insured by the corporation
1743 may not exceed 2 percent of its admitted assets as of the end of
1744 the prior calendar year.
1745 (e) An insurer transacting financial guaranty insurance may
1746 only assume those lines of insurance for which it is licensed to
1747 write direct business.
1748 Section 54. Subsections (8), (9), and (13) of section
1749 628.901, Florida Statutes, are amended to read:
1750 628.901 Definitions.—As used in this part, the term:
1751 (8) "Industrial insured" means an insured that:
1752 (a) Has gross assets in excess of \$50 million;



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1753 (b) Procures insurance through the use of a full-time
1754 employee of the insured who acts as an insurance manager or
1755 buyer or through the services of a person licensed as a property
1756 and casualty insurance agent, broker, or consultant in such
1757 person's state of domicile;

1758 (c) Has at least 100 full-time employees; and

1759 (d) Pays annual premiums of at least \$200,000 for each line
1760 of insurance purchased from the industrial insured captive
1761 insurance company insurer or at least \$75,000 for any line of
1762 coverage in excess of at least \$25 million in the annual
1763 aggregate. The purchase of umbrella or general liability
1764 coverage in excess of \$25 million in the annual aggregate shall
1765 be deemed to be the purchase of a single line of insurance.

1766 (9) "Industrial insured captive insurance company" means a
1767 ~~captive insurance~~ company that provides insurance only to the
1768 industrial insureds that are its stockholders or members, and
1769 affiliates thereof, or to the stockholders, and affiliates
1770 thereof, of its parent corporation. An industrial insured
1771 captive insurance company can also provide reinsurance to
1772 insurers only on risks written by such insurers for the
1773 industrial insureds that are the stockholders or members, and
1774 affiliates thereof, of the industrial insured captive insurance
1775 company insurer, or the stockholders, and affiliates thereof, of
1776 the parent corporation of the industrial insured captive
1777 insurance company insurer.

1778 (13) "Qualifying reinsurer parent company" means a
1779 reinsurer that ~~which~~ currently holds a certificate of authority,
1780 ~~letter of eligibility~~ or is an accredited or trusteed under s.
1781 624.610(3)(c) ~~a satisfactory non-approved~~ reinsurer in this



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1782 state possessing a consolidated GAAP net worth of at least \$500
1783 million and a consolidated debt to total capital ratio of not
1784 greater than 0.50.

1785 Section 55. Subsections (1), (2), (4), and (5) of section
1786 628.905, Florida Statutes, are amended to read:

1787 628.905 Licensing; authority.—

1788 (1) A captive insurance company ~~insurer~~, if permitted by
1789 its charter or articles of incorporation, may apply to the
1790 office for a license to do any and all insurance authorized
1791 under the insurance code, other than workers' compensation and
1792 employer's liability, life, health, personal motor vehicle, and
1793 personal residential property insurance, except that:

1794 (a) A pure captive insurance company may not insure ~~any~~
1795 risks other than those of its parent, affiliated companies,
1796 controlled unaffiliated businesses, or a combination thereof.

1797 (b) An industrial insured captive insurance company may not
1798 insure ~~any~~ risks other than those of the industrial insureds
1799 that comprise the industrial insured group and their affiliated
1800 companies, or its stockholders or members, and affiliates
1801 thereof, of the industrial insured captive, or the stockholders
1802 or affiliates of the parent corporation of the industrial
1803 insured captive insurance company.

1804 (c) A special purpose captive insurance company may insure
1805 only the risks of its parent.

1806 (d) A captive insurance company may not accept or cede
1807 reinsurance except as provided in this part.

1808 (e) An industrial insured captive insurance company with
1809 unencumbered capital and surplus of at least \$20 million may be
1810 licensed to provide workers' compensation and employer's



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1811 liability insurance in excess of \$25 million in the annual
1812 aggregate. An industrial insured captive insurance company must
1813 maintain unencumbered capital and surplus of at least \$20
1814 million to continue to write excess workers' compensation
1815 insurance.

1816 (2) To conduct insurance business in this state, a captive
1817 insurance company insurer must:

1818 (a) Obtain from the office a license authorizing it to
1819 conduct insurance business in this state;

1820 (b) Hold at least one board of directors' meeting each year
1821 in this state;

1822 (c) Maintain its principal place of business in this state;
1823 and

1824 (d) Appoint a resident registered agent to accept service
1825 of process and to otherwise act on its behalf in this state. In
1826 the case of a captive insurance company formed as a corporation
1827 or a nonprofit corporation, if the registered agent cannot with
1828 reasonable diligence be found at the registered office of the
1829 captive insurance company, the Chief Financial Officer of this
1830 state must be an agent of the captive insurance company upon
1831 whom ~~any~~ process, notice, or demand may be served.

1832 (4) A captive insurance company or captive reinsurance
1833 company must pay to the office a nonrefundable fee of \$1,500 for
1834 processing its application for license.

1835 (a) A captive insurance company or captive reinsurance
1836 company must also pay an annual renewal fee of \$1,000.

1837 (b) The office may charge a fee of \$5 for a ~~any~~ document
1838 requiring certification of authenticity or the signature of the
1839 office ~~commissioner or his or her designee.~~



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1840 (5) If the office commissioner is satisfied that the
1841 documents and statements filed by the captive insurance company
1842 comply with this chapter, the office commissioner may grant a
1843 license authorizing the company to conduct insurance business in
1844 this state until the next succeeding March 1, at which time the
1845 license may be renewed.

1846 Section 56. Subsection (1) of section 628.907, Florida
1847 Statutes, is amended to read:

1848 628.907 Minimum capital and net assets requirements;
1849 restriction on payment of dividends.—

1850 (1) A captive insurance company ~~insurer~~ may not be issued a
1851 license unless it possesses and thereafter maintains unimpaired
1852 paid-in capital of:

1853 (a) In the case of a pure captive insurance company, at
1854 least \$100,000.

1855 (b) In the case of an industrial insured captive insurance
1856 company incorporated as a stock insurer, at least \$200,000.

1857 (c) In the case of a special purpose captive insurance
1858 company, an amount determined by the office after giving due
1859 consideration to the company's business plan, feasibility study,
1860 and pro forma financial statements and projections, including
1861 the nature of the risks to be insured.

1862 Section 57. Section 628.909, Florida Statutes, is amended
1863 to read:

1864 628.909 Applicability of other laws.—

1865 (1) The Florida Insurance Code does not apply to captive
1866 insurance companies ~~insurers~~ or industrial insured captive
1867 insurance companies ~~insurers~~ except as provided in this part and
1868 subsections (2) and (3).



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1869 (2) The following provisions of the Florida Insurance Code
1870 apply to captive insurance companies ~~insurers~~ who are not
1871 industrial insured captive insurance companies ~~insurers~~ to the
1872 extent that such provisions are not inconsistent with this part:

1873 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1874 624.40851, 624.4095, 624.411, 624.425, and 624.426.

1875 (b) Chapter 625, part II.

1876 (c) Chapter 626, part IX.

1877 (d) Sections 627.730-627.7405, when no-fault coverage is
1878 provided.

1879 (e) Chapter 628.

1880 (3) The following provisions of the Florida Insurance Code
1881 apply to industrial insured captive insurance companies ~~insurers~~
1882 to the extent that such provisions are not inconsistent with
1883 this part:

1884 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1885 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

1886 (b) Chapter 625, part II, if the industrial insured captive
1887 insurance companies ~~insurer~~ is incorporated in this state.

1888 (c) Chapter 626, part IX.

1889 (d) Sections 627.730-627.7405 when no-fault coverage is
1890 provided.

1891 (e) Chapter 628, except for ss. 628.341, 628.351, and
1892 628.6018.

1893 Section 58. Subsection (2) of section 628.9142, Florida
1894 Statutes, is amended to read:

1895 628.9142 Reinsurance; effect on reserves.—

1896 (2) A captive insurance company may take credit for
1897 reserves on risks or portions of risks ceded to authorized



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1898 insurers or reinsurers and unauthorized insurers or reinsurers
1899 complying with s. 624.610. A captive insurance company ~~insurer~~
1900 may not take credit for reserves on risks or portions of risks
1901 ceded to an unauthorized insurer or reinsurer if the insurer or
1902 reinsurer is not in compliance with s. 624.610.

1903 Section 59. Section 628.915, Florida Statutes, is amended
1904 to read:

1905 628.915 Exemption from compulsory association.—

1906 (1) A ~~No~~ captive insurance company may not ~~insurer shall be~~
1907 ~~permitted to~~ join or contribute financially to a ~~any~~ joint
1908 underwriting association or guaranty fund in this state, and a ~~+~~
1909 ~~nor shall any~~ captive insurance company ~~insurer~~, its insured, or
1910 its parent or any affiliated company may not receive any benefit
1911 from any such joint underwriting association or guaranty fund
1912 for claims arising out of the operations of such captive
1913 insurer.

1914 (2) An ~~No~~ industrial insured captive insurance company may
1915 not ~~insurer shall be permitted to~~ join or contribute financially
1916 to any joint underwriting association or guaranty fund in this
1917 state; nor shall any industrial insured captive insurance
1918 company ~~insurer~~, its industrial insured, or its parent or any
1919 affiliated company receive any benefit from any such joint
1920 underwriting association or guaranty fund for claims arising out
1921 of the operations of such industrial insured captive insurance
1922 company ~~insurer~~.

1923 Section 60. Section 628.917, Florida Statutes, is amended
1924 to read:

1925 628.917 Insolvency and liquidation.—In the event that a
1926 captive insurance company ~~insurer~~ is insolvent as defined in



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1927 chapter 631, the office shall liquidate the captive insurance
1928 company insurer pursuant to the provisions of part I of chapter
1929 631.~~;~~ ~~except that~~ The office may not ~~shall~~ make ~~no~~ attempt to
1930 rehabilitate such insurer.

1931 Section 61. Section 628.919, Florida Statutes, is amended
1932 to read:

1933 628.919 Standards to ensure risk management control by
1934 parent company.~~—A pure captive insurance company shall submit to~~
1935 the office for approval ~~The Financial Services Commission shall~~
1936 ~~adopt rules establishing~~ standards to ensure that a parent or
1937 affiliated company is able to exercise control of the risk
1938 management function of any controlled unaffiliated business to
1939 be insured by the pure captive insurance company.

1940 Section 62. Subsection (8) of section 634.406, Florida
1941 Statutes, is renumbered as subsection (7), and present
1942 subsections (6) and (7) of that section are amended, to read:

1943 634.406 Financial requirements.—

1944 (6) An association that ~~which~~ holds a license under this
1945 part ~~and which does not hold any other license under this~~
1946 ~~chapter~~ may allow its premiums for service warranties written
1947 under this part to exceed the ratio to net assets limitations of
1948 this section if the association meets all of the following:

1949 (a) Maintains net assets of at least \$750,000.

1950 (b) Utilizes a contractual liability insurance policy
1951 approved by the office which:

1952 1. Reimburses the service warranty association for 100
1953 percent of its claims liability and is issued by an insurer that
1954 maintains a policyholder surplus of at least \$100 million; or

1955 2. Complies with the requirements of subsection (3) and is



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1956 issued by an insurer that maintains a policyholder surplus of at
1957 least \$200 million.

1958 (c) The insurer issuing the contractual liability insurance
1959 policy:

1960 ~~1. Maintains a policyholder surplus of at least \$100~~
1961 ~~million.~~

1962 ~~1.2.~~ Is rated "A" or higher by A.M. Best Company or an
1963 equivalent rating by another national rating service acceptable
1964 to the office.

1965 ~~3. Is in no way affiliated with the warranty association.~~

1966 ~~2.4.~~ In conjunction with the warranty association's filing
1967 of the quarterly and annual reports, provides, on a form
1968 prescribed by the commission, a statement certifying the gross
1969 written premiums in force reported by the warranty association
1970 and a statement that all of the warranty association's gross
1971 written premium in force is covered under the contractual
1972 liability policy, whether or not it has been reported.

1973 ~~(7) A contractual liability policy must insure 100 percent~~
1974 ~~of an association's claims exposure under all of the~~
1975 ~~association's service warranty contracts, wherever written,~~
1976 ~~unless all of the following are satisfied:~~

1977 ~~(a) The contractual liability policy contains a clause that~~
1978 ~~specifically names the service warranty contract holders as sole~~
1979 ~~beneficiaries of the contractual liability policy and claims are~~
1980 ~~paid directly to the person making a claim under the contract;~~

1981 ~~(b) The contractual liability policy meets all other~~
1982 ~~requirements of this part, including subsection (3) of this~~
1983 ~~section, which are not inconsistent with this subsection;~~

1984 ~~(c) The association has been in existence for at least 5~~



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1985 ~~years or the association is a wholly owned subsidiary of a~~
1986 ~~corporation that has been in existence and has been licensed as~~
1987 ~~a service warranty association in the state for at least 5~~
1988 ~~years, and:~~

1989 ~~1. Is listed and traded on a recognized stock exchange; is~~
1990 ~~listed in NASDAQ (National Association of Security Dealers~~
1991 ~~Automated Quotation system) and publicly traded in the over-the-~~
1992 ~~counter securities market; is required to file either of Form~~
1993 ~~10-K, Form 100, or Form 20-G with the United States Securities~~
1994 ~~and Exchange Commission; or has American Depository Receipts~~
1995 ~~listed on a recognized stock exchange and publicly traded or is~~
1996 ~~the wholly owned subsidiary of a corporation that is listed and~~
1997 ~~traded on a recognized stock exchange; is listed in NASDAQ~~
1998 ~~(National Association of Security Dealers Automated Quotation~~
1999 ~~system) and publicly traded in the over-the-counter securities~~
2000 ~~market; is required to file Form 10-K, Form 100, or Form 20-G~~
2001 ~~with the United States Securities and Exchange Commission; or~~
2002 ~~has American Depository Receipts listed on a recognized stock~~
2003 ~~exchange and is publicly traded;~~

2004 ~~2. Maintains outstanding debt obligations, if any, rated in~~
2005 ~~the top four rating categories by a recognized rating service;~~

2006 ~~3. Has and maintains at all times a minimum net worth of~~
2007 ~~not less than \$10 million as evidenced by audited financial~~
2008 ~~statements prepared by an independent certified public~~
2009 ~~accountant in accordance with generally accepted accounting~~
2010 ~~principles and submitted to the office annually; and~~

2011 ~~4. Is authorized to do business in this state; and~~

2012 ~~(d) The insurer issuing the contractual liability policy:~~

2013 ~~1. Maintains and has maintained for the preceding 5 years,~~



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2014 ~~policyholder surplus of at least \$100 million and is rated "A"~~
2015 ~~or higher by A.M. Best Company or has an equivalent rating by~~
2016 ~~another rating company acceptable to the office;~~

2017 ~~2. Holds a certificate of authority to do business in this~~
2018 ~~state and is approved to write this type of coverage; and~~

2019 ~~3. Acknowledges to the office quarterly that it insures all~~
2020 ~~of the association's claims exposure under contracts delivered~~
2021 ~~in this state.~~

2022
2023 ~~If all the preceding conditions are satisfied, then the scope of~~
2024 ~~coverage under a contractual liability policy shall not be~~
2025 ~~required to exceed an association's claims exposure under~~
2026 ~~service warranty contracts delivered in this state.~~

2027 Section 63. Except as otherwise expressly provided in this
2028 act, this act shall take effect upon becoming a law.

2029
2030 ===== T I T L E A M E N D M E N T =====

2031 And the title is amended as follows:

2032 Delete everything before the enacting clause
2033 and insert:

2034 A bill to be entitled

2035 An act relating to insurance; amending s. 316.646,
2036 F.S.; authorizing a uniform motor vehicle proof-of-
2037 insurance card to be in an electronic format;
2038 providing construction with respect to the parameters
2039 of a person's consent to access information on an
2040 electronic device presented to provide proof of
2041 insurance; providing immunity from liability to a law
2042 enforcement officer for damage to an electronic device



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2043 presented to provide proof of insurance; authorizing
2044 the Department of Highway Safety and Motor Vehicles to
2045 adopt rules; amending s. 320.02, F.S.; authorizing
2046 insurers to furnish uniform proof-of-purchase cards in
2047 an electronic format for use by insureds to prove the
2048 purchase of required insurance coverage when
2049 registering a motor vehicle; amending s. 554.1021,
2050 F.S.; defining the term "authorized inspection
2051 agency"; amending s. 554.107, F.S.; requiring the
2052 chief inspector of the state boiler inspection program
2053 to issue a certificate of competency as a special
2054 inspector to certain individuals; specifying how long
2055 such certificate remains in effect; amending s.
2056 554.109, F.S.; authorizing specified insurers to
2057 contract with an authorized inspection agency for
2058 boiler inspections; requiring such insurers to
2059 annually report the identity of contracted authorized
2060 inspection agencies to the Department of Financial
2061 Services; amending s. 624.413, F.S.; revising a
2062 specified time period applicable to a certified
2063 examination that must be filed by a foreign or alien
2064 insurer applying for a certificate of authority;
2065 amending s. 626.0428, F.S.; requiring each insurance
2066 agency to be under the control of an agent licensed to
2067 transact certain lines of insurance; authorizing an
2068 agent to be in charge of more than one branch office
2069 under certain circumstances; providing requirements
2070 relating to the designation of an agent in charge;
2071 prohibiting an insurance agency from conducting



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2072 insurance business at a location without a designated
2073 agent in charge; providing a definition for the term
2074 "agent in charge"; providing that the designated agent
2075 in charge is liable for certain acts of misconduct;
2076 providing grounds for the Department of Financial
2077 Services to order operations to cease at certain
2078 insurance agency locations until an agent in charge is
2079 properly designated; amending s. 626.112, F.S.;
2080 providing licensure exemptions that allow specified
2081 individuals or entities to conduct insurance business
2082 at specified locations under certain circumstances;
2083 revising licensure requirements and penalties with
2084 respect to registered insurance agencies; providing
2085 that the registration of an approved registered
2086 insurance agency automatically converts to an
2087 insurance agency license on a specified date; amending
2088 s. 626.172, F.S.; revising requirements relating to
2089 applications for insurance agency licenses; conforming
2090 provisions to changes made by the act; amending s.
2091 626.321, F.S.; providing that a limited license to
2092 offer motor vehicle rental insurance issued to a
2093 business that rents or leases motor vehicles
2094 encompasses the employees of such business; amending
2095 s. 626.382, F.S.; providing that an insurance agency
2096 license continues in force until canceled, suspended,
2097 revoked, or terminated; amending s. 626.601, F.S.;
2098 revising terminology relating to investigations
2099 conducted by the Department of Financial Services and
2100 the Office of Insurance Regulation with respect to



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2101 individuals and entities involved in the insurance
2102 industry; repealing s. 626.747, F.S., relating to
2103 branch agencies, agents in charge, and the payment of
2104 additional county tax under certain circumstances;
2105 amending s. 626.8411, F.S.; conforming a cross-
2106 reference; amending s. 626.8805, F.S.; revising
2107 insurance administrator application requirements;
2108 amending s. 626.8817, F.S.; authorizing an insurer's
2109 designee to provide certain coverage information to an
2110 insurance administrator; authorizing an insurer to
2111 subcontract the audit of an insurance administrator;
2112 amending s. 626.882, F.S.; prohibiting a person from
2113 acting as an insurance administrator without a
2114 specific written agreement; amending s. 626.883, F.S.;
2115 requiring insurance administrators to furnish
2116 fiduciary account records to an insurer's designee;
2117 providing that administrator withdrawals from a
2118 fiduciary account be made according to specific
2119 written agreements; providing that an insurer's
2120 designee may authorize payment of claims; amending s.
2121 626.884, F.S.; revising an insurer's right of access
2122 to certain administrator records; amending s. 626.89,
2123 F.S.; revising the deadline for filing certain
2124 financial statements; amending s. 626.931, F.S.;
2125 deleting provisions requiring a surplus lines agent to
2126 file a quarterly affidavit with the Florida Surplus
2127 Lines Service Office; amending s. 626.932, F.S.;
2128 revising the due date of surplus lines tax; amending
2129 s. 626.935, F.S.; conforming provisions to changes



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2130 made by the act; amending s. 626.936, F.S.; conforming
2131 provisions to changes made by the act; amending s.
2132 626.9914, F.S.; conforming a provision to changes made
2133 by the act; amending s. 626.99175, F.S.; deleting
2134 provisions requiring registration of life expectancy
2135 providers; deleting procedures, qualifying criteria,
2136 and violations with respect thereto; amending ss.
2137 626.9919, 626.992, 626.9925, and 626.99278, F.S.;
2138 conforming provisions to changes made by the act;
2139 amending s. 627.062, F.S.; requiring the Office of
2140 Insurance Regulation to use certain models or straight
2141 averages of certain models to estimate hurricane
2142 losses when determining whether the rates in a rate
2143 filing are excessive, inadequate, or unfairly
2144 discriminatory; amending s. 627.0628, F.S.; increasing
2145 the length of time during which an insurer must adhere
2146 to certain findings made by the Commission on
2147 Hurricane Loss Projection Methodology with respect to
2148 certain methods, principles, standards, models, or
2149 output ranges used in a rate finding; providing that
2150 the requirement to adhere to such findings does not
2151 limit an insurer from using a straight average of
2152 results of certain models or output ranges under
2153 specified circumstances; amending s. 627.072, F.S.;
2154 authorizing retrospective rating plans relating to
2155 workers' compensation and employer's liability
2156 insurance to allow negotiations between certain
2157 employers and insurers with respect to rating factors
2158 used to calculate premiums; amending s. 627.281, F.S.;



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2159 conforming a cross-reference; repealing s. 627.3519,
2160 F.S., relating to an annual report from the Financial
2161 Services Commission to the Legislature of aggregate
2162 net probable maximum losses, financing options, and
2163 potential assessments of the Florida Hurricane
2164 Catastrophe Fund and Citizens Property Insurance
2165 Corporation; amending s. 627.4133, F.S.; increasing
2166 the amount of prior notice required with respect to
2167 the nonrenewal, cancellation, or termination of
2168 certain insurance policies; deleting certain
2169 provisions that require extended periods of prior
2170 notice with respect to the nonrenewal, cancellation,
2171 or termination of certain insurance policies;
2172 prohibiting the cancellation of certain policies that
2173 have been in effect for a specified amount of time
2174 except under certain circumstances; amending s.
2175 627.4137, F.S.; adding licensed company adjusters to
2176 the list of persons who may respond to a claimant's
2177 written request for information relating to liability
2178 insurance coverage; amending s. 627.421, F.S.;
2179 authorizing the electronic delivery of certain
2180 insurance documents; amending s. 627.43141, F.S.;
2181 authorizing a notice of change in policy terms to be
2182 sent in a separate mailing to an insured under certain
2183 circumstances; requiring an insurer to provide such
2184 notice to the insured's insurance agent; amending s.
2185 627.6484, F.S.; providing that coverage for each
2186 policyholder of the Florida Comprehensive Health
2187 Association terminates on a specified date; requiring



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2188 the association to provide assistance to
2189 policyholders; requiring the association to notify
2190 policyholders of termination of coverage and provide
2191 information concerning how to obtain other coverage;
2192 requiring the association to impose a final assessment
2193 or provide a refund to member insurers, sell or
2194 dispose of physical assets, perform a final
2195 accounting, legally dissolve the association, submit a
2196 required report, and transfer all records to the
2197 Office of Insurance Regulation; repealing s.
2198 627.64872, F.S., relating to the Florida Health
2199 Insurance Plan; providing for the future repeal of ss.
2200 627.648, 627.6482, 627.6484, 627.6486, 627.6488,
2201 627.6489, 627.649, 627.6492, 627.6494, 627.6496,
2202 627.6498, and 627.6499, F.S., relating to the Florida
2203 Comprehensive Health Association Act, definitions,
2204 termination of enrollment and availability of other
2205 coverage, eligibility, the Florida Comprehensive
2206 Health Association, the Disease Management Program,
2207 the administrator of the health insurance plan,
2208 participation of insurers, insurer assessments,
2209 deferment, and assessment limitations, issuing of
2210 policies, minimum benefits coverage and exclusions,
2211 premiums, and deductibles, and reporting by insurers
2212 and third-party administrators, respectively; amending
2213 s. 627.701, F.S.; revising requirements to issue or
2214 renew personal lines residential property insurance
2215 after a certain date; increasing the deductible amount
2216 for losses from perils other than hurricane; amending



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2217 s. 627.7015, F.S.; revising the rulemaking authority
2218 of the department with respect to qualifications and
2219 specified types of penalties covered under the
2220 property insurance mediation program; creating s.
2221 627.70151, F.S.; providing criteria for an insurer or
2222 policyholder to challenge the impartiality of a loss
2223 appraisal umpire for purposes of disqualifying such
2224 umpire; amending s. 627.706, F.S.; revising the
2225 definition of the term "neutral evaluator"; amending
2226 s. 627.7074, F.S.; requiring the department to adopt
2227 rules relating to the certification of neutral
2228 evaluators; amending s. 627.736, F.S.; revising the
2229 time period for applicability of certain Medicare fee
2230 schedules or payment limitations; amending s. 627.745,
2231 F.S.; revising qualifications for approval as a
2232 mediator by the department; providing grounds for the
2233 department to deny an application, or suspend or
2234 revoke approval of a mediator or certification of a
2235 neutral evaluator; authorizing the department to adopt
2236 rules; amending s. 627.841, F.S.; providing that an
2237 insurance premium finance company may impose a fee for
2238 payments returned due to insufficient funds; amending
2239 s. 627.952, F.S.; providing that certain persons who
2240 are not residents of this state must be licensed and
2241 appointed as nonresident surplus lines agents in this
2242 state in order to engage in specified activities with
2243 respect to servicing insurance contracts,
2244 certificates, or agreements for purchasing or risk
2245 retention groups; deleting a fidelity bond requirement



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2246 applicable to certain nonresident agents who are
2247 licensed as surplus lines agents in another state;
2248 amending ss. 627.971 and 627.972, F.S.; including
2249 licensed mutual insurers in financial guaranty
2250 insurance corporations; amending s. 628.901, F.S.;
2251 revising the definition of terms applicable to captive
2252 insurers; amending s. 628.905, F.S.; authorizing an
2253 industrial insured captive insurance company to write
2254 workers compensation and employer liability insurance
2255 in excess of a certain amount under certain
2256 conditions; conforming provisions to changes made by
2257 the act; redesignating the Office of Insurance
2258 Regulation instead of the Insurance Commissioner as
2259 the collector of certain fees and issuer of licenses;
2260 amending s. 628.907, F.S.; conforming provisions to
2261 changes made by the act; amending s. 628.909, F.S.;
2262 providing for applicability of certain provisions of
2263 the Insurance Code to specified captive insurers;
2264 conforming provisions to changes made by the act;
2265 amending s. 628.9142, F.S.; conforming provisions to
2266 changes made by the act; amending s. 628.915, F.S.;
2267 conforming provisions to changes made by the act;
2268 amending s. 628.917, F.S.; conforming provisions to
2269 changes made by the act; amending s. 628.919, F.S.;
2270 requiring a pure captive insurance company to submit
2271 certain risk management standards to the Office of
2272 Insurance Regulation; amending s. 634.406, F.S.;
2273 revising criteria authorizing premiums of certain
2274 service warranty associations to exceed their



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2275 specified net assets limitations; revising
2276 requirements relating to contractual liability
2277 policies that insure warranty associations; providing
2278 an effective date.