

By the Committee on Banking and Insurance; and Senator Brandes

597-03465-13

20131046c1

1 A bill to be entitled
2 An act relating to insurance; amending s. 316.646,
3 F.S.; authorizing a uniform motor vehicle proof-of-
4 insurance card to be in an electronic format;
5 providing construction with respect to the parameters
6 of a person's consent to access information on an
7 electronic device presented to provide proof of
8 insurance; providing immunity from liability to a law
9 enforcement officer for damage to an electronic device
10 presented to provide proof of insurance; authorizing
11 the Department of Highway Safety and Motor Vehicles to
12 adopt rules; amending s. 320.02, F.S.; authorizing
13 insurers to furnish uniform proof-of-purchase cards in
14 an electronic format for use by insureds to prove the
15 purchase of required insurance coverage when
16 registering a motor vehicle; amending s. 554.1021,
17 F.S.; defining the term "authorized inspection
18 agency"; amending s. 554.107, F.S.; requiring the
19 chief inspector of the state boiler inspection program
20 to issue a certificate of competency as a special
21 inspector to certain individuals; specifying how long
22 such certificate remains in effect; amending s.
23 554.109, F.S.; authorizing specified insurers to
24 contract with an authorized inspection agency for
25 boiler inspections; requiring such insurers to
26 annually report the identity of contracted authorized
27 inspection agencies to the Department of Financial
28 Services; amending s. 624.413, F.S.; revising a
29 specified time period applicable to a certified

597-03465-13

20131046c1

30 examination that must be filed by a foreign or alien
31 insurer applying for a certificate of authority;
32 amending s. 626.0428, F.S.; requiring each insurance
33 agency to be under the control of an agent licensed to
34 transact certain lines of insurance; authorizing an
35 agent to be in charge of more than one branch office
36 under certain circumstances; providing requirements
37 relating to the designation of an agent in charge;
38 prohibiting an insurance agency from conducting
39 insurance business at a location without a designated
40 agent in charge; providing a definition for the term
41 "agent in charge"; providing that the designated agent
42 in charge is liable for certain acts of misconduct;
43 providing grounds for the Department of Financial
44 Services to order operations to cease at certain
45 insurance agency locations until an agent in charge is
46 properly designated; amending s. 626.112, F.S.;
47 providing licensure exemptions that allow specified
48 individuals or entities to conduct insurance business
49 at specified locations under certain circumstances;
50 revising licensure requirements and penalties with
51 respect to registered insurance agencies; providing
52 that the registration of an approved registered
53 insurance agency automatically converts to an
54 insurance agency license on a specified date; amending
55 s. 626.172, F.S.; revising requirements relating to
56 applications for insurance agency licenses; conforming
57 provisions to changes made by the act; amending s.
58 626.321, F.S.; providing that a limited license to

597-03465-13

20131046c1

59 offer motor vehicle rental insurance issued to a
60 business that rents or leases motor vehicles
61 encompasses the employees of such business; amending
62 s. 626.382, F.S.; providing that an insurance agency
63 license continues in force until canceled, suspended,
64 revoked, or terminated; amending s. 626.601, F.S.;
65 revising terminology relating to investigations
66 conducted by the Department of Financial Services and
67 the Office of Insurance Regulation with respect to
68 individuals and entities involved in the insurance
69 industry; repealing s. 626.747, F.S., relating to
70 branch agencies, agents in charge, and the payment of
71 additional county tax under certain circumstances;
72 amending s. 626.8411, F.S.; conforming a cross-
73 reference; amending s. 626.8805, F.S.; revising
74 insurance administrator application requirements;
75 amending s. 626.8817, F.S.; authorizing an insurer's
76 designee to provide certain coverage information to an
77 insurance administrator; authorizing an insurer to
78 subcontract the audit of an insurance administrator;
79 amending s. 626.882, F.S.; prohibiting a person from
80 acting as an insurance administrator without a
81 specific written agreement; amending s. 626.883, F.S.;
82 requiring insurance administrators to furnish
83 fiduciary account records to an insurer's designee;
84 providing that administrator withdrawals from a
85 fiduciary account be made according to specific
86 written agreements; providing that an insurer's
87 designee may authorize payment of claims; amending s.

597-03465-13

20131046c1

88 626.884, F.S.; revising an insurer's right of access
89 to certain administrator records; amending s. 626.89,
90 F.S.; revising the deadline for filing certain
91 financial statements; amending s. 626.931, F.S.;
92 deleting provisions requiring a surplus lines agent to
93 file a quarterly affidavit with the Florida Surplus
94 Lines Service Office; amending s. 626.932, F.S.;
95 revising the due date of surplus lines tax; amending
96 s. 626.935, F.S.; conforming provisions to changes
97 made by the act; amending s. 626.936, F.S.; conforming
98 provisions to changes made by the act; amending s.
99 627.062, F.S.; requiring the Office of Insurance
100 Regulation to use certain models or straight averages
101 of certain models to estimate hurricane losses when
102 determining whether the rates in a rate filing are
103 excessive, inadequate, or unfairly discriminatory;
104 amending s. 627.0628, F.S.; increasing the length of
105 time during which an insurer must adhere to certain
106 findings made by the Commission on Hurricane Loss
107 Projection Methodology with respect to certain
108 methods, principles, standards, models, or output
109 ranges used in a rate finding; providing that the
110 requirement to adhere to such findings does not limit
111 an insurer from using a straight average of results of
112 certain models or output ranges under specified
113 circumstances; amending s. 627.072, F.S.; authorizing
114 retrospective rating plans relating to workers'
115 compensation and employer's liability insurance to
116 allow negotiations between certain employers and

597-03465-13

20131046c1

117 insurers with respect to rating factors used to
118 calculate premiums; amending s. 627.281, F.S.;
119 conforming a cross-reference; repealing s. 627.3519,
120 F.S., relating to an annual report from the Financial
121 Services Commission to the Legislature of aggregate
122 net probable maximum losses, financing options, and
123 potential assessments of the Florida Hurricane
124 Catastrophe Fund and Citizens Property Insurance
125 Corporation; amending s. 627.4133, F.S.; increasing
126 the amount of prior notice required with respect to
127 the nonrenewal, cancellation, or termination of
128 certain insurance policies; deleting certain
129 provisions that require extended periods of prior
130 notice with respect to the nonrenewal, cancellation,
131 or termination of certain insurance policies;
132 prohibiting the cancellation of certain policies that
133 have been in effect for a specified amount of time
134 except under certain circumstances; amending s.
135 627.4137, F.S.; adding licensed company adjusters to
136 the list of persons who may respond to a claimant's
137 written request for information relating to liability
138 insurance coverage; amending s. 627.421, F.S.;
139 authorizing the electronic delivery of certain
140 insurance documents; amending s. 627.43141, F.S.;
141 authorizing a notice of change in policy terms to be
142 sent in a separate mailing to an insured under certain
143 circumstances; requiring an insurer to provide such
144 notice to the insured's insurance agent; amending s.
145 627.6484, F.S.; providing that coverage for each

597-03465-13

20131046c1

146 policyholder of the Florida Comprehensive Health
147 Association terminates on a specified date; requiring
148 the association to provide assistance to
149 policyholders; requiring the association to notify
150 policyholders of termination of coverage and provide
151 information concerning how to obtain other coverage;
152 requiring the association to impose a final assessment
153 or provide a refund to member insurers, sell or
154 dispose of physical assets, perform a final
155 accounting, legally dissolve the association, submit a
156 required report, and transfer all records to the
157 Office of Insurance Regulation; repealing s.
158 627.64872, F.S., relating to the Florida Health
159 Insurance Plan; providing for the future repeal of ss.
160 627.648, 627.6482, 627.6484, 627.6486, 627.6488,
161 627.6489, 627.649, 627.6492, 627.6494, 627.6496,
162 627.6498, and 627.6499, F.S., relating to the Florida
163 Comprehensive Health Association Act, definitions,
164 termination of enrollment and availability of other
165 coverage, eligibility, the Florida Comprehensive
166 Health Association, the Disease Management Program,
167 the administrator of the health insurance plan,
168 participation of insurers, insurer assessments,
169 deferment, and assessment limitations, issuing of
170 policies, minimum benefits coverage and exclusions,
171 premiums, and deductibles, and reporting by insurers
172 and third-party administrators, respectively; amending
173 s. 627.701, F.S.; revising requirements to issue or
174 renew personal lines residential property insurance

597-03465-13

20131046c1

175 after a certain date; increasing the deductible amount
176 for losses from perils other than hurricane; amending
177 s. 627.7015, F.S.; revising the rulemaking authority
178 of the department with respect to qualifications and
179 specified types of penalties covered under the
180 property insurance mediation program; creating s.
181 627.70151, F.S.; providing criteria for an insurer or
182 policyholder to challenge the impartiality of a loss
183 appraisal umpire for purposes of disqualifying such
184 umpire; amending s. 627.706, F.S.; revising the
185 definition of the term "neutral evaluator"; amending
186 s. 627.7074, F.S.; requiring the department to adopt
187 rules relating to the certification of neutral
188 evaluators; amending s. 627.736, F.S.; revising the
189 time period for applicability of certain Medicare fee
190 schedules or payment limitations; amending s. 627.745,
191 F.S.; revising qualifications for approval as a
192 mediator by the department; providing grounds for the
193 department to deny an application, or suspend or
194 revoke approval of a mediator or certification of a
195 neutral evaluator; authorizing the department to adopt
196 rules; amending s. 627.841, F.S.; providing that an
197 insurance premium finance company may impose a fee for
198 payments returned due to insufficient funds; amending
199 s. 627.952, F.S.; providing that certain persons who
200 are not residents of this state must be licensed and
201 appointed as nonresident surplus lines agents in this
202 state in order to engage in specified activities with
203 respect to servicing insurance contracts,

597-03465-13

20131046c1

204 certificates, or agreements for purchasing or risk
205 retention groups; deleting a fidelity bond requirement
206 applicable to certain nonresident agents who are
207 licensed as surplus lines agents in another state;
208 amending ss. 627.971 and 627.972, F.S.; including
209 licensed mutual insurers in financial guaranty
210 insurance corporations; amending s. 628.901, F.S.;
211 revising the definition of terms applicable to captive
212 insurers; amending s. 628.905, F.S.; authorizing an
213 industrial insured captive insurance company to write
214 workers compensation and employer liability insurance
215 in excess of a certain amount under certain
216 conditions; conforming provisions to changes made by
217 the act; redesignating the Office of Insurance
218 Regulation instead of the Insurance Commissioner as
219 the collector of certain fees and issuer of licenses;
220 amending s. 628.907, F.S.; conforming provisions to
221 changes made by the act; amending s. 628.909, F.S.;
222 providing for applicability of certain provisions of
223 the Insurance Code to specified captive insurers;
224 conforming provisions to changes made by the act;
225 amending s. 628.9142, F.S.; conforming provisions to
226 changes made by the act; amending s. 628.915, F.S.;
227 conforming provisions to changes made by the act;
228 amending s. 628.917, F.S.; conforming provisions to
229 changes made by the act; amending s. 628.919, F.S.;
230 requiring a pure captive insurance company to submit
231 certain risk management standards to the Office of
232 Insurance Regulation; amending s. 634.406, F.S.;

597-03465-13

20131046c1

233 revising criteria authorizing premiums of certain
234 service warranty associations to exceed their
235 specified net assets limitations; revising
236 requirements relating to contractual liability
237 policies that insure warranty associations; providing
238 an effective date.

239

240 Be It Enacted by the Legislature of the State of Florida:

241

242 Section 1. Subsection (1) of section 316.646, Florida
243 Statutes, is amended, and subsection (5) is added to that
244 section, to read:

245 316.646 Security required; proof of security and display
246 thereof; dismissal of cases.—

247 (1) A ~~Any~~ person required by s. 324.022 to maintain
248 property damage liability security, required by s. 324.023 to
249 maintain liability security for bodily injury or death, or
250 required by s. 627.733 to maintain personal injury protection
251 security on a motor vehicle shall have in his or her immediate
252 possession at all times while operating such motor vehicle
253 proper proof of maintenance of the required security. Such proof
254 shall be a uniform proof-of-insurance card, in paper or
255 electronic format, in a form prescribed by the department, a
256 valid insurance policy, an insurance policy binder, a
257 certificate of insurance, or such other proof as may be
258 prescribed by the department. If a person presents an electronic
259 device to a law enforcement officer for the purpose of
260 displaying a proof-of-insurance card in an electronic format:

261 (a) The person presenting the device is not deemed to

597-03465-13

20131046c1

262 consent to access to any information on the electronic device
263 other than the displayed proof-of-insurance card.

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

266 (5) The department may adopt rules to implement this
267 section.

268 Section 2. Paragraph (a) of subsection (5) of section
269 320.02, Florida Statutes, is amended to read:

270 320.02 Registration required; application for registration;
271 forms.—

272 (5) (a) Proof that personal injury protection benefits have
273 been purchased when required under s. 627.733, that property
274 damage liability coverage has been purchased as required under
275 s. 324.022, that bodily injury or death coverage has been
276 purchased if required under s. 324.023, and that combined bodily
277 liability insurance and property damage liability insurance have
278 been purchased when required under s. 627.7415 shall be provided
279 in the manner prescribed by law by the applicant at the time of
280 application for registration of any motor vehicle that is
281 subject to such requirements. The issuing agent shall refuse to
282 issue registration if such proof of purchase is not provided.
283 Insurers shall furnish uniform proof-of-purchase cards, in paper
284 or electronic format, in a form prescribed by the department and
285 shall include the name of the insured's insurance company, the
286 coverage identification number, and the make, year, and vehicle
287 identification number of the vehicle insured. The card must
288 ~~shall~~ contain a statement notifying the applicant of the penalty
289 specified in s. 316.646(4). The card or insurance policy,
290 insurance policy binder, or certificate of insurance or a

597-03465-13

20131046c1

291 photocopy of any of these; an affidavit containing the name of
292 the insured's insurance company, the insured's policy number,
293 and the make and year of the vehicle insured; or such other
294 proof as may be prescribed by the department constitutes ~~shall~~
295 ~~constitute~~ sufficient proof of purchase. If an affidavit is
296 provided as proof, it must ~~shall~~ be in substantially the
297 following form:

298
299 Under penalty of perjury, I ...(Name of insured)... do hereby
300 certify that I have ...(Personal Injury Protection, Property
301 Damage Liability, and, when required, Bodily Injury
302 Liability)... Insurance currently in effect with ...(Name of
303 insurance company)... under ...(policy number)... covering
304 ...(make, year, and vehicle identification number of
305 vehicle).... ...(Signature of Insured)...

306
307 Such affidavit shall include the following warning:

308
309 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
310 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
311 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
312 SUBJECT TO PROSECUTION.

313
314 When an application is made through a licensed motor vehicle
315 dealer as required in s. 319.23, the original or a photostatic
316 copy of such card, insurance policy, insurance policy binder, or
317 certificate of insurance or the original affidavit from the
318 insured shall be forwarded by the dealer to the tax collector of
319 the county or the Department of Highway Safety and Motor

597-03465-13

20131046c1

320 Vehicles for processing. By executing the aforesaid affidavit,
321 no licensed motor vehicle dealer will be liable in damages for
322 any inadequacy, insufficiency, or falsification of any statement
323 contained therein. A card shall also indicate the existence of
324 any bodily injury liability insurance voluntarily purchased.

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

327 554.1021 Definitions.—As used in ss. 554.1011-554.115:

328 (8) "Authorized inspection agency" means:

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

334 (b) An insurance company that is licensed or registered by
335 an appropriate authority of any state of the United States or
336 province of Canada and whose inspectors hold valid certificates
337 of competency in accordance with s. 554.113.

338 Section 4. Section 554.107, Florida Statutes, is amended to
339 read:

340 554.107 Special inspectors.—

341 (1) Upon application by ~~any~~ an authorized inspection agency
342 ~~company licensed to insure boilers in this state~~, the chief
343 inspector shall issue a certificate of competency as a special
344 inspector to an ~~any~~ inspector employed by the agency if he or
345 ~~she company, provided that such inspector~~ satisfies the
346 competency requirements for inspectors as provided in s.
347 554.113.

348 (2) The certificate of competency of a special inspector

597-03465-13

20131046c1

349 remains ~~shall remain~~ in effect only so long as the special
350 inspector is employed by an authorized inspection agency a
351 ~~company licensed to insure boilers in this state~~. Upon
352 termination of employment with such agency company, a special
353 inspector shall, in writing, notify the chief inspector of such
354 termination. Such notice shall be given within 15 days following
355 the date of termination.

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

358 554.109 Exemptions.—

359 (1) An ~~Any~~ insurance company that insures ~~insuring~~ a boiler
360 located in a public assembly location in this state shall
361 inspect or contract with an authorized inspection agency to
362 inspect such boiler ~~so insured~~, and shall annually report to the
363 department the identity of the authorized inspection agency that
364 performs a required boiler inspection on behalf of the company.
365 A any county, city, town, or other governmental subdivision that
366 ~~which~~ has adopted into law the Boiler and Pressure Vessel Code
367 of the American Society of Mechanical Engineers and the National
368 Board Inspection Code for the construction, installation,
369 inspection, maintenance, and repair of boilers, regulating such
370 boilers in public assembly locations, shall inspect such boilers
371 so regulated; provided that such inspection shall be conducted
372 by a special inspector licensed pursuant to ss. 554.1011-
373 554.115. Upon filing of a report of satisfactory inspection with
374 the department, such boiler is exempt from inspection by the
375 department.

376 Section 6. Paragraph (f) of subsection (1) of section
377 624.413, Florida Statutes, is amended to read:

597-03465-13

20131046c1

378 624.413 Application for certificate of authority.—

379 (1) To apply for a certificate of authority, an insurer
380 shall file its application therefor with the office, upon a form
381 adopted by the commission and furnished by the office, showing
382 its name; location of its home office and, if an alien insurer,
383 its principal office in the United States; kinds of insurance to
384 be transacted; state or country of domicile; and such additional
385 information as the commission reasonably requires, together with
386 the following documents:

387 (f) If a foreign or alien insurer, a copy of the report of
388 the most recent examination of the insurer certified by the
389 public official having supervision of insurance in its state of
390 domicile or of entry into the United States. The end of the most
391 recent year covered by the examination must be within the 5-year
392 ~~3-year~~ period preceding the date of application. In lieu of the
393 certified examination report, the office may accept an audited
394 certified public accountant's report prepared on a basis
395 consistent with the insurance laws of the insurer's state of
396 domicile, certified by the public official having supervision of
397 insurance in its state of domicile or of entry into the United
398 States.

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

401 626.0428 Agency personnel powers, duties, and limitations.—

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

597-03465-13

20131046c1

407 (b) Notwithstanding paragraph (a), the licensed agent in
408 charge of an insurance agency may also be the agent in charge of
409 additional branch office locations of the agency if insurance
410 activities requiring licensure as an insurance agent do not
411 occur at any location when the agent is not physically present
412 and unlicensed employees at the location do not engage in
413 insurance activities requiring licensure as an insurance agent
414 or customer representative.

415 (c) An insurance agency and each branch place of business
416 of an insurance agency shall designate an agent in charge and
417 file the name and license number of the agent in charge and the
418 physical address of the insurance agency location with the
419 department at the department's designated website. The
420 designation of the agent in charge may be changed at the option
421 of the agency. A change of the designated agent in charge is
422 effective upon notification to the department, which shall be
423 provided within 30 days after such change.

424 (d) For the purposes of this subsection, an "agent in
425 charge" is the licensed and appointed agent who is responsible
426 for the supervision of all individuals within an insurance
427 agency location, regardless of whether such individuals deal
428 with the general public in the solicitation or negotiation of
429 insurance contracts or the collection or accounting of moneys.

430 (e) An agent in charge of an insurance agency is
431 accountable for wrongful acts, misconduct, or violations of
432 provisions of this code committed by the agent or by any person
433 under his or her supervision while acting on behalf of the
434 agency. This section may not be construed to render the agent in
435 charge criminally liable for an act unless he or she personally

597-03465-13

20131046c1

436 committed or knew or should have known of the act and of the
437 facts constituting a violation of this chapter.

438 (f) An insurance agency location may not conduct the
439 business of insurance unless the agency designates an agent in
440 charge at all times. If the agency fails to update the
441 designation of the agent in charge within 90 days after the date
442 of a change in designation, the department shall automatically
443 revoke the agency's license.

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

446 626.112 License and appointment required; agents, customer
447 representatives, adjusters, insurance agencies, service
448 representatives, managing general agents.—

449 (7) (a) ~~Effective October 1, 2006,~~ No individual, firm,
450 partnership, corporation, association, or any other entity shall
451 act in its own name or under a trade name, directly or
452 indirectly, as an insurance agency, unless it complies with s.
453 626.172 with respect to possessing an insurance agency license
454 for each place of business at which it engages in an any
455 activity that ~~which~~ may be performed only by a licensed
456 insurance agent. However, an insurance agency that is owned and
457 operated by a single licensed agent conducting business in his
458 or her individual name and not employing or otherwise using the
459 services of or appointing other licensees is exempt from the
460 agency licensing requirements of this subsection. A branch place
461 of business that is established by a licensed agency is
462 considered a branch agency and is not required to be licensed so
463 long as it transacts business under the same name and federal
464 tax identification number as the licensed agency and has

597-03465-13

20131046c1

465 designated a licensed agent in charge of the location as
466 required by s. 626.0428 and the address and telephone number of
467 the location have been submitted to the department for inclusion
468 in the licensing record of the licensed agency within 30 days
469 after insurance transactions begin at the location ~~Each agency~~
470 ~~engaged in business in this state before January 1, 2003, which~~
471 ~~is wholly owned by insurance agents currently licensed and~~
472 ~~appointed under this chapter, each incorporated agency whose~~
473 ~~voting shares are traded on a securities exchange, each agency~~
474 ~~designated and subject to supervision and inspection as a branch~~
475 ~~office under the rules of the National Association of Securities~~
476 ~~Dealers, and each agency whose primary function is offering~~
477 ~~insurance as a service or member benefit to members of a~~
478 ~~nonprofit corporation may file an application for registration~~
479 ~~in lieu of licensure in accordance with s. 626.172(3). Each~~
480 ~~agency engaged in business before October 1, 2006, shall file an~~
481 ~~application for licensure or registration on or before October~~
482 ~~1, 2006.~~

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

487 ~~2. If an agency is eligible for registration but fails to~~
488 ~~file an application for registration or an application for~~
489 ~~licensure in accordance with this section, the department shall~~
490 ~~impose on the agency an administrative penalty in an amount of~~
491 ~~up to \$5,000.~~

492 (c)(b) Effective October 1, 2013, the department must
493 automatically convert the registration of an approved a

597-03465-13

20131046c1

494 registered insurance agency to shall, ~~as a condition precedent~~
495 ~~to continuing business~~, obtain an insurance agency license if
496 ~~the department finds that, with respect to any majority owner,~~
497 ~~partner, manager, director, officer, or other person who manages~~
498 ~~or controls the agency, any person has:~~

499 1. ~~Been found guilty of, or has pleaded guilty or nolo~~
500 ~~contendere to, a felony in this state or any other state~~
501 ~~relating to the business of insurance or to an insurance agency,~~
502 ~~without regard to whether a judgment of conviction has been~~
503 ~~entered by the court having jurisdiction of the cases.~~

504 2. ~~Employed any individual in a managerial capacity or in a~~
505 ~~capacity dealing with the public who is under an order of~~
506 ~~revocation or suspension issued by the department. An insurance~~
507 ~~agency may request, on forms prescribed by the department,~~
508 ~~verification of any person's license status. If a request is~~
509 ~~mailed within 5 working days after an employee is hired, and the~~
510 ~~employee's license is currently suspended or revoked, the agency~~
511 ~~shall not be required to obtain a license, if the unlicensed~~
512 ~~person's employment is immediately terminated.~~

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

515 4. ~~With such frequency as to have made the operation of the~~
516 ~~agency hazardous to the insurance buying public or other~~
517 ~~persons:~~

518 a. ~~Solicited or handled controlled business. This~~
519 ~~subparagraph shall not prohibit the licensing of any lending or~~
520 ~~financing institution or creditor, with respect to insurance~~
521 ~~only, under credit life or disability insurance policies of~~
522 ~~borrowers from the institutions, which policies are subject to~~

597-03465-13

20131046c1

523 ~~part IX of chapter 627.~~

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

527 ~~e. Unlawfully rebated, attempted to unlawfully rebate, or~~
528 ~~unlawfully divided or offered to divide commissions with~~
529 ~~another.~~

530 ~~d. Misrepresented any insurance policy or annuity contract,~~
531 ~~or used deception with regard to any policy or contract, done~~
532 ~~either in person or by any form of dissemination of information~~
533 ~~or advertising.~~

534 ~~e. Violated any provision of this code or any other law~~
535 ~~applicable to the business of insurance in the course of dealing~~
536 ~~under the license.~~

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

538 ~~g. Failed or refused, upon demand, to pay over to any~~
539 ~~insurer he or she represents or has represented any money coming~~
540 ~~into his or her hands belonging to the insurer.~~

541 ~~h. Violated the provision against twisting as defined in s.~~
542 ~~626.9541(1)(1).~~

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

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

547 ~~k. Engaged in fraudulent or dishonest practices in the~~
548 ~~conduct of business arising out of activities related to~~
549 ~~insurance or the insurance agency.~~

550 ~~l. Demonstrated lack of fitness or trustworthiness to~~
551 ~~engage in the business of insurance arising out of activities~~

597-03465-13

20131046c1

552 ~~related to insurance or the insurance agency.~~

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

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

558 ~~6. Willfully circumvented the requirements or prohibitions~~
559 ~~of this code.~~

560 Section 9. Subsections (2), (3), and (4) of section
561 626.172, Florida Statutes, are amended to read:

562 626.172 Application for insurance agency license.—

563 (2) An application for an insurance agency license must
564 ~~shall~~ be signed by the owner or owners of the agency. If the
565 agency is incorporated, the application must ~~shall~~ be signed by
566 the president and secretary of the corporation. The application
567 for an insurance agency license must ~~shall~~ include:

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

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

572 (c) The name of the insurance agency, ~~and~~ and its principal
573 business street address and a valid e-mail address of the
574 insurance agency.

575 (d) The physical address location ~~location~~ of each branch agency,
576 including its name, e-mail address, and telephone number and the
577 date that the branch location began transacting insurance ~~office~~
578 ~~and the name under which each agency office conducts or will~~
579 ~~conduct business.~~

580 (e) The name of each agent to be in full-time charge of an

597-03465-13

20131046c1

581 agency office and specification of which office, including
582 branch locations.

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

584 1. A sole proprietor;

585 2. Each partner;

586 3. Each owner of an unincorporated agency;

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

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

592 6. Any other person who directs or participates in the
593 management or control of the agency, whether through the
594 ownership of voting securities, by contract, by ownership of
595 agency bank accounts, or otherwise.

596

597 Fingerprints must be taken by a law enforcement agency or other
598 entity approved by the department and must be accompanied by the
599 fingerprint processing fee specified in s. 624.501. Fingerprints
600 must ~~shall~~ be processed in accordance with s. 624.34. However,
601 fingerprints need not be filed for an ~~any~~ individual who is
602 currently licensed and appointed under this chapter. This
603 paragraph does not apply to corporations whose voting shares are
604 traded on a securities exchange.

605 (g) Such additional information as the department requires
606 by rule to ascertain the trustworthiness and competence of
607 persons required to be listed on the application and to
608 ascertain that such persons meet the requirements of this code.
609 However, the department may not require that credit or character

597-03465-13

20131046c1

610 reports be submitted for persons required to be listed on the
611 application.

612 (h) ~~Beginning October 1, 2005,~~ The department must ~~shall~~
613 accept the uniform application for nonresident agency licensure.
614 The department may adopt by rule revised versions of the uniform
615 application.

616 (3) ~~The department shall issue a registration as an~~
617 ~~insurance agency to any agency that files a written application~~
618 ~~with the department and qualifies for registration. The~~
619 ~~application for registration shall require the agency to provide~~
620 ~~the same information required for an agency licensed under~~
621 ~~subsection (2), the agent identification number for each owner~~
622 ~~who is a licensed agent, proof that the agency qualifies for~~
623 ~~registration as provided in s. 626.112(7), and any other~~
624 ~~additional information that the department determines is~~
625 ~~necessary in order to demonstrate that the agency qualifies for~~
626 ~~registration. The application must be signed by the owner or~~
627 ~~owners of the agency. If the agency is incorporated, the~~
628 ~~application must be signed by the president and the secretary of~~
629 ~~the corporation. An agent who owns the agency need not file~~
630 ~~fingerprints with the department if the agent obtained a license~~
631 ~~under this chapter and the license is currently valid.~~

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

635 (b) ~~A registered insurance agency must file an application~~
636 ~~for licensure no later than 30 days after the date that any~~
637 ~~person who is not a licensed and appointed agent in this state~~
638 ~~acquires any ownership interest in the agency. If an agency~~

597-03465-13

20131046c1

639 ~~fails to file an application for licensure in compliance with~~
640 ~~this paragraph, the department shall impose an administrative~~
641 ~~penalty in an amount of up to \$5,000 on the agency.~~

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

644 (3) ~~(4)~~ The department must ~~shall~~ issue a license ~~or~~
645 ~~registration~~ to each agency upon approval of the application,
646 and each agency location must ~~shall~~ display the license ~~or~~
647 ~~registration~~ prominently in a manner that makes it clearly
648 visible to a ~~any~~ customer or potential customer who enters the
649 agency.

650 Section 10. Paragraph (d) of subsection (1) of section
651 626.321, Florida Statutes, is amended to read:

652 626.321 Limited licenses.—

653 (1) The department shall issue to a qualified applicant a
654 license as agent authorized to transact a limited class of
655 business in any of the following categories of limited lines
656 insurance:

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

658 1. License covering only insurance of the risks set forth
659 in this paragraph when offered, sold, or solicited with and
660 incidental to the rental or lease of a motor vehicle and which
661 applies only to the motor vehicle that is the subject of the
662 lease or rental agreement and the occupants of the motor
663 vehicle:

664 a. Excess motor vehicle liability insurance providing
665 coverage in excess of the standard liability limits provided by
666 the lessor in the lessor's lease to a person renting or leasing
667 a motor vehicle from the licensee's employer for liability

597-03465-13

20131046c1

668 arising in connection with the negligent operation of the leased
669 or rented motor vehicle.

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

672 c. Insurance covering the loss of or damage to baggage,
673 personal effects, or travel documents of a person renting or
674 leasing a motor vehicle.

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

678 2. Insurance under a motor vehicle rental insurance license
679 may be issued only if the lease or rental agreement is for no
680 more than 60 days, the lessee is not provided coverage for more
681 than 60 consecutive days per lease period, and the lessee is
682 given written notice that his or her personal insurance policy
683 providing coverage on an owned motor vehicle may provide
684 coverage of such risks and that the purchase of the insurance is
685 not required in connection with the lease or rental of a motor
686 vehicle. If the lease is extended beyond 60 days, the coverage
687 may be extended one time only for a period not to exceed an
688 additional 60 days. Insurance may be provided to the lessee as
689 an additional insured on a policy issued to the licensee's
690 employer.

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

696 a. A license issued to a business entity that offers motor

597-03465-13

20131046c1

697 vehicles for rent or lease encompasses each office, branch
698 office, employee, or place of business making use of the
699 entity's business name in order to offer, solicit, and sell
700 insurance pursuant to this paragraph.

701 b. The application for licensure must list the name,
702 address, and phone number for each office, branch office, or
703 place of business that is to be covered by the license. The
704 licensee shall notify the department of the name, address, and
705 phone number of any new location that is to be covered by the
706 license before the new office, branch office, or place of
707 business engages in the sale of insurance pursuant to this
708 paragraph. The licensee must notify the department within 30
709 days after closing or terminating an office, branch office, or
710 place of business. Upon receipt of the notice, the department
711 shall delete the office, branch office, or place of business
712 from the license.

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

715 Section 11. Section 626.382, Florida Statutes, is amended
716 to read:

717 626.382 Continuation, expiration of license; insurance
718 agencies.—An insurance agency license continues ~~The license of~~
719 ~~any insurance agency shall be issued for a period of 3 years and~~
720 ~~shall continue in force until it is canceled, suspended,~~
721 ~~revoked, or otherwise terminated. A license may be renewed by~~
722 ~~submitting a renewal request to the department on a form adopted~~
723 ~~by department rule.~~

724 Section 12. Section 626.601, Florida Statutes, is amended
725 to read:

597-03465-13

20131046c1

726 626.601 Improper conduct; inquiry; fingerprinting.—

727 (1) The department or office may, upon its own motion or
728 upon a written complaint signed by an ~~any~~ interested person and
729 filed with the department or office, inquire into any alleged
730 improper conduct of a ~~any~~ licensed, approved, or certified
731 insurance agency, agent, adjuster, service representative,
732 managing general agent, customer representative, title insurance
733 agent, title insurance agency, mediator, neutral evaluator,
734 continuing education course provider, instructor, school
735 official, or monitor group under this code. The department or
736 office may thereafter initiate an investigation of ~~any~~ such
737 individual or entity licensee if it has reasonable cause to
738 believe that the individual or entity licensee has violated any
739 provision of the insurance code. During the course of its
740 investigation, the department or office shall contact the
741 individual or entity licensee being investigated unless it
742 determines that contacting such individual or entity ~~person~~
743 could jeopardize the successful completion of the investigation
744 or cause injury to the public.

745 (2) In the investigation by the department or office of the
746 alleged misconduct, the individual or entity licensee shall,
747 whenever so required by the department or office, cause the
748 individual's or entity's ~~his or her~~ books and records to be open
749 for inspection for the purpose of such inquiries.

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

754 (4) The expense for ~~any~~ hearings or investigations

597-03465-13

20131046c1

755 conducted under this law, as well as the fees and mileage of
756 witnesses, may be paid out of the appropriate fund.

757 (5) If the department or office, after investigation, has
758 reason to believe that an individual ~~a licensee~~ may have been
759 found guilty of or pleaded guilty or nolo contendere to a felony
760 or a crime related to the business of insurance in this or any
761 other state or jurisdiction, the department or office may
762 require the individual licensee to file with the department or
763 office a complete set of his or her fingerprints, which must
764 ~~shall~~ be accompanied by the fingerprint processing fee set forth
765 in s. 624.501. The fingerprints shall be taken by an authorized
766 law enforcement agency or other department-approved entity.

767 (6) The complaint and ~~any~~ information obtained pursuant to
768 the investigation by the department or office are confidential
769 and are exempt from ~~the provisions of~~ s. 119.07, unless the
770 department or office files a formal administrative complaint,
771 emergency order, or consent order against the individual or
772 entity licensee. ~~Nothing in~~ This subsection does not ~~shall be~~
773 ~~construed to~~ prevent the department or office from disclosing
774 the complaint or such information as it deems necessary to
775 conduct the investigation, to update the complainant as to the
776 status and outcome of the complaint, or to share such
777 information with a ~~any~~ law enforcement agency.

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

779 Section 14. Paragraph (b) of subsection (1) of section
780 626.8411, Florida Statutes, is amended to read:

781 626.8411 Application of Florida Insurance Code provisions
782 to title insurance agents or agencies.—

783 (1) The following provisions of part II applicable to

597-03465-13

20131046c1

784 general lines agents or agencies also apply to title insurance
785 agents or agencies:

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

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

790 626.8805 Certificate of authority to act as administrator.—

791 (2) The administrator shall file with the office an
792 application for a certificate of authority upon a form to be
793 adopted by the commission and furnished by the office, which
794 application shall include or have attached the following
795 information and documents:

796 (c) The names, addresses, official positions, and
797 professional qualifications of the individuals who are employed
798 or retained by the administrator and who are responsible for the
799 conduct of the affairs of the administrator, including all
800 members of the board of directors, board of trustees, executive
801 committee, or other governing board or committee, and the
802 principal officers in the case of a corporation or, the partners
803 or members in the case of a partnership or association of the
804 administrator, ~~and any other person who exercises control or~~
805 ~~influence over the affairs of the administrator.~~

806 (3) The applicant shall make available for inspection by
807 the office copies of all contracts relating to services provided
808 by the administrator to ~~with~~ insurers or other persons utilizing
809 the services of the administrator.

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

812 626.8817 Responsibilities of insurance company with respect

597-03465-13

20131046c1

813 to administration of coverage insured.-

814 (1) If an insurer uses the services of an administrator,
815 the insurer is responsible for determining the benefits, premium
816 rates, underwriting criteria, and claims payment procedures
817 applicable to the coverage and for securing reinsurance, if any.
818 The rules pertaining to these matters shall be provided, in
819 writing, by the insurer, or its designee, to the administrator.
820 The responsibilities of the administrator as to any of these
821 matters shall be set forth in a the written agreement binding
822 upon ~~between~~ the administrator and the insurer.

823 (3) In cases in which an administrator administers benefits
824 for more than 100 certificateholders on behalf of an insurer,
825 the insurer shall, at least semiannually, conduct a review of
826 the operations of the administrator. At least one such review
827 must be an onsite audit of the operations of the administrator.
828 The insurer may contract with a qualified third party to conduct
829 such examination.

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

832 626.882 Agreement between administrator and insurer;
833 required provisions; maintenance of records.-

834 (1) A ~~No~~ person may not act as an administrator without a
835 written agreement, as required under s. 626.8817, which
836 specifies the rights, duties and obligations of the ~~between such~~
837 ~~person as~~ administrator and ~~an~~ insurer.

838 (4) If a policy is issued to a trustee or trustees, a copy
839 of the trust agreement and any amendments to that agreement
840 shall be furnished to the insurer or its designee by the
841 administrator and shall be retained as part of the official

597-03465-13

20131046c1

842 records of both the administrator and the insurer for the
843 duration of the policy and for 5 years thereafter.

844 Section 18. Subsections (3), (4), and (5) of section
845 626.883, Florida Statutes, are amended to read:

846 626.883 Administrator as intermediary; collections held in
847 fiduciary capacity; establishment of account; disbursement;
848 payments on behalf of insurer.—

849 (3) If charges or premiums deposited in a fiduciary account
850 have been collected on behalf of or for more than one insurer,
851 the administrator shall keep records clearly recording the
852 deposits in and withdrawals from such account on behalf of or
853 for each insurer. The administrator shall, upon request of an
854 insurer or its designee, furnish such insurer with copies of
855 records pertaining to deposits and withdrawals on behalf of or
856 for such insurer.

857 (4) The administrator may not pay a any claim by
858 withdrawals from a fiduciary account. Withdrawals from such
859 account shall be made as provided in the written agreement
860 required under ss. 626.8817 and 626.882 ~~between the~~
861 ~~administrator and the insurer~~ for any of the following:

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

863 (b) Deposit in an account maintained in the name of such
864 insurer.

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

867 (d) Payment to a group policyholder for remittance to the
868 insurer entitled to such remittance.

869 (e) Payment to the administrator of the commission, fees,
870 or charges of the administrator.

597-03465-13

20131046c1

871 (f) Remittance of return premium to the person or persons
872 entitled to such return premium.

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

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

878 626.884 Maintenance of records by administrator; access;
879 confidentiality.—

880 (3) The insurer shall retain the right of continuing access
881 to books and records maintained by the administrator sufficient
882 to permit the insurer to fulfill all of its contractual
883 obligations to insured persons, subject to any restrictions in
884 the written agreement pertaining to ~~between the insurer and the~~
885 ~~administrator~~ on the proprietary rights of the parties in such
886 books and records.

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

889 626.89 Annual financial statement and filing fee; notice of
890 change of ownership.—

891 (1) Each authorized administrator shall file with the
892 office a full and true statement of its financial condition,
893 transactions, and affairs. The statement shall be filed annually
894 on or before April ~~March~~ 1 or within such extension of time
895 therefor as the office for good cause may have granted and shall
896 be for the preceding calendar year or fiscal year, if the
897 administrator's accounting is on a fiscal year basis. The
898 statement shall be in such form and contain such matters as the
899 commission prescribes and shall be verified by at least two

597-03465-13

20131046c1

900 officers of such administrator. ~~An administrator whose sole~~
901 ~~stockholder is an association representing health care providers~~
902 ~~which is not an affiliate of an insurer, an administrator of a~~
903 ~~pooled governmental self-insurance program, or an administrator~~
904 ~~that is a university may submit the preceding fiscal year's~~
905 ~~statement within 2 months after its fiscal year end.~~

906 (2) Each authorized administrator shall also file an
907 audited financial statement performed by an independent
908 certified public accountant. The audited financial statement
909 shall be filed with the office on or before July ~~June~~ 1 for the
910 preceding calendar or fiscal year ending ~~December 31~~. ~~An~~
911 ~~administrator whose sole stockholder is an association~~
912 ~~representing health care providers which is not an affiliate of~~
913 ~~an insurer, an administrator of a pooled governmental self-~~
914 ~~insurance program, or an administrator that is a university may~~
915 ~~submit the preceding fiscal year's audited financial statement~~
916 ~~within 5 months after the end of its fiscal year.~~ An audited
917 financial statement prepared on a consolidated basis must
918 include a columnar consolidating or combining worksheet that
919 must be filed with the statement and must comply with the
920 following:

921 (a) Amounts shown on the consolidated audited financial
922 statement must be shown on the worksheet;

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

924 (c) Explanations of consolidating and eliminating entries
925 must be included.

926 Section 21. Section 626.931, Florida Statutes, is amended
927 to read:

928 626.931 ~~Agent affidavit and~~ Insurer reporting

597-03465-13

20131046c1

929 requirements.-

930 ~~(1) Each surplus lines agent shall on or before the 45th~~
931 ~~day following each calendar quarter file with the Florida~~
932 ~~Surplus Lines Service Office an affidavit, on forms as~~
933 ~~prescribed and furnished by the Florida Surplus Lines Service~~
934 ~~Office, stating that all surplus lines insurance transacted by~~
935 ~~him or her during such calendar quarter has been submitted to~~
936 ~~the Florida Surplus Lines Service Office as required.~~

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

940 (1)~~(3)~~ Each foreign insurer accepting premiums shall, on or
941 before the end of the month following each calendar quarter,
942 file with the Florida Surplus Lines Service Office a verified
943 report of all surplus lines insurance transacted by such insurer
944 for insurance risks located in this state during such calendar
945 quarter.

946 (2)~~(4)~~ Each alien insurer accepting premiums shall, on or
947 before June 30 of each year, file with the Florida Surplus Lines
948 Service Office a verified report of all surplus lines insurance
949 transacted by such insurer for insurance risks located in this
950 state during the preceding calendar year.

951 (3)~~(5)~~ The department may waive the filing requirements
952 described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

953 (4)~~(6)~~ Each insurer's report and supporting information
954 shall be in a computer-readable format as determined by the
955 Florida Surplus Lines Service Office or shall be submitted on
956 forms prescribed by the Florida Surplus Lines Service Office and
957 shall show for each applicable agent:

597-03465-13

20131046c1

958 (a) A listing of all policies, certificates, cover notes,
959 or other forms of confirmation of insurance coverage or any
960 substitutions thereof or endorsements thereto and the
961 identifying number; and

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

964 Section 22. Paragraph (a) of subsection (2) of section
965 626.932, Florida Statutes, is amended to read:

966 626.932 Surplus lines tax.—

967 (2) (a) The surplus lines agent shall make payable to the
968 department the tax related to each calendar quarter's business
969 as reported to the Florida Surplus Lines Service Office, and
970 remit the tax to the Florida Surplus Lines Service Office on or
971 before the 45th day following each calendar quarter ~~at the same~~
972 ~~time as provided for the filing of the quarterly affidavit,~~
973 ~~under s. 626.931.~~ The Florida Surplus Lines Service Office shall
974 forward to the department the taxes and any interest collected
975 pursuant to paragraph (b), within 10 days after ~~of~~ receipt.

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

978 626.935 Suspension, revocation, or refusal of surplus lines
979 agent's license.—

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

984 (a) Removal of the licensee's office from the licensee's
985 state of residence.

986 (b) Removal of the accounts and records of his or her

597-03465-13

20131046c1

987 surplus lines business from this state or the licensee's state
988 of residence during the period when such accounts and records
989 are required to be maintained under s. 626.930.

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

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

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

996 (e)(f) Suspension, revocation, or refusal to renew or
997 continue the license or appointment as a general lines agent,
998 service representative, or managing general agent.

999 (f)(g) Lack of qualifications as for an original surplus
1000 lines agent's license.

1001 (g)(h) Violation of this Surplus Lines Law.

1002 (h)(i) For any other applicable cause for which the license
1003 of a general lines agent could be suspended, revoked, or refused
1004 under s. 626.611 or s. 626.621.

1005 Section 24. Subsection (1) of section 626.936, Florida
1006 Statutes, is amended to read:

1007 626.936 Failure to file reports or pay tax or service fee;
1008 administrative penalty.—

1009 (1) A ~~Any~~ licensed surplus lines agent who neglects to file
1010 a report ~~or an affidavit~~ in the form and within the time
1011 required or provided for in the Surplus Lines Law may be fined
1012 up to \$50 per day for each day the neglect continues, beginning
1013 the day after the report ~~or affidavit~~ was due until the date the
1014 report ~~or affidavit~~ is received. All sums collected under this
1015 section shall be deposited into the Insurance Regulatory Trust

597-03465-13

20131046c1

1016 Fund.

1017 Section 25. Paragraph (b) of subsection (2) of section
1018 627.062, Florida Statutes, is amended to read:

1019 627.062 Rate standards.—

1020 (2) As to all such classes of insurance:

1021 (b) Upon receiving a rate filing, the office shall review
1022 the filing to determine if a rate is excessive, inadequate, or
1023 unfairly discriminatory. In making that determination, the
1024 office shall, in accordance with generally accepted and
1025 reasonable actuarial techniques, consider the following factors:

1026 1. Past and prospective loss experience within and without
1027 this state.

1028 2. Past and prospective expenses.

1029 3. The degree of competition among insurers for the risk
1030 insured.

1031 4. Investment income reasonably expected by the insurer,
1032 consistent with the insurer's investment practices, from
1033 investable premiums anticipated in the filing, plus any other
1034 expected income from currently invested assets representing the
1035 amount expected on unearned premium reserves and loss reserves.
1036 The commission may adopt rules using reasonable techniques of
1037 actuarial science and economics to specify the manner in which
1038 insurers calculate investment income attributable to classes of
1039 insurance written in this state and the manner in which
1040 investment income is used to calculate insurance rates. Such
1041 manner must contemplate allowances for an underwriting profit
1042 factor and full consideration of investment income which produce
1043 a reasonable rate of return; however, investment income from
1044 invested surplus may not be considered.

597-03465-13

20131046c1

1045 5. The reasonableness of the judgment reflected in the
1046 filing.

1047 6. Dividends, savings, or unabsorbed premium deposits
1048 allowed or returned to Florida policyholders, members, or
1049 subscribers.

1050 7. The adequacy of loss reserves.

1051 8. The cost of reinsurance. The office may not disapprove a
1052 rate as excessive solely due to the insurer having obtained
1053 catastrophic reinsurance to cover the insurer's estimated 250-
1054 year probable maximum loss or any lower level of loss.

1055 9. Trend factors, including trends in actual losses per
1056 insured unit for the insurer making the filing.

1057 10. Conflagration and catastrophe hazards, if applicable.

1058 11. Projected hurricane losses, if applicable, which must
1059 be estimated using a model or method, or a straight average of
1060 model results or output ranges, independently found to be
1061 acceptable or reliable by the Florida Commission on Hurricane
1062 Loss Projection Methodology, and as further provided in s.
1063 627.0628.

1064 12. A reasonable margin for underwriting profit and
1065 contingencies.

1066 13. The cost of medical services, if applicable.

1067 14. Other relevant factors that affect the frequency or
1068 severity of claims or expenses.

1069 Section 26. Paragraph (d) of subsection (3) of section
1070 627.0628, Florida Statutes, is amended to read:

1071 627.0628 Florida Commission on Hurricane Loss Projection
1072 Methodology; public records exemption; public meetings
1073 exemption.—

597-03465-13

20131046c1

1074 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—
1075 (d) With respect to a rate filing under s. 627.062, an
1076 insurer shall employ and may not modify or adjust actuarial
1077 methods, principles, standards, models, or output ranges found
1078 by the commission to be accurate or reliable in determining
1079 hurricane loss factors for use in a rate filing under s.
1080 627.062. An insurer shall employ and may not modify or adjust
1081 models found by the commission to be accurate or reliable in
1082 determining probable maximum loss levels pursuant to paragraph
1083 (b) with respect to a rate filing under s. 627.062 made more
1084 than 180 ~~60~~ days after the commission has made such findings.
1085 This paragraph does not prohibit an insurer from using a
1086 straight average of model results or output ranges or using
1087 straight averages for the purposes of a rate filing under s.
1088 627.062.

1089 Section 27. Present subsections (2) through (4) of section
1090 627.072, Florida Statutes, are renumbered as subsections (3)
1091 through (5), respectively, and a new subsection (2) is added to
1092 that section, to read:

1093 627.072 Making and use of rates.—

1094 (2) A retrospective rating plan may contain a provision
1095 that allows negotiation between the employer and the insurer to
1096 determine the retrospective rating factors used to calculate the
1097 premium for employers that have exposure in more than one state
1098 and an estimated annual countrywide standard premium of \$1
1099 million or more for workers' compensation.

1100 Section 28. Subsection (2) of section 627.281, Florida
1101 Statutes, is amended to read:

1102 627.281 Appeal from rating organization; workers'

597-03465-13

20131046c1

1103 compensation and employer's liability insurance filings.—

1104 (2) If such appeal is based upon the failure of the rating
 1105 organization to make a filing on behalf of such member or
 1106 subscriber which is based on a system of expense provisions
 1107 which differs, in accordance with the right granted in s.
 1108 627.072(3) ~~627.072(2)~~, from the system of expense provisions
 1109 included in a filing made by the rating organization, the office
 1110 shall, if it grants the appeal, order the rating organization to
 1111 make the requested filing for use by the appellant. In deciding
 1112 such appeal, the office shall apply the applicable standards set
 1113 forth in ss. 627.062 and 627.072.

1114 Section 29. Section 627.3519, Florida Statutes, is
 1115 repealed.

1116 Section 30. Paragraph (b) of subsection (2) of section
 1117 627.4133, Florida Statutes, is amended to read:

1118 627.4133 Notice of cancellation, nonrenewal, or renewal
 1119 premium.—

1120 (2) With respect to any personal lines or commercial
 1121 residential property insurance policy, including, but not
 1122 limited to, any homeowner's, mobile home owner's, farmowner's,
 1123 condominium association, condominium unit owner's, apartment
 1124 building, or other policy covering a residential structure or
 1125 its contents:

1126 (b) The insurer shall give the first-named insured written
 1127 notice of nonrenewal, cancellation, or termination at least 120
 1128 ~~100~~ days before the effective date of the nonrenewal,
 1129 cancellation, or termination. ~~However, the insurer shall give at~~
 1130 ~~least 100 days' written notice, or written notice by June 1,~~
 1131 ~~whichever is earlier, for any nonrenewal, cancellation, or~~

597-03465-13

20131046c1

1132 ~~termination that would be effective between June 1 and November~~
1133 ~~30.~~ The notice must include the reason or reasons for the
1134 nonrenewal, cancellation, or termination, except that:

1135 ~~1. The insurer shall give the first-named insured written~~
1136 ~~notice of nonrenewal, cancellation, or termination at least 120~~
1137 ~~days prior to the effective date of the nonrenewal,~~
1138 ~~cancellation, or termination for a first-named insured whose~~
1139 ~~residential structure has been insured by that insurer or an~~
1140 ~~affiliated insurer for at least a 5-year period immediately~~
1141 ~~prior to the date of the written notice.~~

1142 ~~1.2.~~ If cancellation is for nonpayment of premium, at least
1143 10 days' written notice of cancellation accompanied by the
1144 reason therefor must be given. As used in this subparagraph, the
1145 term "nonpayment of premium" means failure of the named insured
1146 to discharge when due her or his obligations for in connection
1147 ~~with~~ the payment of premiums on a policy or an any installment
1148 of such premium, whether the premium is payable directly to the
1149 insurer or its agent or indirectly under a any premium finance
1150 plan or extension of credit, or failure to maintain membership
1151 in an organization if such membership is a condition precedent
1152 to insurance coverage. The term also means the failure of a
1153 financial institution to honor an insurance applicant's check
1154 after delivery to a licensed agent for payment of a premium,
1155 even if the agent has previously delivered or transferred the
1156 premium to the insurer. If a dishonored check represents the
1157 initial premium payment, the contract and all contractual
1158 obligations are void ab initio unless the nonpayment is cured
1159 within the earlier of 5 days after actual notice by certified
1160 mail is received by the applicant or 15 days after notice is

597-03465-13

20131046c1

1161 sent to the applicant by certified mail or registered mail, ~~and~~
1162 If the contract is void, any premium received by the insurer
1163 from a third party must be refunded to that party in full.

1164 ~~2.3.~~ If ~~such~~ cancellation or termination occurs during the
1165 first 90 days the insurance is in force and the insurance is
1166 canceled or terminated for reasons other than nonpayment of
1167 premium, at least 20 days' written notice of cancellation or
1168 termination accompanied by the reason therefor must be given
1169 unless there has been a material misstatement or
1170 misrepresentation or failure to comply with the underwriting
1171 requirements established by the insurer.

1172 3. After the policy has been in effect for 90 days, the
1173 policy may not be canceled by the insurer unless there has been
1174 a material misstatement, a nonpayment of premium, a failure to
1175 comply with underwriting requirements established by the insurer
1176 within 90 days after the date of effectuation of coverage, a
1177 substantial change in the risk covered by the policy, or the
1178 cancellation is for all insureds under such policies for a given
1179 class of insureds. This subparagraph does not apply to
1180 individually rated risks having a policy term of less than 90
1181 days.

1182 ~~4. The requirement for providing written notice by June 1~~
1183 ~~of any nonrenewal that would be effective between June 1 and~~
1184 ~~November 30 does not apply to the following situations, but the~~
1185 ~~insurer remains subject to the requirement to provide such~~
1186 ~~notice at least 100 days before the effective date of~~
1187 ~~nonrenewal:~~

1188 ~~a. A policy that is nonrenewed due to a revision in the~~
1189 ~~coverage for sinkhole losses and catastrophic ground cover~~

597-03465-13

20131046c1

1190 ~~collapse pursuant to s. 627.706.~~

1191 4.b. A policy that is nonrenewed by Citizens Property
1192 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1193 that has been assumed by an authorized insurer offering
1194 replacement coverage to the policyholder is exempt from the
1195 notice requirements of paragraph (a) and this paragraph. In such
1196 cases, the corporation must give the named insured written
1197 notice of nonrenewal at least 45 days before the effective date
1198 of the nonrenewal.

1199
1200 ~~After the policy has been in effect for 90 days, the policy may~~
1201 ~~not be canceled by the insurer unless there has been a material~~
1202 ~~misstatement, a nonpayment of premium, a failure to comply with~~
1203 ~~underwriting requirements established by the insurer within 90~~
1204 ~~days after the date of effectuation of coverage, or a~~
1205 ~~substantial change in the risk covered by the policy or if the~~
1206 ~~cancellation is for all insureds under such policies for a given~~
1207 ~~class of insureds. This paragraph does not apply to individually~~
1208 ~~rated risks having a policy term of less than 90 days.~~

1209 5. Notwithstanding any other provision of law, an insurer
1210 may cancel or nonrenew a property insurance policy after at
1211 least 45 days' notice if the office finds that the early
1212 cancellation of some or all of the insurer's policies is
1213 necessary to protect the best interests of the public or
1214 policyholders and the office approves the insurer's plan for
1215 early cancellation or nonrenewal of some or all of its policies.
1216 The office may base such finding upon the financial condition of
1217 the insurer, lack of adequate reinsurance coverage for hurricane
1218 risk, or other relevant factors. The office may condition its

597-03465-13

20131046c1

1219 finding on the consent of the insurer to be placed under
1220 administrative supervision pursuant to s. 624.81 or to the
1221 appointment of a receiver under chapter 631.

1222 6. A policy covering both a home and motor vehicle may be
1223 nonrenewed for any reason applicable to ~~either~~ the property or
1224 motor vehicle insurance after providing 90 days' notice.

1225 Section 31. Subsection (1) of section 627.4137, Florida
1226 Statutes, is amended to read:

1227 627.4137 Disclosure of certain information required.—

1228 (1) Each insurer that provides ~~which does~~ or may provide
1229 liability insurance coverage to pay all or a portion of a ~~any~~
1230 claim that ~~which~~ might be made shall provide, within 30 days
1231 after ~~of~~ the written request of the claimant, a statement, under
1232 oath, of a corporate officer or the insurer's claims manager, or
1233 superintendent, or licensed company adjuster setting forth the
1234 following information with regard to each known policy of
1235 insurance, including excess or umbrella insurance:

1236 (a) The name of the insurer.

1237 (b) The name of each insured.

1238 (c) The limits of the liability coverage.

1239 (d) A statement of any policy or coverage defense that the
1240 ~~which such~~ insurer reasonably believes is available to the ~~such~~
1241 insurer at the time of filing such statement.

1242 (e) A copy of the policy.

1243

1244 In addition, the insured, or her or his insurance agent, upon
1245 written request of the claimant or the claimant's attorney,
1246 shall disclose the name and coverage of each known insurer to
1247 the claimant and shall forward such request for information as

597-03465-13

20131046c1

1248 required by this subsection to all affected insurers. The
1249 insurer shall then supply the information required in this
1250 subsection to the claimant within 30 days after ~~of~~ receipt of
1251 such request.

1252 Section 32. Subsection (1) of section 627.421, Florida
1253 Statutes, is amended to read:

1254 627.421 Delivery of policy.—

1255 (1) Subject to the insurer's requirement as to payment of
1256 premium, every policy shall be mailed or delivered to the
1257 insured or to the person entitled thereto not later than 60 days
1258 after the effectuation of coverage. Notwithstanding any other
1259 provision of law, an insurer may allow a policyholder of
1260 personal lines insurance to affirmatively elect delivery of the
1261 policy documents, including, but not limited to, policies,
1262 endorsements, notices, or documents, by electronic means in lieu
1263 of delivery by mail.

1264 Section 33. Subsection (2) of section 627.43141, Florida
1265 Statutes, is amended to read:

1266 627.43141 Notice of change in policy terms.—

1267 (2) A renewal policy may contain a change in policy terms.
1268 If a renewal policy contains ~~does contain~~ such change, the
1269 insurer must give the named insured written notice of the
1270 change, which may either ~~must~~ be enclosed along with the written
1271 notice of renewal premium required by ss. 627.4133 and 627.728
1272 or sent in a separate notice that complies with the nonrenewal
1273 mailing time requirement for that particular line of business.
1274 The insurer must also provide a sample copy of the notice to the
1275 insured's insurance agent before or at the same time that notice
1276 is given to the insured. Such notice shall be entitled "Notice

597-03465-13

20131046c1

1277 of Change in Policy Terms.”

1278 Section 34. Section 627.6484, Florida Statutes, is amended
1279 to read:

1280 627.6484 Dissolution of association; termination of
1281 enrollment; availability of other coverage.-

1282 (1) The association shall accept applications for insurance
1283 only until June 30, 1991, after which date no further
1284 applications may be accepted. ~~Upon receipt of an application for~~
1285 ~~insurance, the association shall issue coverage for an eligible~~
1286 ~~applicant. When appropriate, the administrator shall forward a~~
1287 ~~copy of the application to a market assistance plan created by~~
1288 ~~the office, which shall conduct a diligent search of the private~~
1289 ~~marketplace for a carrier willing to accept the application.~~

1290 (2) Coverage for each policyholder of the association
1291 terminates at midnight, June 30, 2014, or on the date that
1292 health insurance coverage is effective with another insurer,
1293 whichever occurs first, and such coverage may not be renewed.

1294 (3) The association shall provide assistance to each
1295 policyholder concerning how to obtain health insurance coverage.
1296 Such assistance must include:

1297 (a) The identification of insurers and health maintenance
1298 organizations offering coverage in the individual market,
1299 including coverage inside and outside of the Health Insurance
1300 Exchange;

1301 (b) A basic explanation of the levels of coverage
1302 available; and

1303 (c) Specific information relating to local and online
1304 sources from which a policyholder may obtain detailed policy and
1305 premium comparisons and directly obtain coverage.

597-03465-13

20131046c1

1306 (4) The association shall provide written notice to all
1307 policyholders by September 1, 2013, which informs each
1308 policyholder with respect to:

1309 (a) The date that coverage with the association is
1310 terminated and that such coverage may not be renewed.

1311 (b) The opportunity for the policyholder to obtain
1312 individual health insurance coverage on a guaranteed-issue
1313 basis, regardless of policyholder's health status, from a health
1314 insurer or health maintenance organization that offers coverage
1315 in the individual market, including the dates of open enrollment
1316 periods for obtaining such coverage.

1317 (c) How to access coverage through the Health Insurance
1318 Exchange established for this state pursuant to the Patient
1319 Protection and Affordable Care Act and the potential for
1320 obtaining reduced premiums and cost-sharing provisions depending
1321 on the policyholder's family income level.

1322 (d) Contact information for a representative of the
1323 association who is able to provide additional information about
1324 obtaining individual health insurance coverage both inside and
1325 outside of the Health Insurance Exchange.

1326 (5) After termination of coverage, the association must
1327 continue to receive and process timely submitted claims in
1328 accordance with the laws of this state.

1329 (6) By March 15, 2015, the association shall determine the
1330 final assessment to be collected from insurers for funding
1331 claims and administrative expenses of the association or, if
1332 surplus funds remain, shall determine the refund amount to be
1333 provided to each insurer based on the same pro rata formula used
1334 for determining each insurer's assessment.

597-03465-13

20131046c1

- 1335 (7) By September 1, 2015, the board must:
- 1336 (a) Complete performance of all program responsibilities.
- 1337 (b) Sell or otherwise dispose of all physical assets of the
1338 association.
- 1339 (c) Make a final accounting of the finances of the
1340 association.
- 1341 (d) Transfer all records to the Office of Insurance
1342 Regulation, which shall serve as custodian of such records.
- 1343 (e) Execute a legal dissolution of the association and
1344 report such action to the Chief Financial Officer, the Insurance
1345 Commissioner, the President of the Senate, and the Speaker of
1346 the House of Representatives.
- 1347 ~~(2) The office shall, after consultation with the health~~
1348 ~~insurers licensed in this state, adopt a market assistance plan~~
1349 ~~to assist in the placement of risks of Florida Comprehensive~~
1350 ~~Health Association applicants. All health insurers and health~~
1351 ~~maintenance organizations licensed in this state shall~~
1352 ~~participate in the plan.~~
- 1353 ~~(3) Guidelines for the use of such program shall be a part~~
1354 ~~of the association's plan of operation. The guidelines shall~~
1355 ~~describe which types of applications are to be exempt from~~
1356 ~~submission to the market assistance plan. An exemption shall be~~
1357 ~~based upon a determination that due to a specific health~~
1358 ~~condition an applicant is ineligible for coverage in the~~
1359 ~~standard market. The guidelines shall also describe how the~~
1360 ~~market assistance plan is to be conducted, and how the periodic~~
1361 ~~reviews to depopulate the association are to be conducted.~~
- 1362 ~~(4) If a carrier is found through the market assistance~~
1363 ~~plan, the individual shall apply to that company. If the~~

597-03465-13

20131046c1

1364 ~~individual's application is accepted, association coverage shall~~
1365 ~~terminate upon the effective date of the coverage with the~~
1366 ~~private carrier. For the purpose of applying a preexisting~~
1367 ~~condition limitation or exclusion, any carrier accepting a risk~~
1368 ~~pursuant to this section shall provide coverage as if it began~~
1369 ~~on the date coverage was effectuated on behalf of the~~
1370 ~~association, and shall be indemnified by the association for~~
1371 ~~claims costs incurred as a result of utilizing such effective~~
1372 ~~date.~~

1373 ~~(5) The association shall establish a policyholder~~
1374 ~~assistance program by July 1, 1991, to assist in placing~~
1375 ~~eligible policyholders in other coverage programs, including~~
1376 ~~Medicare and Medicaid.~~

1377 Section 35. Section 627.64872, Florida Statutes, is
1378 repealed.

1379 Section 36. Effective October 1, 2015, sections 627.648,
1380 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649,
1381 627.6492, 627.6494, 627.6496, 627.6498, and 627.6499, Florida
1382 Statutes, are repealed.

1383 Section 37. Subsection (7) of section 627.701, Florida
1384 Statutes, is amended to read:

1385 627.701 Liability of insureds; coinsurance; deductibles.—

1386 (7) Before ~~Prior to~~ issuing a personal lines residential
1387 property insurance policy on or after January 1, 2014 ~~April 1,~~
1388 ~~1997,~~ or before ~~prior to~~ the first renewal of a residential
1389 property insurance policy on or after January 1, 2014 ~~April 1,~~
1390 ~~1997,~~ the insurer must, at a minimum, offer a deductible equal
1391 to \$750 and a deductible equal to 1 percent of the policy
1392 dwelling limits if such amount is not less than \$750, ~~\$500~~

597-03465-13

20131046c1

1393 applicable to losses from perils other than hurricane. Beginning
1394 July 1, 2018, and every 5 years thereafter, the office shall
1395 calculate and publish an adjustment to the \$750 deductible based
1396 on the average percentage change in the Consumer Price Index for
1397 All Urban Consumers, U.S. City Average, all items, compiled by
1398 the United States Department of Labor for the immediately
1399 preceding 5 calendar years. The adjustment to the \$750
1400 deductible shall be rounded to the nearest \$50 increment and
1401 take effect on the January 1 following the publication of the
1402 adjustment by the office. The first initial adjusted deductible
1403 shall take effect upon the renewal or issuance of policies on or
1404 after January 1, 2019 ~~The insurer must provide the policyholder~~
1405 ~~with notice of the availability of the deductible specified in~~
1406 ~~this subsection in a form approved by the office at least once~~
1407 ~~every 3 years. The failure to provide such notice constitutes a~~
1408 ~~violation of this code but does not affect the coverage provided~~
1409 ~~under the policy.~~ An insurer may require a higher deductible
1410 only as part of a deductible program lawfully in effect on June
1411 1, 1996, or as part of a similar deductible program.

1412 Section 38. Paragraph (b) of subsection (4) of section
1413 627.7015, Florida Statutes, is amended to read:

1414 627.7015 Alternative procedure for resolution of disputed
1415 property insurance claims.—

1416 (4) The department shall adopt by rule a property insurance
1417 mediation program to be administered by the department or its
1418 designee. The department may also adopt special rules which are
1419 applicable in cases of an emergency within the state. The rules
1420 shall be modeled after practices and procedures set forth in
1421 mediation rules of procedure adopted by the Supreme Court. The

597-03465-13

20131046c1

1422 rules shall provide for:

1423 (b) Qualifications, denial of application, suspension,
1424 revocation, and other penalties for ~~of~~ mediators as provided in
1425 s. 627.745 and in the Florida Rules of Certified and Court
1426 Appointed Mediators, ~~and for such other individuals as are~~
1427 ~~qualified by education, training, or experience as the~~
1428 ~~department determines to be appropriate.~~

1429 Section 39. Section 627.70151, Florida Statutes, is created
1430 to read:

1431 627.70151 Appraisal; conflicts of interest.—An insurer that
1432 offers residential coverage, as defined in s. 627.4025, or a
1433 policyholder that uses an appraisal clause in the property
1434 insurance contract to establish a process of estimating or
1435 evaluating the amount of the loss through the use of an
1436 impartial umpire may challenge the umpire's impartiality and
1437 disqualify the proposed umpire only if:

1438 (1) A familial relationship within the third degree exists
1439 between the umpire and any party or a representative of any
1440 party;

1441 (2) The umpire has previously represented any party or a
1442 representative of any party in a professional capacity in the
1443 same or a substantially related matter;

1444 (3) The umpire has represented another person in a
1445 professional capacity on the same or a substantially related
1446 matter, which includes the claim, same property, or an adjacent
1447 property and that other person's interests are materially
1448 adverse to the interests of any party; or

1449 (4) The umpire has worked as an employer or employee of any
1450 party within the preceding 5 years.

597-03465-13

20131046c1

1451 Section 40. Paragraph (c) of subsection (2) of section
1452 627.706, Florida Statutes, is amended to read:

1453 627.706 Sinkhole insurance; catastrophic ground cover
1454 collapse; definitions.—

1455 (2) As used in ss. 627.706-627.7074, and as used in
1456 connection with any policy providing coverage for a catastrophic
1457 ground cover collapse or for sinkhole losses, the term:

1458 (c) "Neutral evaluator" means a professional engineer or a
1459 professional geologist who has completed a course of study in
1460 alternative dispute resolution designed or approved by the
1461 department for use in the neutral evaluation process, and who is
1462 determined by the department to be fair and impartial, and who
1463 is not otherwise ineligible for certification as provided in s.
1464 627.7074.

1465 Section 41. Subsection (1) of section 627.7074, Florida
1466 Statutes, is amended to read:

1467 627.7074 Alternative procedure for resolution of disputed
1468 sinkhole insurance claims.—

1469 (1) The department shall:

1470 (a) Certify and maintain a list of persons who are neutral
1471 evaluators.

1472 (b) Adopt rules for certifying, denying certification,
1473 suspending certification, and revoking certification as a
1474 neutral evaluator, in keeping with qualifications specified in
1475 this section and ss. 627.706 and 627.745(4).

1476 (c) ~~(b)~~ Prepare a consumer information pamphlet for
1477 distribution by insurers to policyholders which clearly
1478 describes the neutral evaluation process and includes
1479 information necessary for the policyholder to request a neutral

597-03465-13

20131046c1

1480 evaluation.

1481 Section 42. Paragraph (a) of subsection (5) of section
1482 627.736, Florida Statutes, is amended to read:

1483 627.736 Required personal injury protection benefits;
1484 exclusions; priority; claims.—

1485 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

1486 (a) A physician, hospital, clinic, or other person or
1487 institution lawfully rendering treatment to an injured person
1488 for a bodily injury covered by personal injury protection
1489 insurance may charge the insurer and injured party only a
1490 reasonable amount pursuant to this section for the services and
1491 supplies rendered, and the insurer providing such coverage may
1492 pay for such charges directly to such person or institution
1493 lawfully rendering such treatment if the insured receiving such
1494 treatment or his or her guardian has countersigned the properly
1495 completed invoice, bill, or claim form approved by the office
1496 upon which such charges are to be paid for as having actually
1497 been rendered, to the best knowledge of the insured or his or
1498 her guardian. However, such a charge may not exceed the amount
1499 the person or institution customarily charges for like services
1500 or supplies. In determining whether a charge for a particular
1501 service, treatment, or otherwise is reasonable, consideration
1502 may be given to evidence of usual and customary charges and
1503 payments accepted by the provider involved in the dispute,
1504 reimbursement levels in the community and various federal and
1505 state medical fee schedules applicable to motor vehicle and
1506 other insurance coverages, and other information relevant to the
1507 reasonableness of the reimbursement for the service, treatment,
1508 or supply.

597-03465-13

20131046c1

1509 1. The insurer may limit reimbursement to 80 percent of the
1510 following schedule of maximum charges:

1511 a. For emergency transport and treatment by providers
1512 licensed under chapter 401, 200 percent of Medicare.

1513 b. For emergency services and care provided by a hospital
1514 licensed under chapter 395, 75 percent of the hospital's usual
1515 and customary charges.

1516 c. For emergency services and care as defined by s. 395.002
1517 provided in a facility licensed under chapter 395 rendered by a
1518 physician or dentist, and related hospital inpatient services
1519 rendered by a physician or dentist, the usual and customary
1520 charges in the community.

1521 d. For hospital inpatient services, other than emergency
1522 services and care, 200 percent of the Medicare Part A
1523 prospective payment applicable to the specific hospital
1524 providing the inpatient services.

1525 e. For hospital outpatient services, other than emergency
1526 services and care, 200 percent of the Medicare Part A Ambulatory
1527 Payment Classification for the specific hospital providing the
1528 outpatient services.

1529 f. For all other medical services, supplies, and care, 200
1530 percent of the allowable amount under:

1531 (I) The participating physicians fee schedule of Medicare
1532 Part B, except as provided in sub-sub-subparagraphs (II) and
1533 (III).

1534 (II) Medicare Part B, in the case of services, supplies,
1535 and care provided by ambulatory surgical centers and clinical
1536 laboratories.

1537 (III) The Durable Medical Equipment Prosthetics/Orthotics

597-03465-13

20131046c1

1538 and Supplies fee schedule of Medicare Part B, in the case of
1539 durable medical equipment.

1540

1541 However, if such services, supplies, or care is not reimbursable
1542 under Medicare Part B, as provided in this sub-subparagraph, the
1543 insurer may limit reimbursement to 80 percent of the maximum
1544 reimbursable allowance under workers' compensation, as
1545 determined under s. 440.13 and rules adopted thereunder which
1546 are in effect at the time such services, supplies, or care is
1547 provided. Services, supplies, or care that is not reimbursable
1548 under Medicare or workers' compensation is not required to be
1549 reimbursed by the insurer.

1550 2. For purposes of subparagraph 1., the applicable fee
1551 schedule or payment limitation under Medicare is the fee
1552 schedule or payment limitation in effect on March 1 of the year
1553 in which the services, supplies, or care is rendered and for the
1554 area in which such services, supplies, or care is rendered, and
1555 the applicable fee schedule or payment limitation applies from
1556 March 1 until the last day of the following February ~~throughout~~
1557 ~~the remainder of that year~~, notwithstanding any subsequent
1558 change made to the fee schedule or payment limitation, except
1559 that it may not be less than the allowable amount under the
1560 applicable schedule of Medicare Part B for 2007 for medical
1561 services, supplies, and care subject to Medicare Part B.

1562 3. Subparagraph 1. does not allow the insurer to apply any
1563 limitation on the number of treatments or other utilization
1564 limits that apply under Medicare or workers' compensation. An
1565 insurer that applies the allowable payment limitations of
1566 subparagraph 1. must reimburse a provider who lawfully provided

597-03465-13

20131046c1

1567 care or treatment under the scope of his or her license,
1568 regardless of whether such provider is entitled to reimbursement
1569 under Medicare due to restrictions or limitations on the types
1570 or discipline of health care providers who may be reimbursed for
1571 particular procedures or procedure codes. However, subparagraph
1572 1. does not prohibit an insurer from using the Medicare coding
1573 policies and payment methodologies of the federal Centers for
1574 Medicare and Medicaid Services, including applicable modifiers,
1575 to determine the appropriate amount of reimbursement for medical
1576 services, supplies, or care if the coding policy or payment
1577 methodology does not constitute a utilization limit.

1578 4. If an insurer limits payment as authorized by
1579 subparagraph 1., the person providing such services, supplies,
1580 or care may not bill or attempt to collect from the insured any
1581 amount in excess of such limits, except for amounts that are not
1582 covered by the insured's personal injury protection coverage due
1583 to the coinsurance amount or maximum policy limits.

1584 5. Effective July 1, 2012, an insurer may limit payment as
1585 authorized by this paragraph only if the insurance policy
1586 includes a notice at the time of issuance or renewal that the
1587 insurer may limit payment pursuant to the schedule of charges
1588 specified in this paragraph. A policy form approved by the
1589 office satisfies this requirement. If a provider submits a
1590 charge for an amount less than the amount allowed under
1591 subparagraph 1., the insurer may pay the amount of the charge
1592 submitted.

1593 Section 43. Subsection (3) of section 627.745, Florida
1594 Statutes, is amended, present subsections (4) and (5) of that
1595 section are renumbered as subsections (5) and (6), respectively,

597-03465-13

20131046c1

1596 and a new subsection (4) is added to that section, to read:

1597 627.745 Mediation of claims.—

1598 (3) (a) The department shall approve mediators to conduct
1599 mediations pursuant to this section. All mediators must file an
1600 application under oath for approval as a mediator.

1601 (b) To qualify for approval as a mediator, an individual ~~a~~
1602 ~~person~~ must meet one of the following qualifications:

1603 1. Possess an active certification as a Florida Circuit
1604 Court Mediator. A Florida Circuit Court Mediator in a lapsed,
1605 suspended, or decertified status is not eligible to participate
1606 in the mediation program ~~a masters or doctorate degree in~~
1607 ~~psychology, counseling, business, accounting, or economics, be a~~
1608 ~~member of The Florida Bar, be licensed as a certified public~~
1609 ~~accountant, or demonstrate that the applicant for approval has~~
1610 ~~been actively engaged as a qualified mediator for at least 4~~
1611 ~~years prior to July 1, 1990.~~

1612 2. Be an approved department mediator as of July 1, 2013,
1613 and have conducted at least one mediation on behalf of the
1614 department within 4 years immediately preceding that the date
1615 ~~the application for approval is filed with the department, have~~
1616 ~~completed a minimum of a 40-hour training program approved by~~
1617 ~~the department and successfully passed a final examination~~
1618 ~~included in the training program and approved by the department.~~
1619 ~~The training program shall include and address all of the~~
1620 ~~following:~~

1621 ~~a. Mediation theory.~~

1622 ~~b. Mediation process and techniques.~~

1623 ~~e. Standards of conduct for mediators.~~

1624 ~~d. Conflict management and intervention skills.~~

597-03465-13

20131046c1

1625 ~~e. Insurance nomenclature.~~

1626 (4) The department shall deny an application, or suspend or
 1627 revoke its approval of a mediator or its certification of a
 1628 neutral evaluator to serve in such capacity, if it finds that
 1629 any of the following grounds exist:

1630 (a) Lack of one or more of the qualifications specified in
 1631 this section for approval or certification.

1632 (b) Material misstatement, misrepresentation, or fraud in
 1633 obtaining or attempting to obtain the approval or certification.

1634 (c) Demonstrated lack of fitness or trustworthiness to act
 1635 as a mediator or neutral evaluator.

1636 (d) Fraudulent or dishonest practices in the conduct of
 1637 mediation or neutral evaluation or in the conduct of business in
 1638 the financial services industry.

1639 (e) Violation of any provision of this code, a lawful order
 1640 or rule of the department, the Florida Rules for Certified and
 1641 Court-Appointed Mediators, or aiding, instructing, or
 1642 encouraging another party in committing such a violation.

1643
 1644 The department may adopt rules to administer this subsection.

1645 Section 44. Subsection (4) of section 627.841, Florida
 1646 Statutes, is amended to read:

1647 627.841 Delinquency, collection, cancellation, and payment
 1648 ~~check return charge charges; attorney attorney's~~ fees.—

1649 (4) In the event that a payment is made to a premium
 1650 finance company by debit, credit, electronic funds transfer,
 1651 check, or draft and such payment the instrument is returned,
 1652 declined, or cannot be processed due to ~~because of~~ insufficient
 1653 funds ~~to pay it,~~ the premium finance company may, if the premium

597-03465-13

20131046c1

1654 finance agreement so provides, impose a return payment charge of
1655 \$15.

1656 Section 45. Paragraph (b) of subsection (1) of section
1657 627.952, Florida Statutes, is amended to read:

1658 627.952 Risk retention and purchasing group agents.—

1659 (1) Any person offering, soliciting, selling, purchasing,
1660 administering, or otherwise servicing insurance contracts,
1661 certificates, or agreements for any purchasing group or risk
1662 retention group to a a ~~any~~ resident of this state, either directly
1663 or indirectly, by the use of mail, advertising, or other means
1664 of communication, shall obtain a license and appointment to act
1665 as a resident general lines agent, if a resident of this state,
1666 or a nonresident general lines agent if not a resident. Any such
1667 person shall be subject to all requirements of the Florida
1668 Insurance Code.

1669 (b) A ~~Any~~ person required to be licensed and appointed
1670 under this subsection, in order to place business through
1671 Florida eligible surplus lines carriers, must, if a resident of
1672 this state, be licensed and appointed as a surplus lines agent.
1673 If not a resident of this state, such person must be licensed
1674 and appointed as a nonresident surplus lines agent in this ~~her~~
1675 ~~or his~~ state of residence and file and maintain a fidelity bond
1676 in favor of the people of the State of Florida executed by a
1677 surety company admitted in this state and payable to the State
1678 of Florida; however, such nonresident is limited to the
1679 ~~provision of insurance for purchasing groups. The bond must be~~
1680 ~~continuous in form and in the amount of not less than \$50,000,~~
1681 ~~aggregate liability. The bond must remain in force and effect~~
1682 ~~until the surety is released from liability by the department or~~

597-03465-13

20131046c1

1683 ~~until the bond is canceled by the surety. The surety may cancel~~
1684 ~~the bond and be released from further liability upon 30 days'~~
1685 ~~prior written notice to the department. The cancellation does~~
1686 ~~not affect any liability incurred or accrued before the~~
1687 ~~termination of the 30-day period. Upon receipt of a notice of~~
1688 ~~cancellation, the department shall immediately notify the agent.~~

1689 Section 46. Subsection (6) of section 627.971, Florida
1690 Statutes, is amended to read:

1691 627.971 Definitions.—As used in this part:

1692 (6) "Financial guaranty insurance corporation" means a
1693 stock or mutual insurer licensed to transact financial guaranty
1694 insurance business in this state.

1695 Section 47. Subsection (1) of section 627.972, Florida
1696 Statutes, is amended to read:

1697 627.972 Organization; financial requirements.—

1698 (1) A financial guaranty insurance corporation must be
1699 organized and licensed in the manner prescribed in this code for
1700 stock or mutual property and casualty insurers except that:

1701 (a) A corporation organized to transact financial guaranty
1702 insurance may, subject to the provisions of this code, be
1703 licensed to transact:

- 1704 1. Residual value insurance, as defined by s. 624.6081;
- 1705 2. Surety insurance, as defined by s. 624.606;
- 1706 3. Credit insurance, as defined by s. 624.605(1)(i); and
- 1707 4. Mortgage guaranty insurance as defined in s. 635.011,
- 1708 provided that the provisions of chapter 635 are met.

1709 (b)1. Before ~~Prior to~~ the issuance of a license, a
1710 corporation must submit to the office for approval, a plan of
1711 operation detailing:

597-03465-13

20131046c1

1712 a. The types and projected diversification of guaranties to
1713 be issued;

1714 b. The underwriting procedures to be followed;

1715 c. The managerial oversight methods;

1716 d. The investment policies; and

1717 e. ~~Any~~ Other matters prescribed by the office;

1718 2. An insurer which is writing only the types of insurance
1719 allowed under this part on July 1, 1988, and otherwise meets the
1720 requirements of this part, is exempt from the requirements of
1721 this paragraph.

1722 (c) An insurer transacting financial guaranty insurance is
1723 subject to all provisions of this code that are applicable to
1724 property and casualty insurers to the extent that those
1725 provisions are not inconsistent with this part.

1726 (d) The investments of an insurer transacting financial
1727 guaranty insurance in an ~~any~~ entity insured by the corporation
1728 may not exceed 2 percent of its admitted assets as of the end of
1729 the prior calendar year.

1730 (e) An insurer transacting financial guaranty insurance may
1731 only assume those lines of insurance for which it is licensed to
1732 write direct business.

1733 Section 48. Subsections (8), (9), and (13) of section
1734 628.901, Florida Statutes, are amended to read:

1735 628.901 Definitions.—As used in this part, the term:

1736 (8) "Industrial insured" means an insured that:

1737 (a) Has gross assets in excess of \$50 million;

1738 (b) Procures insurance through the use of a full-time
1739 employee of the insured who acts as an insurance manager or
1740 buyer or through the services of a person licensed as a property

597-03465-13

20131046c1

1741 and casualty insurance agent, broker, or consultant in such
1742 person's state of domicile;

1743 (c) Has at least 100 full-time employees; and

1744 (d) Pays annual premiums of at least \$200,000 for each line
1745 of insurance purchased from the industrial insured captive
1746 insurance company insurer or at least \$75,000 for any line of
1747 coverage in excess of at least \$25 million in the annual
1748 aggregate. The purchase of umbrella or general liability
1749 coverage in excess of \$25 million in the annual aggregate shall
1750 be deemed to be the purchase of a single line of insurance.

1751 (9) "Industrial insured captive insurance company" means a
1752 ~~captive insurance~~ company that provides insurance only to the
1753 industrial insureds that are its stockholders or members, and
1754 affiliates thereof, or to the stockholders, and affiliates
1755 thereof, of its parent corporation. An industrial insured
1756 captive insurance company can also provide reinsurance to
1757 insurers only on risks written by such insurers for the
1758 industrial insureds that are the stockholders or members, and
1759 affiliates thereof, of the industrial insured captive insurance
1760 company insurer, or the stockholders, and affiliates thereof, of
1761 the parent corporation of the industrial insured captive
1762 insurance company insurer.

1763 (13) "Qualifying reinsurer parent company" means a
1764 reinsurer that ~~which~~ currently holds a certificate of authority,
1765 ~~letter of eligibility~~ or is an accredited or trusteed under s.
1766 624.610(3)(c) ~~a satisfactory non-approved~~ reinsurer in this
1767 state possessing a consolidated GAAP net worth of at least \$500
1768 million and a consolidated debt to total capital ratio of not
1769 greater than 0.50.

597-03465-13

20131046c1

1770 Section 49. Subsections (1), (2), (4), and (5) of section
1771 628.905, Florida Statutes, are amended to read:

1772 628.905 Licensing; authority.—

1773 (1) A captive insurance company ~~insurer~~, if permitted by
1774 its charter or articles of incorporation, may apply to the
1775 office for a license to do any and all insurance authorized
1776 under the insurance code, other than workers' compensation and
1777 employer's liability, life, health, personal motor vehicle, and
1778 personal residential property insurance, except that:

1779 (a) A pure captive insurance company may not insure ~~any~~
1780 risks other than those of its parent, affiliated companies,
1781 controlled unaffiliated businesses, or a combination thereof.

1782 (b) An industrial insured captive insurance company may not
1783 insure ~~any~~ risks other than those of the industrial insureds
1784 that comprise the industrial insured group and their affiliated
1785 companies, or its stockholders or members, and affiliates
1786 thereof, of the industrial insured captive, or the stockholders
1787 or affiliates of the parent corporation of the industrial
1788 insured captive insurance company.

1789 (c) A special purpose captive insurance company may insure
1790 only the risks of its parent.

1791 (d) A captive insurance company may not accept or cede
1792 reinsurance except as provided in this part.

1793 (e) An industrial insured captive insurance company with
1794 unencumbered capital and surplus of at least \$20 million may be
1795 licensed to provide workers' compensation and employer's
1796 liability insurance in excess of \$25 million in the annual
1797 aggregate. An industrial insured captive insurance company must
1798 maintain unencumbered capital and surplus of at least \$20

597-03465-13

20131046c1

1799 million to continue to write excess workers' compensation
1800 insurance.

1801 (2) To conduct insurance business in this state, a captive
1802 insurance company insurer must:

1803 (a) Obtain from the office a license authorizing it to
1804 conduct insurance business in this state;

1805 (b) Hold at least one board of directors' meeting each year
1806 in this state;

1807 (c) Maintain its principal place of business in this state;
1808 and

1809 (d) Appoint a resident registered agent to accept service
1810 of process and to otherwise act on its behalf in this state. In
1811 the case of a captive insurance company formed as a corporation
1812 or a nonprofit corporation, if the registered agent cannot with
1813 reasonable diligence be found at the registered office of the
1814 captive insurance company, the Chief Financial Officer of this
1815 state must be an agent of the captive insurance company upon
1816 whom ~~any~~ process, notice, or demand may be served.

1817 (4) A captive insurance company or captive reinsurance
1818 company must pay to the office a nonrefundable fee of \$1,500 for
1819 processing its application for license.

1820 (a) A captive insurance company or captive reinsurance
1821 company must also pay an annual renewal fee of \$1,000.

1822 (b) The office may charge a fee of \$5 for a ~~any~~ document
1823 requiring certification of authenticity or the signature of the
1824 office commissioner ~~or his or her designee.~~

1825 (5) If the office commissioner ~~is~~ satisfied that the
1826 documents and statements filed by the captive insurance company
1827 comply with this chapter, the office commissioner may grant a

597-03465-13

20131046c1

1828 license authorizing the company to conduct insurance business in
1829 this state until the next succeeding March 1, at which time the
1830 license may be renewed.

1831 Section 50. Subsection (1) of section 628.907, Florida
1832 Statutes, is amended to read:

1833 628.907 Minimum capital and net assets requirements;
1834 restriction on payment of dividends.—

1835 (1) A captive insurance company ~~insurer~~ may not be issued a
1836 license unless it possesses and thereafter maintains unimpaired
1837 paid-in capital of:

1838 (a) In the case of a pure captive insurance company, at
1839 least \$100,000.

1840 (b) In the case of an industrial insured captive insurance
1841 company incorporated as a stock insurer, at least \$200,000.

1842 (c) In the case of a special purpose captive insurance
1843 company, an amount determined by the office after giving due
1844 consideration to the company's business plan, feasibility study,
1845 and pro forma financial statements and projections, including
1846 the nature of the risks to be insured.

1847 Section 51. Section 628.909, Florida Statutes, is amended
1848 to read:

1849 628.909 Applicability of other laws.—

1850 (1) The Florida Insurance Code does not apply to captive
1851 insurance companies ~~insurers~~ or industrial insured captive
1852 insurance companies ~~insurers~~ except as provided in this part and
1853 subsections (2) and (3).

1854 (2) The following provisions of the Florida Insurance Code
1855 apply to captive insurance companies ~~insurers~~ who are not
1856 industrial insured captive insurance companies ~~insurers~~ to the

597-03465-13

20131046c1

1857 extent that such provisions are not inconsistent with this part:

1858 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1859 624.40851, 624.4095, 624.411, 624.425, and 624.426.

1860 (b) Chapter 625, part II.

1861 (c) Chapter 626, part IX.

1862 (d) Sections 627.730-627.7405, when no-fault coverage is
1863 provided.

1864 (e) Chapter 628.

1865 (3) The following provisions of the Florida Insurance Code
1866 apply to industrial insured captive insurance companies ~~insurers~~
1867 to the extent that such provisions are not inconsistent with
1868 this part:

1869 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1870 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

1871 (b) Chapter 625, part II, if the industrial insured captive
1872 insurance companies ~~insurer~~ is incorporated in this state.

1873 (c) Chapter 626, part IX.

1874 (d) Sections 627.730-627.7405 when no-fault coverage is
1875 provided.

1876 (e) Chapter 628, except for ss. 628.341, 628.351, and
1877 628.6018.

1878 Section 52. Subsection (2) of section 628.9142, Florida
1879 Statutes, is amended to read:

1880 628.9142 Reinsurance; effect on reserves.—

1881 (2) A captive insurance company may take credit for
1882 reserves on risks or portions of risks ceded to authorized
1883 insurers or reinsurers and unauthorized insurers or reinsurers
1884 complying with s. 624.610. A captive insurance company ~~insurer~~
1885 may not take credit for reserves on risks or portions of risks

597-03465-13

20131046c1

1886 ceded to an unauthorized insurer or reinsurer if the insurer or
1887 reinsurer is not in compliance with s. 624.610.

1888 Section 53. Section 628.915, Florida Statutes, is amended
1889 to read:

1890 628.915 Exemption from compulsory association.—

1891 (1) ~~A No~~ captive insurance company ~~may not insurer shall be~~
1892 ~~permitted to~~ join or contribute financially to a any joint
1893 underwriting association or guaranty fund in this state, and a +
1894 ~~nor shall any~~ captive insurance company insurer, its insured, or
1895 its parent or any affiliated company may not receive any benefit
1896 from any such joint underwriting association or guaranty fund
1897 for claims arising out of the operations of such captive
1898 insurer.

1899 (2) An No industrial insured captive insurance company ~~may~~
1900 ~~not insurer shall be permitted to~~ join or contribute financially
1901 to any joint underwriting association or guaranty fund in this
1902 state; nor shall any industrial insured captive insurance
1903 company insurer, its industrial insured, or its parent or any
1904 affiliated company receive any benefit from any such joint
1905 underwriting association or guaranty fund for claims arising out
1906 of the operations of such industrial insured captive insurance
1907 company insurer.

1908 Section 54. Section 628.917, Florida Statutes, is amended
1909 to read:

1910 628.917 Insolvency and liquidation.—In the event that a
1911 captive insurance company insurer is insolvent as defined in
1912 chapter 631, the office shall liquidate the captive insurance
1913 company insurer pursuant to the provisions of part I of chapter
1914 631. ~~except that~~ The office may not shall make no attempt to

597-03465-13

20131046c1

1915 rehabilitate such insurer.

1916 Section 55. Section 628.919, Florida Statutes, is amended
1917 to read:

1918 628.919 Standards to ensure risk management control by
1919 parent company.—A pure captive insurance company shall submit to
1920 the office for approval ~~The Financial Services Commission shall~~
1921 ~~adopt rules establishing~~ standards to ensure that a parent or
1922 affiliated company is able to exercise control of the risk
1923 management function of any controlled unaffiliated business to
1924 be insured by the pure captive insurance company.

1925 Section 56. Subsection (8) of section 634.406, Florida
1926 Statutes, is renumbered as subsection (7), and present
1927 subsections (6) and (7) of that section are amended, to read:

1928 634.406 Financial requirements.—

1929 (6) An association that ~~which~~ holds a license under this
1930 part ~~and which does not hold any other license under this~~
1931 ~~chapter~~ may allow its premiums for service warranties written
1932 under this part to exceed the ratio to net assets limitations of
1933 this section if the association meets all of the following:

1934 (a) Maintains net assets of at least \$750,000.

1935 (b) Utilizes a contractual liability insurance policy
1936 approved by the office which:

1937 1. Reimburses the service warranty association for 100
1938 percent of its claims liability and is issued by an insurer that
1939 maintains a policyholder surplus of at least \$100 million; or

1940 2. Complies with the requirements of subsection (3) and is
1941 issued by an insurer that maintains a policyholder surplus of at
1942 least \$200 million.

1943 (c) The insurer issuing the contractual liability insurance

597-03465-13

20131046c1

1944 policy:

1945 ~~1. Maintains a policyholder surplus of at least \$100~~
1946 ~~million.~~1947 1.2. Is rated "A" or higher by A.M. Best Company or an
1948 equivalent rating by another national rating service acceptable
1949 to the office.1950 ~~3. Is in no way affiliated with the warranty association.~~1951 2.4. In conjunction with the warranty association's filing
1952 of the quarterly and annual reports, provides, on a form
1953 prescribed by the commission, a statement certifying the gross
1954 written premiums in force reported by the warranty association
1955 and a statement that all of the warranty association's gross
1956 written premium in force is covered under the contractual
1957 liability policy, whether or not it has been reported.1958 ~~(7) A contractual liability policy must insure 100 percent~~
1959 ~~of an association's claims exposure under all of the~~
1960 ~~association's service warranty contracts, wherever written,~~
1961 ~~unless all of the following are satisfied:~~1962 ~~(a) The contractual liability policy contains a clause that~~
1963 ~~specifically names the service warranty contract holders as sole~~
1964 ~~beneficiaries of the contractual liability policy and claims are~~
1965 ~~paid directly to the person making a claim under the contract;~~1966 ~~(b) The contractual liability policy meets all other~~
1967 ~~requirements of this part, including subsection (3) of this~~
1968 ~~section, which are not inconsistent with this subsection;~~1969 ~~(c) The association has been in existence for at least 5~~
1970 ~~years or the association is a wholly owned subsidiary of a~~
1971 ~~corporation that has been in existence and has been licensed as~~
1972 ~~a service warranty association in the state for at least 5~~

597-03465-13

20131046c1

1973 years, and:

1974 ~~1. Is listed and traded on a recognized stock exchange; is~~
1975 ~~listed in NASDAQ (National Association of Security Dealers~~
1976 ~~Automated Quotation system) and publicly traded in the over-the-~~
1977 ~~counter securities market; is required to file either of Form~~
1978 ~~10-K, Form 100, or Form 20-C with the United States Securities~~
1979 ~~and Exchange Commission; or has American Depository Receipts~~
1980 ~~listed on a recognized stock exchange and publicly traded or is~~
1981 ~~the wholly owned subsidiary of a corporation that is listed and~~
1982 ~~traded on a recognized stock exchange; is listed in NASDAQ~~
1983 ~~(National Association of Security Dealers Automated Quotation~~
1984 ~~system) and publicly traded in the over-the-counter securities~~
1985 ~~market; is required to file Form 10-K, Form 100, or Form 20-C~~
1986 ~~with the United States Securities and Exchange Commission; or~~
1987 ~~has American Depository Receipts listed on a recognized stock~~
1988 ~~exchange and is publicly traded;~~

1989 ~~2. Maintains outstanding debt obligations, if any, rated in~~
1990 ~~the top four rating categories by a recognized rating service;~~

1991 ~~3. Has and maintains at all times a minimum net worth of~~
1992 ~~not less than \$10 million as evidenced by audited financial~~
1993 ~~statements prepared by an independent certified public~~
1994 ~~accountant in accordance with generally accepted accounting~~
1995 ~~principles and submitted to the office annually; and~~

1996 ~~4. Is authorized to do business in this state; and~~

1997 ~~(d) The insurer issuing the contractual liability policy:~~

1998 ~~1. Maintains and has maintained for the preceding 5 years,~~
1999 ~~policyholder surplus of at least \$100 million and is rated "A"~~
2000 ~~or higher by A.M. Best Company or has an equivalent rating by~~
2001 ~~another rating company acceptable to the office;~~

597-03465-13

20131046c1

2002 ~~2. Holds a certificate of authority to do business in this~~
2003 ~~state and is approved to write this type of coverage; and~~

2004 ~~3. Acknowledges to the office quarterly that it insures all~~
2005 ~~of the association's claims exposure under contracts delivered~~
2006 ~~in this state.~~

2007

2008 ~~If all the preceding conditions are satisfied, then the scope of~~
2009 ~~coverage under a contractual liability policy shall not be~~
2010 ~~required to exceed an association's claims exposure under~~
2011 ~~service warranty contracts delivered in this state.~~

2012 Section 57. Except as otherwise expressly provided in this
2013 act, this act shall take effect upon becoming a law.