

1 A bill to be entitled
2 An act relating to insurance; amending s. 215.555,
3 F.S.; revising the date of the future repeal of an
4 exemption of medical malpractice insurance premiums
5 from emergency assessments imposed to fund certain
6 obligations, costs, and expenses of the Florida
7 Hurricane Catastrophe Fund and the Florida Hurricane
8 Catastrophe Fund Finance Corporation; amending s.
9 316.646, F.S.; authorizing a uniform motor vehicle
10 proof-of-insurance card to be in an electronic format;
11 providing construction with respect to the parameters
12 of a person's consent to access information on an
13 electronic device presented to provide proof of
14 insurance; providing immunity from liability to a law
15 enforcement officer for damage to an electronic device
16 presented to provide proof of insurance; authorizing
17 the Department of Highway Safety and Motor Vehicles to
18 adopt rules; amending s. 320.02, F.S.; authorizing
19 insurers to furnish uniform proof-of-purchase cards in
20 an electronic format for use by insureds to prove the
21 purchase of required insurance coverage when
22 registering a motor vehicle; amending s. 554.1021,
23 F.S.; defining the term "authorized inspection
24 agency"; amending s. 554.107, F.S.; requiring the
25 chief inspector of the state boiler inspection program
26 to issue a certificate of competency as a special
27 inspector to certain individuals; specifying how long
28 such certificate remains in effect; amending s.

29 | 554.109, F.S.; authorizing specified insurers to
30 | contract with an authorized inspection agency for
31 | boiler inspections; requiring such insurers to
32 | annually report the identity of contracted authorized
33 | inspection agencies to the Department of Financial
34 | Services; amending s. 624.413, F.S.; revising a
35 | specified time period applicable to a certified
36 | examination that must be filed by a foreign or alien
37 | insurer applying for a certificate of authority;
38 | amending s. 626.0428, F.S.; requiring a branch place
39 | of business to have an agent in charge and a general
40 | lines agent or life or health agent appointed to
41 | represent one or more insurers; authorizing an agent
42 | to be in charge of more than one branch office under
43 | certain circumstances; providing requirements relating
44 | to the designation of an agent in charge; prohibiting
45 | an insurance agency from conducting insurance business
46 | at a location without a designated agent in charge;
47 | providing grounds for the Department of Financial
48 | Services to order operations to cease at certain
49 | insurance agency locations until an agent in charge is
50 | properly designated; amending s. 626.112, F.S.;
51 | providing licensure exemptions that allow specified
52 | individuals or entities to conduct insurance business
53 | at specified locations under certain circumstances;
54 | revising licensure requirements and penalties with
55 | respect to registered insurance agencies; providing
56 | that the registration of an approved registered

57 | insurance agency automatically converts to an
58 | insurance agency license on a specified date; amending
59 | s. 626.172, F.S.; revising requirements relating to
60 | applications for insurance agency licenses; conforming
61 | provisions to changes made by the act; amending s.
62 | 626.321, F.S.; providing that a limited license to
63 | offer motor vehicle rental insurance issued to a
64 | business that rents or leases motor vehicles
65 | encompasses the employees of such business; amending
66 | s. 626.382, F.S.; providing that an insurance agency
67 | license continues in force until canceled, suspended,
68 | revoked, or terminated; amending s. 626.601, F.S.;
69 | revising terminology relating to investigations
70 | conducted by the Department of Financial Services and
71 | the Office of Insurance Regulation with respect to
72 | individuals and entities involved in the insurance
73 | industry; repealing s. 626.747, F.S., relating to
74 | branch agencies, agents in charge, and the payment of
75 | additional county tax under certain circumstances;
76 | amending s. 626.8411, F.S.; conforming a cross-
77 | reference; amending s. 626.9914, F.S.; conforming a
78 | provision to changes made by the act; amending s.
79 | 626.99175, F.S.; deleting provisions requiring
80 | registration of life expectancy providers; deleting
81 | procedures, qualifying criteria, and violations with
82 | respect thereto; amending ss. 626.9919, 626.992,
83 | 626.9925, and 626.99278, F.S.; conforming provisions
84 | to changes made by the act; amending s. 627.062, F.S.;

85 requiring the Office of Insurance Regulation to use
86 certain models or straight averages of certain models
87 to estimate hurricane losses when determining whether
88 the rates in a rate filing are excessive, inadequate,
89 or unfairly discriminatory; amending s. 627.0628,
90 F.S.; increasing the length of time during which an
91 insurer must adhere to certain findings made by the
92 Commission on Hurricane Loss Projection Methodology
93 with respect to certain methods, principles,
94 standards, models, or output ranges used in a rate
95 finding; providing that the requirement to adhere to
96 such findings does not limit an insurer from using a
97 straight average of results of certain models or
98 output ranges under specified circumstances; amending
99 s. 627.072, F.S.; authorizing retrospective rating
100 plans relating to workers' compensation and employer's
101 liability insurance to allow negotiations between
102 certain employers and insurers with respect to rating
103 factors used to calculate premiums; amending s.
104 627.281, F.S.; conforming a cross-reference; repealing
105 s. 627.3519, F.S., relating to an annual report from
106 the Financial Services Commission to the Legislature
107 of aggregate net probable maximum losses, financing
108 options, and potential assessments of the Florida
109 Hurricane Catastrophe Fund and Citizens Property
110 Insurance Corporation; amending s. 627.4133, F.S.;
111 increasing the amount of prior notice required with
112 respect to the nonrenewal, cancellation, or

113 termination of certain insurance policies; deleting
114 certain provisions that require extended periods of
115 prior notice with respect to the nonrenewal,
116 cancellation, or termination of certain insurance
117 policies; prohibiting the cancellation of certain
118 policies that have been in effect for a specified
119 amount of time except under certain circumstances;
120 amending s. 627.4137, F.S.; adding licensed company
121 adjusters to the list of persons who may respond to a
122 claimant's written request for information relating to
123 liability insurance coverage; amending s. 627.421,
124 F.S.; authorizing the electronic delivery of certain
125 insurance documents; amending s. 627.43141, F.S.;
126 authorizing a notice of change in policy terms to be
127 sent in a separate mailing to an insured under certain
128 circumstances; requiring an insurer to provide such
129 notice to insured's insurance agent; amending s.
130 627.7015, F.S.; revising the rulemaking authority of
131 the department with respect to qualifications and
132 specified types of penalties covered under the
133 property insurance mediation program; creating s.
134 627.70151, F.S.; providing criteria for an insurer or
135 policyholder to challenge the impartiality of a loss
136 appraisal umpire for purposes of disqualifying such
137 umpire; amending s. 627.706, F.S.; revising the
138 definition of the term "neutral evaluator"; amending
139 s. 627.7074, F.S.; requiring the department to adopt
140 rules relating to certification of neutral evaluators;

141 amending s. 627.736, F.S.; revising the time period
142 for applicability of certain Medicare fee schedules or
143 payment limitations; amending s. 627.745, F.S.;
144 revising qualifications for approval as a mediator by
145 the department; providing grounds for the department
146 to deny an application, or suspend or revoke approval
147 of a mediator or certification of a neutral evaluator;
148 authorizing the department to adopt rules; amending s.
149 627.952, F.S.; providing that certain persons who are
150 not residents of this state must be licensed and
151 appointed as nonresident surplus lines agents in this
152 state in order to engage in specified activities with
153 respect to servicing insurance contracts,
154 certificates, or agreements for purchasing or risk
155 retention groups; deleting a fidelity bond requirement
156 applicable to certain nonresident agents who are
157 licensed as surplus lines agents in another state;
158 amending ss. 627.971 and 627.972, F.S.; including
159 licensed mutual insurers in financial guaranty
160 insurance corporations; amending s. 628.901, F.S.;
161 revising the definition of the term "qualifying
162 reinsurer parent company"; amending s. 628.909, F.S.;
163 providing for applicability of certain provisions of
164 the Insurance Code to specified captive insurers;
165 amending s. 634.406, F.S.; revising criteria
166 authorizing premiums of certain service warranty
167 associations to exceed their specified net assets
168 limitations; revising requirements relating to

169 contractual liability policies that insure warranty
 170 associations; providing an effective date.

171
 172 Be It Enacted by the Legislature of the State of Florida:

173
 174 Section 1. Paragraph (b) of subsection (6) of section
 175 215.555, Florida Statutes, is amended to read:

176 215.555 Florida Hurricane Catastrophe Fund.—

177 (6) REVENUE BONDS.—

178 (b) Emergency assessments—

179 1. If the board determines that the amount of revenue
 180 produced under subsection (5) is insufficient to fund the
 181 obligations, costs, and expenses of the fund and the
 182 corporation, including repayment of revenue bonds and that
 183 portion of the debt service coverage not met by reimbursement
 184 premiums, the board shall direct the Office of Insurance
 185 Regulation to levy, by order, an emergency assessment on direct
 186 premiums for all property and casualty lines of business in this
 187 state, including property and casualty business of surplus lines
 188 insurers regulated under part VIII of chapter 626, but not
 189 including any workers' compensation premiums or medical
 190 malpractice premiums. As used in this subsection, the term
 191 "property and casualty business" includes all lines of business
 192 identified on Form 2, Exhibit of Premiums and Losses, in the
 193 annual statement required of authorized insurers by s. 624.424
 194 and any rule adopted under this section, except for those lines
 195 identified as accident and health insurance and except for
 196 policies written under the National Flood Insurance Program. The

197 assessment shall be specified as a percentage of direct written
198 premium and is subject to annual adjustments by the board in
199 order to meet debt obligations. The same percentage shall apply
200 to all policies in lines of business subject to the assessment
201 issued or renewed during the 12-month period beginning on the
202 effective date of the assessment.

203 2. A premium is not subject to an annual assessment under
204 this paragraph in excess of 6 percent of premium with respect to
205 obligations arising out of losses attributable to any one
206 contract year, and a premium is not subject to an aggregate
207 annual assessment under this paragraph in excess of 10 percent
208 of premium. An annual assessment under this paragraph shall
209 continue as long as the revenue bonds issued with respect to
210 which the assessment was imposed are outstanding, including any
211 bonds the proceeds of which were used to refund the revenue
212 bonds, unless adequate provision has been made for the payment
213 of the bonds under the documents authorizing issuance of the
214 bonds.

215 3. Emergency assessments shall be collected from
216 policyholders. Emergency assessments shall be remitted by
217 insurers as a percentage of direct written premium for the
218 preceding calendar quarter as specified in the order from the
219 Office of Insurance Regulation. The office shall verify the
220 accurate and timely collection and remittance of emergency
221 assessments and shall report the information to the board in a
222 form and at a time specified by the board. Each insurer
223 collecting assessments shall provide the information with
224 respect to premiums and collections as may be required by the

225 office to enable the office to monitor and verify compliance
226 with this paragraph.

227 4. With respect to assessments of surplus lines premiums,
228 each surplus lines agent shall collect the assessment at the
229 same time as the agent collects the surplus lines tax required
230 by s. 626.932, and the surplus lines agent shall remit the
231 assessment to the Florida Surplus Lines Service Office created
232 by s. 626.921 at the same time as the agent remits the surplus
233 lines tax to the Florida Surplus Lines Service Office. The
234 emergency assessment on each insured procuring coverage and
235 filing under s. 626.938 shall be remitted by the insured to the
236 Florida Surplus Lines Service Office at the time the insured
237 pays the surplus lines tax to the Florida Surplus Lines Service
238 Office. The Florida Surplus Lines Service Office shall remit the
239 collected assessments to the fund or corporation as provided in
240 the order levied by the Office of Insurance Regulation. The
241 Florida Surplus Lines Service Office shall verify the proper
242 application of such emergency assessments and shall assist the
243 board in ensuring the accurate and timely collection and
244 remittance of assessments as required by the board. The Florida
245 Surplus Lines Service Office shall annually calculate the
246 aggregate written premium on property and casualty business,
247 other than workers' compensation and medical malpractice,
248 procured through surplus lines agents and insureds procuring
249 coverage and filing under s. 626.938 and shall report the
250 information to the board in a form and at a time specified by
251 the board.

252 5. Any assessment authority not used for a particular

253 contract year may be used for a subsequent contract year. If,
254 for a subsequent contract year, the board determines that the
255 amount of revenue produced under subsection (5) is insufficient
256 to fund the obligations, costs, and expenses of the fund and the
257 corporation, including repayment of revenue bonds and that
258 portion of the debt service coverage not met by reimbursement
259 premiums, the board shall direct the Office of Insurance
260 Regulation to levy an emergency assessment up to an amount not
261 exceeding the amount of unused assessment authority from a
262 previous contract year or years, plus an additional 4 percent
263 provided that the assessments in the aggregate do not exceed the
264 limits specified in subparagraph 2.

265 6. The assessments otherwise payable to the corporation
266 under this paragraph shall be paid to the fund unless and until
267 the Office of Insurance Regulation and the Florida Surplus Lines
268 Service Office have received from the corporation and the fund a
269 notice, which shall be conclusive and upon which they may rely
270 without further inquiry, that the corporation has issued bonds
271 and the fund has no agreements in effect with local governments
272 under paragraph (c). On or after the date of the notice and
273 until the date the corporation has no bonds outstanding, the
274 fund shall have no right, title, or interest in or to the
275 assessments, except as provided in the fund's agreement with the
276 corporation.

277 7. Emergency assessments are not premium and are not
278 subject to the premium tax, to the surplus lines tax, to any
279 fees, or to any commissions. An insurer is liable for all
280 assessments that it collects and must treat the failure of an

281 insured to pay an assessment as a failure to pay the premium. An
282 insurer is not liable for uncollectible assessments.

283 8. When an insurer is required to return an unearned
284 premium, it shall also return any collected assessment
285 attributable to the unearned premium. A credit adjustment to the
286 collected assessment may be made by the insurer with regard to
287 future remittances that are payable to the fund or corporation,
288 but the insurer is not entitled to a refund.

289 9. When a surplus lines insured or an insured who has
290 procured coverage and filed under s. 626.938 is entitled to the
291 return of an unearned premium, the Florida Surplus Lines Service
292 Office shall provide a credit or refund to the agent or such
293 insured for the collected assessment attributable to the
294 unearned premium before ~~prior to~~ remitting the emergency
295 assessment collected to the fund or corporation.

296 10. The exemption of medical malpractice insurance
297 premiums from emergency assessments under this paragraph is
298 repealed May 31, 2016 ~~2013~~, and medical malpractice insurance
299 premiums shall be subject to emergency assessments attributable
300 to loss events occurring in the contract years commencing on
301 June 1, 2016 ~~2013~~.

302 Section 2. Subsection (1) of section 316.646, Florida
303 Statutes, is amended, and subsection (5) is added to that
304 section, to read:

305 316.646 Security required; proof of security and display
306 thereof; dismissal of cases.—

307 (1) Any person required by s. 324.022 to maintain property
308 damage liability security, required by s. 324.023 to maintain

309 liability security for bodily injury or death, or required by s.
310 627.733 to maintain personal injury protection security on a
311 motor vehicle shall have in his or her immediate possession at
312 all times while operating such motor vehicle proper proof of
313 maintenance of the required security. Such proof shall be a
314 uniform proof-of-insurance card, in paper or electronic format,
315 in a form prescribed by the department, a valid insurance
316 policy, an insurance policy binder, a certificate of insurance,
317 or such other proof as may be prescribed by the department. If a
318 person presents an electronic device to a law enforcement
319 officer for the purpose of displaying a proof-of-insurance card
320 in an electronic format:

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

324 (b) The law enforcement officer is not liable for any
325 damage to the electronic device.

326 (5) The department may adopt rules to implement this
327 section.

328 Section 3. Paragraph (a) of subsection (5) of section
329 320.02, Florida Statutes, is amended to read:

330 320.02 Registration required; application for
331 registration; forms.—

332 (5) (a) Proof that personal injury protection benefits have
333 been purchased when required under s. 627.733, that property
334 damage liability coverage has been purchased as required under
335 s. 324.022, that bodily injury or death coverage has been
336 purchased if required under s. 324.023, and that combined bodily

337 liability insurance and property damage liability insurance have
338 been purchased when required under s. 627.7415 shall be provided
339 in the manner prescribed by law by the applicant at the time of
340 application for registration of any motor vehicle that is
341 subject to such requirements. The issuing agent shall refuse to
342 issue registration if such proof of purchase is not provided.
343 Insurers shall furnish uniform proof-of-purchase cards, in paper
344 or electronic format, in a form prescribed by the department and
345 shall include the name of the insured's insurance company, the
346 coverage identification number, and the make, year, and vehicle
347 identification number of the vehicle insured. The card shall
348 contain a statement notifying the applicant of the penalty
349 specified in s. 316.646(4). The card or insurance policy,
350 insurance policy binder, or certificate of insurance or a
351 photocopy of any of these; an affidavit containing the name of
352 the insured's insurance company, the insured's policy number,
353 and the make and year of the vehicle insured; or such other
354 proof as may be prescribed by the department shall constitute
355 sufficient proof of purchase. If an affidavit is provided as
356 proof, it shall be in substantially the following form:
357 Under penalty of perjury, I ... (Name of insured)... do hereby
358 certify that I have ... (Personal Injury Protection, Property
359 Damage Liability, and, when required, Bodily Injury
360 Liability)... Insurance currently in effect with ... (Name of
361 insurance company)... under ... (policy number)... covering
362 ... (make, year, and vehicle identification number of
363 vehicle).... ... (Signature of Insured)...

364 Such affidavit shall include the following warning:

365 | WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
 366 | REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
 367 | LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
 368 | SUBJECT TO PROSECUTION.

369 | When an application is made through a licensed motor vehicle
 370 | dealer as required in s. 319.23, the original or a photostatic
 371 | copy of such card, insurance policy, insurance policy binder, or
 372 | certificate of insurance or the original affidavit from the
 373 | insured shall be forwarded by the dealer to the tax collector of
 374 | the county or the Department of Highway Safety and Motor
 375 | Vehicles for processing. By executing the aforesaid affidavit,
 376 | no licensed motor vehicle dealer will be liable in damages for
 377 | any inadequacy, insufficiency, or falsification of any statement
 378 | contained therein. A card shall also indicate the existence of
 379 | any bodily injury liability insurance voluntarily purchased.

380 | Section 4. Subsection (8) is added to section 554.1021,
 381 | Florida Statutes, to read:

382 | 554.1021 Definitions.—As used in ss. 554.1011-554.115:

383 | (8) "Authorized inspection agency" means:

384 | (a) Any county, city, town, or other governmental
 385 | subdivision that has adopted and administers, at a minimum,
 386 | Section I of the A.S.M.E. Boiler and Pressure Vessel Code as a
 387 | legal requirement and whose inspectors hold valid certificates
 388 | of competency in accordance with s. 554.113; or

389 | (b) Any insurance company that is licensed or registered
 390 | by an appropriate authority of any state of the United States or
 391 | province of Canada and whose inspectors hold valid certificates
 392 | of competency in accordance with s. 554.113.

393 Section 5. Section 554.107, Florida Statutes, is amended
 394 to read:

395 554.107 Special inspectors.—

396 (1) Upon application by any authorized inspection agency
 397 ~~company licensed to insure boilers in this state~~, the chief
 398 inspector shall issue a certificate of competency as a special
 399 inspector to any inspector employed by the authorized inspection
 400 agency company, provided that such inspector satisfies the
 401 competency requirements for inspectors as provided in s.
 402 554.113.

403 (2) The certificate of competency of a special inspector
 404 shall remain in effect only so long as the special inspector is
 405 employed by an authorized inspection agency ~~a company licensed~~
 406 ~~to insure boilers in this state~~. Upon termination of employment
 407 with such agency company, a special inspector shall, in writing,
 408 notify the chief inspector of such termination. Such notice
 409 shall be given within 15 days following the date of termination.

410 Section 6. Subsection (1) of section 554.109, Florida
 411 Statutes, is amended to read:

412 554.109 Exemptions.—

413 (1) Any insurance company insuring a boiler located in a
 414 public assembly location in this state shall inspect or contract
 415 with an authorized inspection agency to inspect such boiler ~~so~~
 416 ~~insured~~, and shall annually report to the department the
 417 identity of any authorized inspection agency performing any
 418 required boiler inspection on behalf of the company. A any
 419 county, city, town, or other governmental subdivision that ~~which~~
 420 has adopted into law the Boiler and Pressure Vessel Code of the

421 American Society of Mechanical Engineers and the National Board
422 Inspection Code for the construction, installation, inspection,
423 maintenance, and repair of boilers, regulating such boilers in
424 public assembly locations, shall inspect such boilers so
425 regulated; provided that such inspection shall be conducted by a
426 special inspector licensed pursuant to ss. 554.1011-554.115.
427 Upon filing of a report of satisfactory inspection with the
428 department, such boiler is exempt from inspection by the
429 department.

430 Section 7. Paragraph (f) of subsection (1) of section
431 624.413, Florida Statutes, is amended to read:

432 624.413 Application for certificate of authority.—

433 (1) To apply for a certificate of authority, an insurer
434 shall file its application therefor with the office, upon a form
435 adopted by the commission and furnished by the office, showing
436 its name; location of its home office and, if an alien insurer,
437 its principal office in the United States; kinds of insurance to
438 be transacted; state or country of domicile; and such additional
439 information as the commission reasonably requires, together with
440 the following documents:

441 (f) If a foreign or alien insurer, a copy of the report of
442 the most recent examination of the insurer certified by the
443 public official having supervision of insurance in its state of
444 domicile or of entry into the United States. The end of the most
445 recent year covered by the examination must be within the 5-year
446 ~~3-year~~ period preceding the date of application. In lieu of the
447 certified examination report, the office may accept an audited
448 certified public accountant's report prepared on a basis

449 consistent with the insurance laws of the insurer's state of
450 domicile, certified by the public official having supervision of
451 insurance in its state of domicile or of entry into the United
452 States.

453 Section 8. Subsection (4) is added to section 626.0428,
454 Florida Statutes, to read:

455 626.0428 Agency personnel powers, duties, and
456 limitations.—

457 (4) (a) Each branch place of business established by an
458 agent or agency, firm, corporation, or association shall be in
459 the active full-time charge of a licensed general lines agent or
460 life or health agent who is appointed to represent one or more
461 insurers. Any agent or agency, firm, corporation, or association
462 which has established one or more branch places of business
463 shall be required to have at least one licensed general lines
464 agent or life or health agent who is appointed to represent one
465 or more insurers at each location of the agency including its
466 headquarters location.

467 (b) Notwithstanding paragraph (a), the licensed agent in
468 charge of an insurance agency may also be the agent in charge of
469 additional branch office locations of the agency if insurance
470 activities requiring licensure as an insurance agent do not
471 occur at any location when the agent is not physically present
472 and unlicensed employees at the location do not engage in any
473 insurance activities requiring licensure as an insurance agent
474 or customer representative.

475 (c) An insurance agency and each branch place of business
476 of an insurance agency shall designate an agent in charge and

477 file the name and license number of the agent in charge and the
478 physical address of the insurance agency location with the
479 department at the department's designated website. The
480 designation of the agent in charge may be changed at the option
481 of the agency, and any change shall be effective upon
482 notification to the department. Notice to the department must be
483 provided within 30 days after such change.

484 (d) For the purposes of this subsection, an "agent in
485 charge" is the licensed and appointed agent who is responsible
486 for the hiring and supervision of all individuals within an
487 insurance agency location, regardless of whether such
488 individuals deal with the general public in the solicitation or
489 negotiation of insurance contracts or the collection or
490 accounting of moneys.

491 (e) An insurance agency location may not conduct the
492 business of insurance unless an agent in charge is designated at
493 all times. Failure to designate and notify the department of the
494 designation of an agent in charge within 30 days after a change
495 of agent in charge constitutes grounds for the department to
496 issue an immediate final order requiring the agency location to
497 cease operations until such time as an agent in charge is
498 properly designated.

499 Section 9. Subsection (7) of section 626.112, Florida
500 Statutes, is amended to read:

501 626.112 License and appointment required; agents, customer
502 representatives, adjusters, insurance agencies, service
503 representatives, managing general agents.—

504 (7) (a) ~~Effective October 1, 2006,~~ No individual, firm,

505 partnership, corporation, association, or any other entity shall
506 act in its own name or under a trade name, directly or
507 indirectly, as an insurance agency, unless it complies with s.
508 626.172 with respect to possessing an insurance agency license
509 for each place of business at which it engages in any activity
510 which may be performed only by a licensed insurance agent.
511 However, an insurance agency that is owned and operated by a
512 single licensed agent conducting business in his or her
513 individual name and not employing or otherwise using the
514 services of or appointing other licensees shall be exempt from
515 the agency licensing requirements of this subsection. A branch
516 place of business that is established by a licensed agency is
517 considered a branch agency and is not required to be licensed so
518 long as it transacts business under the same name and federal
519 tax identification number as the licensed agency and has
520 designated a licensed agent in charge of the location as
521 required by s. 626.0428 and the address and telephone number of
522 the location have been submitted to the department for inclusion
523 in the licensing record of the licensed agency within 30 days
524 after insurance transactions begin at the location ~~Each agency~~
525 ~~engaged in business in this state before January 1, 2003, which~~
526 ~~is wholly owned by insurance agents currently licensed and~~
527 ~~appointed under this chapter, each incorporated agency whose~~
528 ~~voting shares are traded on a securities exchange, each agency~~
529 ~~designated and subject to supervision and inspection as a branch~~
530 ~~office under the rules of the National Association of Securities~~
531 ~~Dealers, and each agency whose primary function is offering~~
532 ~~insurance as a service or member benefit to members of a~~

533 ~~nonprofit corporation may file an application for registration~~
534 ~~in lieu of licensure in accordance with s. 626.172(3). Each~~
535 ~~agency engaged in business before October 1, 2006, shall file an~~
536 ~~application for licensure or registration on or before October~~
537 ~~1, 2006.~~

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

542 ~~2. If an agency is eligible for registration but fails to~~
543 ~~file an application for registration or an application for~~
544 ~~licensure in accordance with this section, the department shall~~
545 ~~impose on the agency an administrative penalty in an amount of~~
546 ~~up to \$5,000.~~

547 (c)(b) Effective October 1, 2013, the department must
548 automatically convert the registration of an approved a
549 registered insurance agency to shall, as a condition precedent
550 to continuing business, obtain an insurance agency license if
551 the department finds that, with respect to any majority owner,
552 partner, manager, director, officer, or other person who manages
553 or controls the agency, any person has:

554 ~~1. Been found guilty of, or has pleaded guilty or nolo~~
555 ~~contendere to, a felony in this state or any other state~~
556 ~~relating to the business of insurance or to an insurance agency,~~
557 ~~without regard to whether a judgment of conviction has been~~
558 ~~entered by the court having jurisdiction of the cases.~~

559 ~~2. Employed any individual in a managerial capacity or in~~
560 ~~a capacity dealing with the public who is under an order of~~

561 ~~revocation or suspension issued by the department. An insurance~~
562 ~~agency may request, on forms prescribed by the department,~~
563 ~~verification of any person's license status. If a request is~~
564 ~~mailed within 5 working days after an employee is hired, and the~~
565 ~~employee's license is currently suspended or revoked, the agency~~
566 ~~shall not be required to obtain a license, if the unlicensed~~
567 ~~person's employment is immediately terminated.~~

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

570 ~~4. With such frequency as to have made the operation of~~
571 ~~the agency hazardous to the insurance-buying public or other~~
572 ~~persons:~~

573 ~~a. Solicited or handled controlled business. This~~
574 ~~subparagraph shall not prohibit the licensing of any lending or~~
575 ~~financing institution or creditor, with respect to insurance~~
576 ~~only, under credit life or disability insurance policies of~~
577 ~~borrowers from the institutions, which policies are subject to~~
578 ~~part IX of chapter 627.~~

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

582 ~~c. Unlawfully rebated, attempted to unlawfully rebate, or~~
583 ~~unlawfully divided or offered to divide commissions with~~
584 ~~another.~~

585 ~~d. Misrepresented any insurance policy or annuity~~
586 ~~contract, or used deception with regard to any policy or~~
587 ~~contract, done either in person or by any form of dissemination~~
588 ~~of information or advertising.~~

589 ~~e. Violated any provision of this code or any other law~~
590 ~~applicable to the business of insurance in the course of dealing~~
591 ~~under the license.~~

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

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

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

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

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

602 ~~k. Engaged in fraudulent or dishonest practices in the~~
603 ~~conduct of business arising out of activities related to~~
604 ~~insurance or the insurance agency.~~

605 ~~l. Demonstrated lack of fitness or trustworthiness to~~
606 ~~engage in the business of insurance arising out of activities~~
607 ~~related to insurance or the insurance agency.~~

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

610 ~~5. Knowingly employed any person who within the preceding~~
611 ~~3 years has had his or her relationship with an agency~~
612 ~~terminated in accordance with paragraph (d).~~

613 ~~6. Willfully circumvented the requirements or prohibitions~~
614 ~~of this code.~~

615 Section 10. Subsections (2), (3), and (4) of section
616 626.172, Florida Statutes, are amended to read:

617 626.172 Application for insurance agency license.—

618 (2) An application for an insurance agency license must
 619 ~~shall~~ be signed by the owner or owners of the agency. If the
 620 agency is incorporated, the application must ~~shall~~ be signed by
 621 the president and secretary of the corporation. The application
 622 for an insurance agency license must ~~shall~~ include:

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

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

627 (c) The name of the insurance agency, and ~~and~~ its principal
 628 business street address and a valid e-mail address of the
 629 insurance agency.

630 (d) The physical address ~~location~~ of each branch agency,
 631 including its name, e-mail address, and telephone number and the
 632 date that the branch location began transacting insurance ~~office~~
 633 ~~and the name under which each agency office conducts or will~~
 634 ~~conduct business.~~

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

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

- 639 1. A sole proprietor;
- 640 2. Each partner;
- 641 3. Each owner of an unincorporated agency;
- 642 4. Each owner who directs or participates in the
- 643 management or control of an incorporated agency whose shares are
- 644 not traded on a securities exchange;

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

647 6. Any other person who directs or participates in the
648 management or control of the agency, whether through the
649 ownership of voting securities, by contract, or otherwise.

650

651 Fingerprints must be taken by a law enforcement agency or other
652 entity approved by the department and must be accompanied by the
653 fingerprint processing fee specified in s. 624.501. Fingerprints
654 must ~~shall~~ be processed in accordance with s. 624.34. However,
655 fingerprints need not be filed for any individual who is
656 currently licensed and appointed under this chapter. This
657 paragraph does not apply to corporations whose voting shares are
658 traded on a securities exchange.

659 (g) Such additional information as the department requires
660 by rule to ascertain the trustworthiness and competence of
661 persons required to be listed on the application and to
662 ascertain that such persons meet the requirements of this code.
663 However, the department may not require that credit or character
664 reports be submitted for persons required to be listed on the
665 application.

666 (h) ~~Beginning October 1, 2005,~~ The department must ~~shall~~
667 accept the uniform application for nonresident agency licensure.
668 The department may adopt by rule revised versions of the uniform
669 application.

670 ~~(3) The department shall issue a registration as an~~
671 ~~insurance agency to any agency that files a written application~~
672 ~~with the department and qualifies for registration. The~~

673 application for registration shall require the agency to provide
674 the same information required for an agency licensed under
675 subsection (2), the agent identification number for each owner
676 who is a licensed agent, proof that the agency qualifies for
677 registration as provided in s. 626.112(7), and any other
678 additional information that the department determines is
679 necessary in order to demonstrate that the agency qualifies for
680 registration. The application must be signed by the owner or
681 owners of the agency. If the agency is incorporated, the
682 application must be signed by the president and the secretary of
683 the corporation. An agent who owns the agency need not file
684 fingerprints with the department if the agent obtained a license
685 under this chapter and the license is currently valid.

686 (a) If an application for registration is denied, the
687 agency must file an application for licensure no later than 30
688 days after the date of the denial of registration.

689 (b) A registered insurance agency must file an application
690 for licensure no later than 30 days after the date that any
691 person who is not a licensed and appointed agent in this state
692 acquires any ownership interest in the agency. If an agency
693 fails to file an application for licensure in compliance with
694 this paragraph, the department shall impose an administrative
695 penalty in an amount of up to \$5,000 on the agency.

696 (c) Sections 626.6115 and 626.6215 do not apply to
697 agencies registered under this subsection.

698 (3)(4) The department must ~~shall~~ issue a license ~~or~~
699 registration to each agency upon approval of the application,
700 and each agency location must ~~shall~~ display the license ~~or~~

701 | ~~registration~~ prominently in a manner that makes it clearly
 702 | visible to any customer or potential customer who enters the
 703 | agency.

704 | Section 11. Paragraph (d) of subsection (1) of section
 705 | 626.321, Florida Statutes, is amended to read:

706 | 626.321 Limited licenses.—

707 | (1) The department shall issue to a qualified applicant a
 708 | license as agent authorized to transact a limited class of
 709 | business in any of the following categories of limited lines
 710 | insurance:

711 | (d) Motor vehicle rental insurance.—

712 | 1. License covering only insurance of the risks set forth
 713 | in this paragraph when offered, sold, or solicited with and
 714 | incidental to the rental or lease of a motor vehicle and which
 715 | applies only to the motor vehicle that is the subject of the
 716 | lease or rental agreement and the occupants of the motor
 717 | vehicle:

718 | a. Excess motor vehicle liability insurance providing
 719 | coverage in excess of the standard liability limits provided by
 720 | the lessor in the lessor's lease to a person renting or leasing
 721 | a motor vehicle from the licensee's employer for liability
 722 | arising in connection with the negligent operation of the leased
 723 | or rented motor vehicle.

724 | b. Insurance covering the liability of the lessee to the
 725 | lessor for damage to the leased or rented motor vehicle.

726 | c. Insurance covering the loss of or damage to baggage,
 727 | personal effects, or travel documents of a person renting or
 728 | leasing a motor vehicle.

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

732 2. Insurance under a motor vehicle rental insurance
733 license may be issued only if the lease or rental agreement is
734 for no more than 60 days, the lessee is not provided coverage
735 for more than 60 consecutive days per lease period, and the
736 lessee is given written notice that his or her personal
737 insurance policy providing coverage on an owned motor vehicle
738 may provide coverage of such risks and that the purchase of the
739 insurance is not required in connection with the lease or rental
740 of a motor vehicle. If the lease is extended beyond 60 days, the
741 coverage may be extended one time only for a period not to
742 exceed an additional 60 days. Insurance may be provided to the
743 lessee as an additional insured on a policy issued to the
744 licensee's employer.

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

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

756 b. The application for licensure must list the name,

757 address, and phone number for each office, branch office, or
758 place of business that is to be covered by the license. The
759 licensee shall notify the department of the name, address, and
760 phone number of any new location that is to be covered by the
761 license before the new office, branch office, or place of
762 business engages in the sale of insurance pursuant to this
763 paragraph. The licensee must notify the department within 30
764 days after closing or terminating an office, branch office, or
765 place of business. Upon receipt of the notice, the department
766 shall delete the office, branch office, or place of business
767 from the license.

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

770 Section 12. Section 626.382, Florida Statutes, is amended
771 to read:

772 626.382 Continuation, expiration of license; insurance
773 agencies.—The license of any insurance agency ~~shall be issued~~
774 ~~for a period of 3 years and~~ shall continue in force until
775 canceled, suspended, revoked, or otherwise terminated. ~~A license~~
776 ~~may be renewed by submitting a renewal request to the department~~
777 ~~on a form adopted by department rule.~~

778 Section 13. Section 626.601, Florida Statutes, is amended
779 to read:

780 626.601 Improper conduct; inquiry; fingerprinting.—

781 (1) The department or office may, upon its own motion or
782 upon a written complaint signed by any interested person and
783 filed with the department or office, inquire into any alleged
784 improper conduct of any licensed, approved, or certified

785 insurance agency, agent, adjuster, service representative,
 786 managing general agent, customer representative, title insurance
 787 agent, title insurance agency, mediator, neutral evaluator,
 788 continuing education course provider, instructor, school
 789 official, or monitor group under this code. The department or
 790 office may thereafter initiate an investigation of any such
 791 individual or entity licensee if it has reasonable cause to
 792 believe that the individual or entity licensee has violated any
 793 provision of the insurance code. During the course of its
 794 investigation, the department or office shall contact the
 795 individual or entity licensee being investigated unless it
 796 determines that contacting such individual or entity person
 797 could jeopardize the successful completion of the investigation
 798 or cause injury to the public.

799 (2) In the investigation by the department or office of
 800 the alleged misconduct, the individual or entity licensee shall,
 801 whenever so required by the department or office, cause the
 802 individual's or entity's ~~his or her~~ books and records to be open
 803 for inspection for the purpose of such inquiries.

804 (3) The complaints against any individual or entity
 805 licensee may be informally alleged and need not be in any such
 806 language as is necessary to charge a crime on an indictment or
 807 information.

808 (4) The expense for any hearings or investigations under
 809 this law, as well as the fees and mileage of witnesses, may be
 810 paid out of the appropriate fund.

811 (5) If the department or office, after investigation, has
 812 reason to believe that an individual or entity a licensee may

813 have been found guilty of or pleaded guilty or nolo contendere
814 to a felony or a crime related to the business of insurance in
815 this or any other state or jurisdiction, the department or
816 office may require the individual licensee to file with the
817 department or office a complete set of his or her fingerprints,
818 which shall be accompanied by the fingerprint processing fee set
819 forth in s. 624.501. The fingerprints shall be taken by an
820 authorized law enforcement agency or other department-approved
821 entity.

822 (6) The complaint and any information obtained pursuant to
823 the investigation by the department or office are confidential
824 and are exempt from ~~the provisions of~~ s. 119.07, unless the
825 department or office files a formal administrative complaint,
826 emergency order, or consent order against the individual or
827 entity licensee. ~~Nothing in~~ This subsection does not ~~shall be~~
828 ~~construed to~~ prevent the department or office from disclosing
829 the complaint or such information as it deems necessary to
830 conduct the investigation, to update the complainant as to the
831 status and outcome of the complaint, or to share such
832 information with any law enforcement agency.

833 Section 14. Section 626.747, Florida Statutes, is
834 repealed.

835 Section 15. Paragraph (b) of subsection (1) of section
836 626.8411, Florida Statutes, is amended to read:

837 626.8411 Application of Florida Insurance Code provisions
838 to title insurance agents or agencies.—

839 (1) The following provisions of part II applicable to
840 general lines agents or agencies also apply to title insurance

841 agents or agencies:

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

844 Section 16. Paragraphs (i), (j), and (k) of subsection (1)
 845 of section 626.9914, Florida Statutes, are amended to read:

846 626.9914 Suspension, revocation, denial, or nonrenewal of
 847 viatical settlement provider license; grounds; administrative
 848 fine.—

849 (1) The office shall suspend, revoke, deny, or refuse to
 850 renew the license of any viatical settlement provider if the
 851 office finds that the licensee:

852 (i) Employs any person who materially influences the
 853 licensee's conduct and who fails to meet the requirements of
 854 this act; or

855 (j) No longer meets the requirements for initial
 856 licensure; ~~or~~

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

860 Section 17. Section 626.99175, Florida Statutes, is
 861 amended to read:

862 626.99175 Life expectancy providers; ~~registration~~
 863 ~~required; denial, suspension, revocation.~~—

864 ~~(1) After July 1, 2006, a person may not perform the~~
 865 ~~functions of a life expectancy provider without first having~~
 866 ~~registered as a life expectancy provider, except as provided in~~
 867 ~~subsection (6).~~

868 ~~(2) Application for registration as a life expectancy~~

869 ~~provider must be made to the office by the applicant on a form~~
870 ~~prescribed by the office, under oath and signed by the~~
871 ~~applicant. The application must be accompanied by a fee of \$500.~~

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

876 ~~(4) In the application, the applicant must provide all of~~
877 ~~the following:~~

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

881 ~~(b) A copy of the applicant's basic organizational~~
882 ~~documents, if any, including the articles of incorporation,~~
883 ~~articles of association, partnership agreement, trust agreement,~~
884 ~~or other similar documents, together with all amendments to such~~
885 ~~documents.~~

886 ~~(c) Copies of all bylaws, rules, regulations, or similar~~
887 ~~documents regulating the conduct of the applicant's internal~~
888 ~~affairs.~~

889 ~~(d) A list showing the name, business and residence~~
890 ~~addresses, and official position of each individual who is~~
891 ~~responsible for conduct of the applicant's affairs, including,~~
892 ~~but not limited to, any member of the board of directors, board~~
893 ~~of trustees, executive committee, or other governing board or~~
894 ~~committee and any other person or entity owning or having the~~
895 ~~right to acquire 10 percent or more of the voting securities of~~
896 ~~the applicant, and any person performing life expectancies by~~

897 ~~the applicant.~~

898 ~~(e) A sworn biographical statement on forms supplied by~~
899 ~~the office with respect to each individual identified under~~
900 ~~paragraph (d), including whether such individual has been~~
901 ~~associated with any other life expectancy provider or has~~
902 ~~performed any services for a person in the business of viatical~~
903 ~~settlements.~~

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

907 ~~(g) A general description of the following policies and~~
908 ~~procedures covering all life expectancy determination criteria~~
909 ~~and protocols:~~

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

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

914 ~~3. A description of how the life expectancy provider~~
915 ~~updates its manuals, underwriting guides, mortality tables, and~~
916 ~~other reference works and ensures that the provider bases its~~
917 ~~determination of life expectancies on current data.~~

918 ~~(h) A plan for assuring confidentiality of personal,~~
919 ~~medical, and financial information in accordance with federal~~
920 ~~and state laws.~~

921 ~~(i) An anti-fraud plan as required pursuant to s.~~
922 ~~626.99278.~~

923 ~~(j) A list of any agreements, contracts, or any other~~
924 ~~arrangement to provide life expectancies to a viatical~~

925 ~~settlement provider, viatical settlement broker, or any other~~
 926 ~~person in the business of viatical settlements in connection~~
 927 ~~with any viatical settlement contract or viatical settlement~~
 928 ~~investment.~~

929 ~~(5) As part of the application, and on or before March 1~~
 930 ~~of every 3 years thereafter, a registered life expectancy~~
 931 ~~provider shall file with the office an audit of all life~~
 932 ~~expectancies by the life expectancy provider for the 5 calendar~~
 933 ~~years immediately preceding such audit, which audit shall be~~
 934 ~~conducted and certified by a nationally recognized actuarial~~
 935 ~~firm and shall include only the following:~~

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

937 ~~(b) The number, percentage, and an actual-to-expected~~
 938 ~~ratio of life expectancies in the following categories: life~~
 939 ~~expectancies of less than 24 months, life expectancies of 25~~
 940 ~~months to 48 months, life expectancies of 49 months to 72~~
 941 ~~months, life expectancies of 73 months to 108 months, life~~
 942 ~~expectancies of 109 months to 144 months, life expectancies of~~
 943 ~~145 months to 180 months, and life expectancies of more than 180~~
 944 ~~months.~~

945 ~~(6) A No viatical settlement broker, viatical settlement~~
 946 ~~provider, or insurance agent in the business of viatical~~
 947 ~~settlements in this state may not ~~shall~~ directly or indirectly~~
 948 ~~own or be an officer, director, or employee of a life expectancy~~
 949 ~~provider.~~

950 ~~(7) Each registered life expectancy provider shall provide~~
 951 ~~the office, as applicable, at least 30 days' advance notice of~~
 952 ~~any change in the registrant's name, residence address,~~

953 ~~principal business address, or mailing address.~~

954 ~~(8) A person required to be registered by this section~~
955 ~~shall for 5 years retain copies of all life expectancies and~~
956 ~~supporting documents and medical records unless those personal~~
957 ~~medical records are subject to different retention or~~
958 ~~destruction requirements of a federal or state personal health~~
959 ~~information law.~~

960 ~~(9) An application for life expectancy provider~~
961 ~~registration shall be approved or denied by the commissioner~~
962 ~~within 60 calendar days following receipt of a completed~~
963 ~~application by the commissioner. The office shall notify the~~
964 ~~applicant that the application is complete. A completed~~
965 ~~application that is not approved or denied in 60 calendar days~~
966 ~~following its receipt shall be deemed approved.~~

967 ~~(10) The office may, in its discretion, deny the~~
968 ~~application for a life expectancy provider registration or~~
969 ~~suspend, revoke, or refuse to renew or continue the registration~~
970 ~~of a life expectancy provider if the office finds:~~

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

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

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

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

978 ~~1. Has been found guilty of or pled guilty or nolo~~
979 ~~contendere to a felony or a crime punishable by imprisonment of~~
980 ~~1 year or more under the law of the United States of America or~~

981 ~~of any state thereof or under the law of any other country;~~
 982 ~~2. Has knowingly and willfully aided, assisted, procured,~~
 983 ~~advised, or abetted any person in the violation of a provision~~
 984 ~~of the insurance code or any order or rule of the department,~~
 985 ~~commission, or office;~~
 986 ~~3. Has knowingly and with intent to defraud, provided a~~
 987 ~~life expectancy that does not conform to an applicant's or~~
 988 ~~registrant's general practice;~~
 989 ~~4. Does not have a good business reputation or does not~~
 990 ~~have experience, training, or education that qualifies the~~
 991 ~~applicant or registrant to conduct the business of a life~~
 992 ~~expectancy provider; or~~
 993 ~~5. Has demonstrated a lack of fitness or trustworthiness~~
 994 ~~to engage in the business of issuing life expectancies.~~
 995 ~~(11) The office may, in lieu of or in addition to any~~
 996 ~~suspension or revocation, assess an administrative fine not to~~
 997 ~~exceed \$2,500 for each nonwillful violation or \$10,000 for each~~
 998 ~~willful violation by a registered life expectancy provider. The~~
 999 ~~office may also place a registered life expectancy provider on~~
 1000 ~~probation for a period not to exceed 2 years.~~
 1001 ~~(12) It is a violation of this section for a person to~~
 1002 ~~represent, orally or in writing, that a life expectancy~~
 1003 ~~provider's registration pursuant to this act is in any way a~~
 1004 ~~recommendation or approval of the entity or means that the~~
 1005 ~~qualifications or abilities have in any way been approved of.~~
 1006 ~~(13) The Financial Services Commission may, by rule,~~
 1007 ~~require that all or part of the statements or filings required~~
 1008 ~~under this section be submitted by electronic means and in a~~

1009 ~~computer-readable format specified by the commission.~~

1010 Section 18. Section 626.9919, Florida Statutes, is amended
1011 to read:

1012 626.9919 Notice of change of licensee ~~or registrant's~~
1013 address or name.—Each viatical settlement provider licensee ~~and~~
1014 ~~registered life expectancy provider~~ must provide the office at
1015 least 30 days' advance notice of any change in the licensee's ~~or~~
1016 ~~registrant's~~ name, residence address, principal business
1017 address, or mailing address.

1018 Section 19. Section 626.992, Florida Statutes, is amended
1019 to read:

1020 626.992 Use of licensed viatical settlement providers and
1021 viatical settlement brokers, ~~and registered life expectancy~~
1022 ~~providers required.~~—

1023 (1) A licensed viatical settlement provider may not use
1024 any person to perform the functions of a viatical settlement
1025 broker as defined in this act unless such person holds a
1026 current, valid life agent license and has appointed himself or
1027 herself in conformance with this chapter.

1028 (2) A viatical settlement broker may not use any person to
1029 perform the functions of a viatical settlement provider as
1030 defined in this act unless such person holds a current, valid
1031 license as a viatical settlement provider.

1032 ~~(3) After July 1, 2006, a person may not operate as a life~~
1033 ~~expectancy provider unless such person is registered as a life~~
1034 ~~expectancy provider pursuant to this act.~~

1035 ~~(4) After July 1, 2006, a viatical settlement provider,~~
1036 ~~viatical settlement broker, or any other person in the business~~

1037 ~~of viatical settlements may not obtain life expectancies from a~~
 1038 ~~person who is not registered as a life expectancy provider~~
 1039 ~~pursuant to this act.~~

1040 Section 20. Section 626.9925, Florida Statutes, is amended
 1041 to read:

1042 626.9925 Rules.—The commission may adopt rules to
 1043 administer this act, including rules establishing standards for
 1044 evaluating advertising by licensees; rules providing for the
 1045 collection of data, for disclosures to viators, and for the
 1046 reporting of life expectancies, ~~and for the registration of life~~
 1047 ~~expectancy providers;~~ and rules defining terms used in this act
 1048 and prescribing recordkeeping requirements relating to executed
 1049 viatical settlement contracts.

1050 Section 21. Section 626.99278, Florida Statutes, is
 1051 amended to read:

1052 626.99278 Viatical provider anti-fraud plan.—Every
 1053 licensed viatical settlement provider ~~and registered life~~
 1054 ~~expectancy provider~~ must adopt an anti-fraud plan and file it
 1055 with the Division of Insurance Fraud of the department. Each
 1056 anti-fraud plan shall include:

1057 (1) A description of the procedures for detecting and
 1058 investigating possible fraudulent acts and procedures for
 1059 resolving material inconsistencies between medical records and
 1060 insurance applications.

1061 (2) A description of the procedures for the mandatory
 1062 reporting of possible fraudulent insurance acts and prohibited
 1063 practices set forth in s. 626.99275 to the Division of Insurance
 1064 Fraud of the department.

1065 (3) A description of the plan for anti-fraud education and
1066 training of its underwriters or other personnel.

1067 (4) A written description or chart outlining the
1068 organizational arrangement of the anti-fraud personnel who are
1069 responsible for the investigation and reporting of possible
1070 fraudulent insurance acts and for the investigation of
1071 unresolved material inconsistencies between medical records and
1072 insurance applications.

1073 (5) For viatical settlement providers, a description of
1074 the procedures used to perform initial and continuing review of
1075 the accuracy of life expectancies used in connection with a
1076 viatical settlement contract or viatical settlement investment.

1077 Section 22. Paragraph (b) of subsection (2) of section
1078 627.062, Florida Statutes, is amended to read:

1079 627.062 Rate standards.—

1080 (2) As to all such classes of insurance:

1081 (b) Upon receiving a rate filing, the office shall review
1082 the filing to determine if a rate is excessive, inadequate, or
1083 unfairly discriminatory. In making that determination, the
1084 office shall, in accordance with generally accepted and
1085 reasonable actuarial techniques, consider the following factors:

1086 1. Past and prospective loss experience within and without
1087 this state.

1088 2. Past and prospective expenses.

1089 3. The degree of competition among insurers for the risk
1090 insured.

1091 4. Investment income reasonably expected by the insurer,
1092 consistent with the insurer's investment practices, from

1093 investable premiums anticipated in the filing, plus any other
 1094 expected income from currently invested assets representing the
 1095 amount expected on unearned premium reserves and loss reserves.
 1096 The commission may adopt rules using reasonable techniques of
 1097 actuarial science and economics to specify the manner in which
 1098 insurers calculate investment income attributable to classes of
 1099 insurance written in this state and the manner in which
 1100 investment income is used to calculate insurance rates. Such
 1101 manner must contemplate allowances for an underwriting profit
 1102 factor and full consideration of investment income which produce
 1103 a reasonable rate of return; however, investment income from
 1104 invested surplus may not be considered.

1105 5. The reasonableness of the judgment reflected in the
 1106 filing.

1107 6. Dividends, savings, or unabsorbed premium deposits
 1108 allowed or returned to Florida policyholders, members, or
 1109 subscribers.

1110 7. The adequacy of loss reserves.

1111 8. The cost of reinsurance. The office may not disapprove
 1112 a rate as excessive solely due to the insurer having obtained
 1113 catastrophic reinsurance to cover the insurer's estimated 250-
 1114 year probable maximum loss or any lower level of loss.

1115 9. Trend factors, including trends in actual losses per
 1116 insured unit for the insurer making the filing.

1117 10. Conflagration and catastrophe hazards, if applicable.

1118 11. Projected hurricane losses, if applicable, which must
 1119 be estimated using a model or method, or a straight average of
 1120 model results or output ranges, independently found to be

1121 acceptable or reliable by the Florida Commission on Hurricane
 1122 Loss Projection Methodology, and as further provided in s.
 1123 627.0628.

1124 12. A reasonable margin for underwriting profit and
 1125 contingencies.

1126 13. The cost of medical services, if applicable.

1127 14. Other relevant factors that affect the frequency or
 1128 severity of claims or expenses.

1129 Section 23. Paragraph (d) of subsection (3) of section
 1130 627.0628, Florida Statutes, is amended to read:

1131 627.0628 Florida Commission on Hurricane Loss Projection
 1132 Methodology; public records exemption; public meetings
 1133 exemption.—

1134 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

1135 (d) With respect to a rate filing under s. 627.062, an
 1136 insurer shall employ and may not modify or adjust actuarial
 1137 methods, principles, standards, models, or output ranges found
 1138 by the commission to be accurate or reliable in determining
 1139 hurricane loss factors for use in a rate filing under s.

1140 627.062. An insurer shall employ and may not modify or adjust
 1141 models found by the commission to be accurate or reliable in
 1142 determining probable maximum loss levels pursuant to paragraph
 1143 (b) with respect to a rate filing under s. 627.062 made more
 1144 than 180 ~~60~~ days after the commission has made such findings.

1145 This paragraph does not prohibit an insurer from using a
 1146 straight average of model results or output ranges or using
 1147 straight averages for the purposes of a rate filing under s.
 1148 627.062.

CS/HB 635

2013

1149 Section 24. Subsections (2), (3), and (4) of section
1150 627.072, Florida Statutes, are renumbered as subsections (3),
1151 (4), and (5), respectively, and a new subsection (2) is added to
1152 that section to read:

1153 627.072 Making and use of rates.—

1154 (2) A retrospective rating plan may contain a provision
1155 that allows negotiation between the employer and the insurer to
1156 determine the retrospective rating factors used to calculate the
1157 premium for employers having exposure in more than one state and
1158 an estimated annual countrywide standard premium of \$1 million
1159 or more for workers' compensation.

1160 Section 25. Subsection (2) of section 627.281, Florida
1161 Statutes, is amended to read:

1162 627.281 Appeal from rating organization; workers'
1163 compensation and employer's liability insurance filings.—

1164 (2) If such appeal is based upon the failure of the rating
1165 organization to make a filing on behalf of such member or
1166 subscriber which is based on a system of expense provisions
1167 which differs, in accordance with the right granted in s.
1168 627.072(3) ~~627.072(2)~~, from the system of expense provisions
1169 included in a filing made by the rating organization, the office
1170 shall, if it grants the appeal, order the rating organization to
1171 make the requested filing for use by the appellant. In deciding
1172 such appeal, the office shall apply the applicable standards set
1173 forth in ss. 627.062 and 627.072.

1174 Section 26. Section 627.3519, Florida Statutes, is
1175 repealed.

1176 Section 27. Paragraph (b) of subsection (2) of section

1177 627.4133, Florida Statutes, is amended to read:

1178 627.4133 Notice of cancellation, nonrenewal, or renewal
 1179 premium.—

1180 (2) With respect to any personal lines or commercial
 1181 residential property insurance policy, including, but not
 1182 limited to, any homeowner's, mobile home owner's, farmowner's,
 1183 condominium association, condominium unit owner's, apartment
 1184 building, or other policy covering a residential structure or
 1185 its contents:

1186 (b) The insurer shall give the first-named insured written
 1187 notice of nonrenewal, cancellation, or termination at least 120
 1188 ~~100~~ days before the effective date of the nonrenewal,
 1189 cancellation, or termination. ~~However, the insurer shall give at~~
 1190 ~~least 100 days' written notice, or written notice by June 1,~~
 1191 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
 1192 ~~termination that would be effective between June 1 and November~~
 1193 ~~30.~~ The notice must include the reason or reasons for the
 1194 nonrenewal, cancellation, or termination, except that:

1195 ~~1. The insurer shall give the first-named insured written~~
 1196 ~~notice of nonrenewal, cancellation, or termination at least 120~~
 1197 ~~days prior to the effective date of the nonrenewal,~~
 1198 ~~cancellation, or termination for a first-named insured whose~~
 1199 ~~residential structure has been insured by that insurer or an~~
 1200 ~~affiliated insurer for at least a 5-year period immediately~~
 1201 ~~prior to the date of the written notice.~~

1202 1.2. If cancellation is for nonpayment of premium, at
 1203 least 10 days' written notice of cancellation accompanied by the
 1204 reason therefor must be given. As used in this subparagraph, the

1205 term "nonpayment of premium" means failure of the named insured
 1206 to discharge when due her or his obligations for ~~in connection~~
 1207 ~~with~~ the payment of premiums on a policy or any installment of
 1208 such premium, whether the premium is payable directly to the
 1209 insurer or its agent or indirectly under any premium finance
 1210 plan or extension of credit, or failure to maintain membership
 1211 in an organization if such membership is a condition precedent
 1212 to insurance coverage. The term also means the failure of a
 1213 financial institution to honor an insurance applicant's check
 1214 after delivery to a licensed agent for payment of a premium,
 1215 even if the agent has previously delivered or transferred the
 1216 premium to the insurer. If a dishonored check represents the
 1217 initial premium payment, the contract and all contractual
 1218 obligations are void ab initio unless the nonpayment is cured
 1219 within the earlier of 5 days after actual notice by certified
 1220 mail is received by the applicant or 15 days after notice is
 1221 sent to the applicant by certified mail or registered mail, ~~and~~
 1222 If the contract is void, any premium received by the insurer
 1223 from a third party must be refunded to that party in full.

1224 2.3. If ~~such~~ cancellation or termination occurs during the
 1225 first 90 days the insurance is in force and the insurance is
 1226 canceled or terminated for reasons other than nonpayment of
 1227 premium, at least 20 days' written notice of cancellation or
 1228 termination accompanied by the reason therefor must be given
 1229 unless there has been a material misstatement or
 1230 misrepresentation or failure to comply with the underwriting
 1231 requirements established by the insurer.

1232 3. After the policy has been in effect for 90 days, the

CS/HB 635

2013

1233 policy may not be canceled by the insurer unless there has been
1234 a material misstatement, a nonpayment of premium, a failure to
1235 comply with underwriting requirements established by the insurer
1236 within 90 days after the date of effectuation of coverage, or a
1237 substantial change in the risk covered by the policy or if the
1238 cancellation is for all insureds under such policies for a given
1239 class of insureds. This subparagraph does not apply to
1240 individually rated risks having a policy term of less than 90
1241 days.

1242 ~~4. The requirement for providing written notice by June 1~~
1243 ~~of any nonrenewal that would be effective between June 1 and~~
1244 ~~November 30 does not apply to the following situations, but the~~
1245 ~~insurer remains subject to the requirement to provide such~~
1246 ~~notice at least 100 days before the effective date of~~
1247 ~~nonrenewal:~~

1248 ~~a. A policy that is nonrenewed due to a revision in the~~
1249 ~~coverage for sinkhole losses and catastrophic ground cover~~
1250 ~~collapse pursuant to s. 627.706.~~

1251 ~~4.b.~~ A policy that is nonrenewed by Citizens Property
1252 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1253 that has been assumed by an authorized insurer offering
1254 replacement coverage to the policyholder is exempt from the
1255 notice requirements of paragraph (a) and this paragraph. In such
1256 cases, the corporation must give the named insured written
1257 notice of nonrenewal at least 45 days before the effective date
1258 of the nonrenewal.

1259
1260 ~~After the policy has been in effect for 90 days, the policy may~~

1261 ~~not be canceled by the insurer unless there has been a material~~
 1262 ~~misstatement, a nonpayment of premium, a failure to comply with~~
 1263 ~~underwriting requirements established by the insurer within 90~~
 1264 ~~days after the date of effectuation of coverage, or a~~
 1265 ~~substantial change in the risk covered by the policy or if the~~
 1266 ~~cancellation is for all insureds under such policies for a given~~
 1267 ~~class of insureds. This paragraph does not apply to individually~~
 1268 ~~rated risks having a policy term of less than 90 days.~~

1269 5. Notwithstanding any other provision of law, an insurer
 1270 may cancel or nonrenew a property insurance policy after at
 1271 least 45 days' notice if the office finds that the early
 1272 cancellation of some or all of the insurer's policies is
 1273 necessary to protect the best interests of the public or
 1274 policyholders and the office approves the insurer's plan for
 1275 early cancellation or nonrenewal of some or all of its policies.
 1276 The office may base such finding upon the financial condition of
 1277 the insurer, lack of adequate reinsurance coverage for hurricane
 1278 risk, or other relevant factors. The office may condition its
 1279 finding on the consent of the insurer to be placed under
 1280 administrative supervision pursuant to s. 624.81 or to the
 1281 appointment of a receiver under chapter 631.

1282 6. A policy covering both a home and motor vehicle may be
 1283 nonrenewed for any reason applicable to ~~either~~ the property or
 1284 motor vehicle insurance after providing 90 days' notice.

1285 Section 28. Subsection (1) of section 627.4137, Florida
 1286 Statutes, is amended to read:

1287 627.4137 Disclosure of certain information required.—

1288 (1) Each insurer that provides ~~which does~~ or may provide

1289 liability insurance coverage to pay all or a portion of any
 1290 claim that ~~which~~ might be made shall provide, within 30 days
 1291 after ~~of~~ the written request of the claimant, a statement, under
 1292 oath, of a corporate officer or the insurer's claims manager, ~~or~~
 1293 superintendent, or licensed company adjuster setting forth the
 1294 following information with regard to each known policy of
 1295 insurance, including excess or umbrella insurance:

- 1296 (a) The name of the insurer.
- 1297 (b) The name of each insured.
- 1298 (c) The limits of the liability coverage.
- 1299 (d) A statement of any policy or coverage defense that the
 1300 ~~which such~~ insurer reasonably believes is available to the ~~such~~
 1301 insurer at the time of filing such statement.
- 1302 (e) A copy of the policy.

1303
 1304 In addition, the insured, or her or his insurance agent, upon
 1305 written request of the claimant or the claimant's attorney,
 1306 shall disclose the name and coverage of each known insurer to
 1307 the claimant and shall forward such request for information as
 1308 required by this subsection to all affected insurers. The
 1309 insurer shall then supply the information required in this
 1310 subsection to the claimant within 30 days after ~~of~~ receipt of
 1311 such request.

1312 Section 29. Subsection (1) of section 627.421, Florida
 1313 Statutes, is amended to read:

1314 627.421 Delivery of policy.—

1315 (1) Subject to the insurer's requirement as to payment of
 1316 premium, every policy shall be mailed or delivered to the

1317 | insured or to the person entitled thereto not later than 60 days
 1318 | after the effectuation of coverage. Notwithstanding any other
 1319 | provision of law, an insurer may allow a policyholder to
 1320 | affirmatively elect delivery of the policy documents, including,
 1321 | but not limited to, policies, endorsements, notices, or
 1322 | documents, by electronic means in lieu of delivery by mail.

1323 | Section 30. Subsection (2) of section 627.43141, Florida
 1324 | Statutes, is amended to read:

1325 | 627.43141 Notice of change in policy terms.—

1326 | (2) A renewal policy may contain a change in policy terms.
 1327 | If a renewal policy contains ~~does contain~~ such change, the
 1328 | insurer must give the named insured written notice of the
 1329 | change, which may either ~~must~~ be enclosed along with the written
 1330 | notice of renewal premium required by ss. 627.4133 and 627.728
 1331 | or be sent in a separate notice that complies with the
 1332 | nonrenewal mailing time requirement for that particular line of
 1333 | business. The insurer must also provide a sample copy of the
 1334 | notice to the insured's insurance agent before or at the same
 1335 | time that notice is given to the insured. Such notice shall be
 1336 | entitled "Notice of Change in Policy Terms."

1337 | Section 31. Paragraph (b) of subsection (4) of section
 1338 | 627.7015, Florida Statutes, is amended to read:

1339 | 627.7015 Alternative procedure for resolution of disputed
 1340 | property insurance claims.—

1341 | (4) The department shall adopt by rule a property
 1342 | insurance mediation program to be administered by the department
 1343 | or its designee. The department may also adopt special rules
 1344 | which are applicable in cases of an emergency within the state.

1345 The rules shall be modeled after practices and procedures set
1346 forth in mediation rules of procedure adopted by the Supreme
1347 Court. The rules shall provide for:

1348 (b) Qualifications, denial of application, suspension,
1349 revocation, and other penalties for ~~of~~ mediators as provided in
1350 s. 627.745 ~~and in the Florida Rules of Certified and Court~~
1351 ~~Appointed Mediators, and for such other individuals as are~~
1352 ~~qualified by education, training, or experience as the~~
1353 ~~department determines to be appropriate.~~

1354 Section 32. Section 627.70151, Florida Statutes, is
1355 created to read:

1356 627.70151 Appraisal; conflicts of interest.—An insurer
1357 that offers residential coverage, as defined in s. 627.4025, or
1358 a policyholder that uses an appraisal clause in the property
1359 insurance contract to establish a process of estimating or
1360 evaluating the amount of the loss through the use of an
1361 impartial umpire may challenge the umpire's impartiality and
1362 disqualify the proposed umpire only if:

1363 (1) A familial relationship within the third degree exists
1364 between the umpire and any party or a representative of any
1365 party;

1366 (2) The umpire has previously represented any party or a
1367 representative of any party in a professional capacity in the
1368 same or a substantially related matter;

1369 (3) The umpire has represented another person in a
1370 professional capacity on the same or a substantially related
1371 matter, which includes the claim, same property, or an adjacent
1372 property and that other person's interests are materially

1373 adverse to the interests of any party; or

1374 (4) The umpire has worked as an employer or employee of
 1375 any party within the preceding 5 years.

1376 Section 33. Paragraph (c) of subsection (2) of section
 1377 627.706, Florida Statutes, is amended to read:

1378 627.706 Sinkhole insurance; catastrophic ground cover
 1379 collapse; definitions.—

1380 (2) As used in ss. 627.706-627.7074, and as used in
 1381 connection with any policy providing coverage for a catastrophic
 1382 ground cover collapse or for sinkhole losses, the term:

1383 (c) "Neutral evaluator" means a professional engineer or a
 1384 professional geologist who has completed a course of study in
 1385 alternative dispute resolution designed or approved by the
 1386 department for use in the neutral evaluation process, ~~and~~ who is
 1387 determined by the department to be fair and impartial, and who
 1388 is not otherwise ineligible for certification as provided in s.
 1389 627.7074.

1390 Section 34. Subsection (1) of section 627.7074, Florida
 1391 Statutes, is amended to read:

1392 627.7074 Alternative procedure for resolution of disputed
 1393 sinkhole insurance claims.—

1394 (1) The department shall:

1395 (a) Certify and maintain a list of persons who are neutral
 1396 evaluators.

1397 (b) Adopt rules for certifying, denying certification,
 1398 suspending certification, and revoking certification as a
 1399 neutral evaluator, in keeping with qualifications specified in
 1400 this section and ss. 627.706 and 627.745(4).

1401 (c) ~~(b)~~ Prepare a consumer information pamphlet for
 1402 distribution by insurers to policyholders which clearly
 1403 describes the neutral evaluation process and includes
 1404 information necessary for the policyholder to request a neutral
 1405 evaluation.

1406 Section 35. Paragraph (a) of subsection (5) of section
 1407 627.736, Florida Statutes, is amended to read:

1408 627.736 Required personal injury protection benefits;
 1409 exclusions; priority; claims.—

1410 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

1411 (a) A physician, hospital, clinic, or other person or
 1412 institution lawfully rendering treatment to an injured person
 1413 for a bodily injury covered by personal injury protection
 1414 insurance may charge the insurer and injured party only a
 1415 reasonable amount pursuant to this section for the services and
 1416 supplies rendered, and the insurer providing such coverage may
 1417 pay for such charges directly to such person or institution
 1418 lawfully rendering such treatment if the insured receiving such
 1419 treatment or his or her guardian has countersigned the properly
 1420 completed invoice, bill, or claim form approved by the office
 1421 upon which such charges are to be paid for as having actually
 1422 been rendered, to the best knowledge of the insured or his or
 1423 her guardian. However, such a charge may not exceed the amount
 1424 the person or institution customarily charges for like services
 1425 or supplies. In determining whether a charge for a particular
 1426 service, treatment, or otherwise is reasonable, consideration
 1427 may be given to evidence of usual and customary charges and
 1428 payments accepted by the provider involved in the dispute,

1429 reimbursement levels in the community and various federal and
1430 state medical fee schedules applicable to motor vehicle and
1431 other insurance coverages, and other information relevant to the
1432 reasonableness of the reimbursement for the service, treatment,
1433 or supply.

1434 1. The insurer may limit reimbursement to 80 percent of
1435 the following schedule of maximum charges:

1436 a. For emergency transport and treatment by providers
1437 licensed under chapter 401, 200 percent of Medicare.

1438 b. For emergency services and care provided by a hospital
1439 licensed under chapter 395, 75 percent of the hospital's usual
1440 and customary charges.

1441 c. For emergency services and care as defined by s.
1442 395.002 provided in a facility licensed under chapter 395
1443 rendered by a physician or dentist, and related hospital
1444 inpatient services rendered by a physician or dentist, the usual
1445 and customary charges in the community.

1446 d. For hospital inpatient services, other than emergency
1447 services and care, 200 percent of the Medicare Part A
1448 prospective payment applicable to the specific hospital
1449 providing the inpatient services.

1450 e. For hospital outpatient services, other than emergency
1451 services and care, 200 percent of the Medicare Part A Ambulatory
1452 Payment Classification for the specific hospital providing the
1453 outpatient services.

1454 f. For all other medical services, supplies, and care, 200
1455 percent of the allowable amount under:

1456 (I) The participating physicians fee schedule of Medicare

1457 Part B, except as provided in sub-sub-subparagraphs (II) and
 1458 (III).

1459 (II) Medicare Part B, in the case of services, supplies,
 1460 and care provided by ambulatory surgical centers and clinical
 1461 laboratories.

1462 (III) The Durable Medical Equipment Prosthetics/Orthotics
 1463 and Supplies fee schedule of Medicare Part B, in the case of
 1464 durable medical equipment.

1465
 1466 However, if such services, supplies, or care is not reimbursable
 1467 under Medicare Part B, as provided in this sub-subparagraph, the
 1468 insurer may limit reimbursement to 80 percent of the maximum
 1469 reimbursable allowance under workers' compensation, as
 1470 determined under s. 440.13 and rules adopted thereunder which
 1471 are in effect at the time such services, supplies, or care is
 1472 provided. Services, supplies, or care that is not reimbursable
 1473 under Medicare or workers' compensation is not required to be
 1474 reimbursed by the insurer.

1475 2. For purposes of subparagraph 1., the applicable fee
 1476 schedule or payment limitation under Medicare is the fee
 1477 schedule or payment limitation in effect on March 1 of the year
 1478 in which the services, supplies, or care is rendered and for the
 1479 area in which such services, supplies, or care is rendered, and
 1480 the applicable fee schedule or payment limitation applies from
 1481 March 1 until the last day of the following February ~~throughout~~
 1482 ~~the remainder of that year~~, notwithstanding any subsequent
 1483 change made to the fee schedule or payment limitation, except
 1484 that it may not be less than the allowable amount under the

1485 applicable schedule of Medicare Part B for 2007 for medical
1486 services, supplies, and care subject to Medicare Part B.

1487 3. Subparagraph 1. does not allow the insurer to apply any
1488 limitation on the number of treatments or other utilization
1489 limits that apply under Medicare or workers' compensation. An
1490 insurer that applies the allowable payment limitations of
1491 subparagraph 1. must reimburse a provider who lawfully provided
1492 care or treatment under the scope of his or her license,
1493 regardless of whether such provider is entitled to reimbursement
1494 under Medicare due to restrictions or limitations on the types
1495 or discipline of health care providers who may be reimbursed for
1496 particular procedures or procedure codes. However, subparagraph
1497 1. does not prohibit an insurer from using the Medicare coding
1498 policies and payment methodologies of the federal Centers for
1499 Medicare and Medicaid Services, including applicable modifiers,
1500 to determine the appropriate amount of reimbursement for medical
1501 services, supplies, or care if the coding policy or payment
1502 methodology does not constitute a utilization limit.

1503 4. If an insurer limits payment as authorized by
1504 subparagraph 1., the person providing such services, supplies,
1505 or care may not bill or attempt to collect from the insured any
1506 amount in excess of such limits, except for amounts that are not
1507 covered by the insured's personal injury protection coverage due
1508 to the coinsurance amount or maximum policy limits.

1509 5. Effective July 1, 2012, an insurer may limit payment as
1510 authorized by this paragraph only if the insurance policy
1511 includes a notice at the time of issuance or renewal that the
1512 insurer may limit payment pursuant to the schedule of charges

1513 specified in this paragraph. A policy form approved by the
 1514 office satisfies this requirement. If a provider submits a
 1515 charge for an amount less than the amount allowed under
 1516 subparagraph 1., the insurer may pay the amount of the charge
 1517 submitted.

1518 Section 36. Subsection (3) of section 627.745, Florida
 1519 Statutes, is amended, present subsections (4) and (5) of that
 1520 section are renumbered as subsections (5) and (6), respectively,
 1521 and a new subsection (4) is added to that section, to read:

1522 627.745 Mediation of claims.—

1523 (3) (a) The department shall approve mediators to conduct
 1524 mediations pursuant to this section. All mediators must file an
 1525 application under oath for approval as a mediator.

1526 (b) To qualify for approval as a mediator, an individual ~~a~~
 1527 ~~person~~ must meet one of the following qualifications:

1528 1. Possess an active certification as a Florida Circuit
 1529 Court Mediator. A Florida Circuit Court Mediator in a lapsed,
 1530 suspended, or decertified status is not eligible to participate
 1531 in the mediation program ~~a masters or doctorate degree in~~
 1532 ~~psychology, counseling, business, accounting, or economics, be a~~
 1533 ~~member of The Florida Bar, be licensed as a certified public~~
 1534 ~~accountant, or demonstrate that the applicant for approval has~~
 1535 ~~been actively engaged as a qualified mediator for at least 4~~
 1536 ~~years prior to July 1, 1990.~~

1537 2. Be an approved department mediator as of July 1, 2013,
 1538 and have conducted at least one mediation on behalf of the
 1539 department within 4 years immediately preceding that ~~the~~ date
 1540 ~~the application for approval is filed with the department, have~~

1541 ~~completed a minimum of a 40-hour training program approved by~~
1542 ~~the department and successfully passed a final examination~~
1543 ~~included in the training program and approved by the department.~~
1544 ~~The training program shall include and address all of the~~
1545 ~~following:~~

- 1546 ~~a. Mediation theory.~~
- 1547 ~~b. Mediation process and techniques.~~
- 1548 ~~c. Standards of conduct for mediators.~~
- 1549 ~~d. Conflict management and intervention skills.~~
- 1550 ~~e. Insurance nomenclature.~~

1551 (4) The department shall deny an application, or suspend
1552 or revoke its approval of a mediator or certification of a
1553 neutral evaluator to serve in such capacity, if the department
1554 finds that any of the following grounds exist:

1555 (a) Lack of one or more of the qualifications specified in
1556 this section for approval or certification.

1557 (b) Material misstatement, misrepresentation, or fraud in
1558 obtaining or attempting to obtain the approval or certification.

1559 (c) Demonstrated lack of fitness or trustworthiness to act
1560 as a mediator or neutral evaluator.

1561 (d) Fraudulent or dishonest practices in the conduct of
1562 mediation or neutral evaluation or in the conduct of business in
1563 the financial services industry.

1564 (e) Violation of any provision of this code or of a lawful
1565 order or rule of the department or aiding, instructing, or
1566 encouraging another party in committing such a violation.

1567
1568 The department may adopt rules to administer this subsection.

1569 Section 37. Paragraph (b) of subsection (1) of section
 1570 627.952, Florida Statutes, is amended to read:

1571 627.952 Risk retention and purchasing group agents.—

1572 (1) Any person offering, soliciting, selling, purchasing,
 1573 administering, or otherwise servicing insurance contracts,
 1574 certificates, or agreements for any purchasing group or risk
 1575 retention group to any resident of this state, either directly
 1576 or indirectly, by the use of mail, advertising, or other means
 1577 of communication, shall obtain a license and appointment to act
 1578 as a resident general lines agent, if a resident of this state,
 1579 or a nonresident general lines agent if not a resident. Any such
 1580 person shall be subject to all requirements of the Florida
 1581 Insurance Code.

1582 (b) Any person required to be licensed and appointed under
 1583 this subsection, in order to place business through Florida
 1584 eligible surplus lines carriers, must, if a resident of this
 1585 state, be licensed and appointed as a surplus lines agent. If
 1586 not a resident of this state, such person must be licensed and
 1587 appointed as a nonresident surplus lines agent in this ~~her or~~
 1588 ~~his state of residence and file and maintain a fidelity bond in~~
 1589 ~~favor of the people of the State of Florida executed by a surety~~
 1590 ~~company admitted in this state and payable to the State of~~
 1591 ~~Florida; however, such nonresident is limited to the provision~~
 1592 ~~of insurance for purchasing groups. The bond must be continuous~~
 1593 ~~in form and in the amount of not less than \$50,000, aggregate~~
 1594 ~~liability. The bond must remain in force and effect until the~~
 1595 ~~surety is released from liability by the department or until the~~
 1596 ~~bond is canceled by the surety. The surety may cancel the bond~~

1597 | ~~and be released from further liability upon 30 days' prior~~
 1598 | ~~written notice to the department. The cancellation does not~~
 1599 | ~~affect any liability incurred or accrued before the termination~~
 1600 | ~~of the 30-day period. Upon receipt of a notice of cancellation,~~
 1601 | ~~the department shall immediately notify the agent.~~

1602 | Section 38. Subsection (6) of section 627.971, Florida
 1603 | Statutes, is amended to read:

1604 | 627.971 Definitions.—As used in this part:

1605 | (6) "Financial guaranty insurance corporation" means a
 1606 | stock or mutual insurer licensed to transact financial guaranty
 1607 | insurance business in this state.

1608 | Section 39. Subsection (1) of section 627.972, Florida
 1609 | Statutes, is amended to read:

1610 | 627.972 Organization; financial requirements.—

1611 | (1) A financial guaranty insurance corporation must be
 1612 | organized and licensed in the manner prescribed in this code for
 1613 | stock or mutual property and casualty insurers except that:

1614 | (a) A corporation organized to transact financial guaranty
 1615 | insurance may, subject to the provisions of this code, be
 1616 | licensed to transact:

- 1617 | 1. Residual value insurance, as defined by s. 624.6081;
- 1618 | 2. Surety insurance, as defined by s. 624.606;
- 1619 | 3. Credit insurance, as defined by s. 624.605(1)(i); and
- 1620 | 4. Mortgage guaranty insurance as defined in s. 635.011,
- 1621 | provided that the provisions of chapter 635 are met.

1622 | (b)1. Before ~~Prior to~~ the issuance of a license, a
 1623 | corporation must submit to the office for approval, a plan of
 1624 | operation detailing:

1625 a. The types and projected diversification of guaranties
 1626 to be issued;

1627 b. The underwriting procedures to be followed;

1628 c. The managerial oversight methods;

1629 d. The investment policies; and

1630 e. Any other matters prescribed by the office;

1631 2. An insurer which is writing only the types of insurance
 1632 allowed under this part on July 1, 1988, and otherwise meets the
 1633 requirements of this part, is exempt from the requirements of
 1634 this paragraph.

1635 (c) An insurer transacting financial guaranty insurance is
 1636 subject to all provisions of this code that are applicable to
 1637 property and casualty insurers to the extent that those
 1638 provisions are not inconsistent with this part.

1639 (d) The investments of an insurer transacting financial
 1640 guaranty insurance in any entity insured by the corporation may
 1641 not exceed 2 percent of its admitted assets as of the end of the
 1642 prior calendar year.

1643 (e) An insurer transacting financial guaranty insurance
 1644 may only assume those lines of insurance for which it is
 1645 licensed to write direct business.

1646 Section 40. Subsection (13) of section 628.901, Florida
 1647 Statutes, is amended to read:

1648 628.901 Definitions.—As used in this part, the term:

1649 (13) "Qualifying reinsurer parent company" means a
 1650 reinsurer that ~~which~~ currently holds a certificate of authority
 1651 or a letter of eligibility or is a trustee reinsurer or an
 1652 accredited ~~or a satisfactory non-approved~~ reinsurer in this

1653 state possessing a consolidated GAAP net worth of at least \$500
 1654 million and a consolidated debt to total capital ratio of not
 1655 greater than 0.50.

1656 Section 41. Paragraph (a) of subsection (2) and paragraph
 1657 (a) of subsection (3) of section 628.909, Florida Statutes, are
 1658 amended to read:

1659 628.909 Applicability of other laws.—

1660 (2) The following provisions of the Florida Insurance Code
 1661 apply to captive insurers who are not industrial insured captive
 1662 insurers to the extent that such provisions are not inconsistent
 1663 with this part:

1664 (a) Chapter 624, except for ss. 624.407, 624.408,
 1665 624.4085, 624.40851, 624.4095, 624.411, 624.425, and 624.426.

1666 (3) The following provisions of the Florida Insurance Code
 1667 apply to industrial insured captive insurers to the extent that
 1668 such provisions are not inconsistent with this part:

1669 (a) Chapter 624, except for ss. 624.407, 624.408,
 1670 624.4085, 624.40851, 624.4095, 624.411, 624.425, 624.426, and
 1671 624.609(1).

1672 Section 42. Subsection (8) of section 634.406, Florida
 1673 Statutes, is renumbered as subsection (7), and present
 1674 subsections (6) and (7) of that section are amended to read:

1675 634.406 Financial requirements.—

1676 (6) An association which holds a license under this part
 1677 ~~and which does not hold any other license under this chapter~~ may
 1678 allow its premiums for service warranties written under this
 1679 part to exceed the ratio to net assets limitations of this
 1680 section if the association meets all of the following:

1681 (a) Maintains net assets of at least \$750,000.

1682 (b) Utilizes a contractual liability insurance policy

1683 approved by the office which:

1684 1. Reimburses the service warranty association for 100

1685 percent of its claims liability and is issued by an insurer that

1686 maintains a policyholder surplus of at least \$100 million; or

1687 2. Complies with the requirements of subsection (3) and is

1688 issued by an insurer that maintains a policyholder surplus of at

1689 least \$200 million.

1690 (c) The insurer issuing the contractual liability

1691 insurance policy:

1692 ~~1. Maintains a policyholder surplus of at least \$100~~

1693 ~~million.~~

1694 ~~1.2.~~ Is rated "A" or higher by A.M. Best Company or an

1695 equivalent rating by another national rating service acceptable

1696 to the office.

1697 ~~3. Is in no way affiliated with the warranty association.~~

1698 ~~2.4.~~ In conjunction with the warranty association's filing

1699 of the quarterly and annual reports, provides, on a form

1700 prescribed by the commission, a statement certifying the gross

1701 written premiums in force reported by the warranty association

1702 and a statement that all of the warranty association's gross

1703 written premium in force is covered under the contractual

1704 liability policy, whether or not it has been reported.

1705 ~~(7) A contractual liability policy must insure 100 percent~~

1706 ~~of an association's claims exposure under all of the~~

1707 ~~association's service warranty contracts, wherever written,~~

1708 ~~unless all of the following are satisfied:~~

1709 ~~(a) The contractual liability policy contains a clause~~
 1710 ~~that specifically names the service warranty contract holders as~~
 1711 ~~sole beneficiaries of the contractual liability policy and~~
 1712 ~~claims are paid directly to the person making a claim under the~~
 1713 ~~contract;~~

1714 ~~(b) The contractual liability policy meets all other~~
 1715 ~~requirements of this part, including subsection (3) of this~~
 1716 ~~section, which are not inconsistent with this subsection;~~

1717 ~~(c) The association has been in existence for at least 5~~
 1718 ~~years or the association is a wholly owned subsidiary of a~~
 1719 ~~corporation that has been in existence and has been licensed as~~
 1720 ~~a service warranty association in the state for at least 5~~
 1721 ~~years, and:~~

1722 ~~1. Is listed and traded on a recognized stock exchange; is~~
 1723 ~~listed in NASDAQ (National Association of Security Dealers~~
 1724 ~~Automated Quotation system) and publicly traded in the over the~~
 1725 ~~counter securities market; is required to file either of Form~~
 1726 ~~10-K, Form 100, or Form 20-G with the United States Securities~~
 1727 ~~and Exchange Commission; or has American Depository Receipts~~
 1728 ~~listed on a recognized stock exchange and publicly traded or is~~
 1729 ~~the wholly owned subsidiary of a corporation that is listed and~~
 1730 ~~traded on a recognized stock exchange; is listed in NASDAQ~~
 1731 ~~(National Association of Security Dealers Automated Quotation~~
 1732 ~~system) and publicly traded in the over the counter securities~~
 1733 ~~market; is required to file Form 10-K, Form 100, or Form 20-G~~
 1734 ~~with the United States Securities and Exchange Commission; or~~
 1735 ~~has American Depository Receipts listed on a recognized stock~~
 1736 ~~exchange and is publicly traded;~~

1737 ~~2. Maintains outstanding debt obligations, if any, rated~~
 1738 ~~in the top four rating categories by a recognized rating~~
 1739 ~~service;~~

1740 ~~3. Has and maintains at all times a minimum net worth of~~
 1741 ~~not less than \$10 million as evidenced by audited financial~~
 1742 ~~statements prepared by an independent certified public~~
 1743 ~~accountant in accordance with generally accepted accounting~~
 1744 ~~principles and submitted to the office annually; and~~

1745 ~~4. Is authorized to do business in this state; and~~
 1746 ~~(d) The insurer issuing the contractual liability policy:~~

1747 ~~1. Maintains and has maintained for the preceding 5 years,~~
 1748 ~~policyholder surplus of at least \$100 million and is rated "A"~~
 1749 ~~or higher by A.M. Best Company or has an equivalent rating by~~
 1750 ~~another rating company acceptable to the office;~~

1751 ~~2. Holds a certificate of authority to do business in this~~
 1752 ~~state and is approved to write this type of coverage; and~~

1753 ~~3. Acknowledges to the office quarterly that it insures~~
 1754 ~~all of the association's claims exposure under contracts~~
 1755 ~~delivered in this state.~~

1756
 1757 ~~If all the preceding conditions are satisfied, then the scope of~~
 1758 ~~coverage under a contractual liability policy shall not be~~
 1759 ~~required to exceed an association's claims exposure under~~
 1760 ~~service warranty contracts delivered in this state.~~

1761 Section 43. This act shall take effect upon becoming a
 1762 law.