

1 A bill to be entitled
2 An act relating to insurance; amending s. 625.151,
3 F.S.; providing an exception from valuation rules for
4 stocks in subsidiaries for certain foreign insurers
5 under certain conditions; amending s. 625.325, F.S.;
6 exempting foreign insurers from investment
7 requirements relating to subsidiaries and corporations
8 under certain conditions; amending s. 626.221, F.S.;
9 providing an exception from an examination requirement
10 for an all-lines adjuster license applicant with a
11 specified designation; amending s. 626.914, F.S.;
12 revising the definition of the term "diligent effort"
13 to decrease the replacement cost threshold for a
14 residential structure for purposes of proving
15 rejection of coverage by authorized insurers;
16 repealing s. 626.918(2) (a), F.S., relating to
17 eligibility of certain surplus lines insurers;
18 amending s. 626.932, F.S.; revising a premium receipts
19 tax for specified coverages; deleting a provision
20 relating to a surplus lines tax threshold; amending s.
21 626.9651, F.S.; revising requirements for rules
22 adopted by the Department of Financial Services and
23 the Financial Services Commission relating to the
24 privacy of certain consumer information; amending s.
25 627.416, F.S.; revising requirements for execution of

26 insurance policies; amending s. 627.43141, F.S.;
27 revising the requirements for notice of change in
28 policy terms; amending s. 627.7015, F.S.; authorizing
29 insurers to participate in mediations requested by
30 third parties; revising terminology; amending s.
31 627.728, F.S.; providing requirements for sufficient
32 proof of notice for certain motor vehicle insurance
33 notices; amending s. 627.748, F.S.; revising
34 circumstances in which insurers may exclude coverage
35 for owners or operators of transportation network
36 company vehicles; amending s. 628.4615, F.S.; revising
37 the definition of the term "specialty insurer" to
38 include viatical settlement providers; providing
39 requirements and procedures for a person seeking to
40 rebut a presumption of control in a specialty insurer;
41 amending s. 628.8015, F.S.; revising the type of
42 documents that are not admissible in evidence in a
43 private civil action; amending s. 629.401, F.S.;
44 revising reserve requirements for reciprocal insurers;
45 amending s. 634.121, F.S.; providing definitions;
46 providing that provisions relating to the delivery of
47 insurance policy documents by insurers to
48 policyholders apply to certain motor vehicle service
49 agreements provided by motor vehicle service agreement
50 companies; deleting specified methods for the delivery

51 of such documents; amending s. 641.3107, F.S.;

52 providing definitions; providing that provisions

53 relating to the delivery of insurance policy documents

54 by insurers to policyholders apply to delivery of such

55 documents by health maintenance organizations to

56 subscribers; providing an effective date.

57

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

59

60 Section 1. Paragraph (c) is added to subsection (3) of

61 section 625.151, Florida Statutes, to read:

62 625.151 Valuation of other securities.—

63 (3) Stock of a subsidiary corporation of an insurer may

64 ~~shall~~ not be valued at an amount in excess of the net value

65 thereof as based upon those assets only of the subsidiary which

66 would be eligible under part II for investment of the funds of

67 the insurer directly.

68 (c) This subsection does not apply to stock of a

69 subsidiary corporation or related entities of a foreign insurer

70 that is permissible under the laws of its state of domicile if

71 the state of domicile is a member of the National Association of

72 Insurance Commissioners.

73 Section 2. Subsection (7) is added to section 625.325,

74 Florida Statutes, to read:

75 625.325 Investments in subsidiaries and related

76 corporations.—

77 (7) APPLICABILITY.—This section does not apply to a
 78 foreign insurer's investments in its subsidiaries or related
 79 corporations if:

80 (a) The foreign insurer is domiciled in a state that is a
 81 member of the National Association of Insurance Commissioners.

82 (b) Such investments in the foreign insurer's subsidiaries
 83 or related corporations are:

84 1. Permitted under the laws of the foreign insurer's state
 85 of domicile.

86 2.a. Assigned a rating of 1, 2, or 3 by the Securities
 87 Valuation Office of the of the National Association of Insurance
 88 Commissioners; or

89 b. Qualify for the National Association of Insurance
 90 Commissioners' filing exemption rule and assigned a rating by a
 91 nationally recognized statistical rating organization that would
 92 be equivalent to a rating of 1, 2, or 3 by the Securities
 93 Valuation Office.

94 Section 3. Paragraph (j) of subsection (2) of section
 95 626.221, Florida Statutes, is amended to read:

96 626.221 Examination requirement; exemptions.—

97 (2) However, an examination is not necessary for any of
 98 the following:

99 (j) An applicant for license as an all-lines adjuster who
 100 has the designation of Accredited Claims Adjuster (ACA) from a

101 regionally accredited postsecondary institution in this state,
 102 Associate in Claims (AIC) from the Insurance Institute of
 103 America, Professional Claims Adjuster (PCA) from the
 104 Professional Career Institute, Professional Property Insurance
 105 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
 106 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
 107 (CCA) from AE21 Incorporated, Claims Adjuster Certified
 108 Professional (CACP) from WebCE, Inc., or Universal Claims
 109 Certification (UCC) from Claims and Litigation Management
 110 Alliance (CLM) whose curriculum has been approved by the
 111 department and which includes comprehensive analysis of basic
 112 property and casualty lines of insurance and testing at least
 113 equal to that of standard department testing for the all-lines
 114 adjuster license. The department shall adopt rules establishing
 115 standards for the approval of curriculum.

116 Section 4. Subsection (4) of section 626.914, Florida
 117 Statutes, is amended to read:

118 626.914 Definitions.—As used in this Surplus Lines Law,
 119 the term:

120 (4) "Diligent effort" means seeking coverage from and
 121 having been rejected by at least three authorized insurers
 122 currently writing this type of coverage and documenting these
 123 rejections. However, if the residential structure has a dwelling
 124 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
 125 seeking coverage from and having been rejected by at least one

126 | authorized insurer currently writing this type of coverage and
 127 | documenting this rejection.

128 | Section 5. Paragraph (a) of subsection (2) of section
 129 | 626.918, Florida Statutes, is repealed.

130 | Section 6. Subsections (1) and (3) of section 626.932,
 131 | Florida Statutes, are amended to read:

132 | 626.932 Surplus lines tax.—

133 | (1) The premiums charged for surplus lines coverages are
 134 | subject to a premium receipts tax of 4.936 percent ~~5 percent~~ of
 135 | all gross premiums charged for such insurance. The surplus lines
 136 | agent shall collect from the insured the amount of the tax at
 137 | the time of the delivery of the cover note, certificate of
 138 | insurance, policy, or other initial confirmation of insurance,
 139 | in addition to the full amount of the gross premium charged by
 140 | the insurer for the insurance. The surplus lines agent is
 141 | prohibited from absorbing such tax or, as an inducement for
 142 | insurance or for any other reason, rebating all or any part of
 143 | such tax or of his or her commission.

144 | (3) If a surplus lines policy covers risks or exposures
 145 | only partially in this state and the state is the home state as
 146 | defined in the federal Nonadmitted and Reinsurance Reform Act of
 147 | 2010 (NRRA), the tax payable must ~~shall~~ be computed on the gross
 148 | premium. ~~The tax must not exceed the tax rate where the risk or~~
 149 | ~~exposure is located.~~

150 | Section 7. Section 626.9651, Florida Statutes, is amended

151 to read:

152 626.9651 Privacy.—The department and commission must ~~shall~~
153 each adopt rules consistent with other provisions of the Florida
154 Insurance Code to govern the use of a consumer's nonpublic
155 personal financial and health information. These rules must be
156 based on, consistent with, and not more restrictive than the
157 Privacy of Consumer Financial and Health Information Regulation,
158 adopted September 26, 2000, by the National Association of
159 Insurance Commissioners; however, the rules must permit the use
160 and disclosure of nonpublic personal health information for
161 scientific, medical, or public policy research, in accordance
162 with federal law. In addition, these rules must be consistent
163 with, and not more restrictive than, the standards contained in
164 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
165 102, as amended in Title LXXV of the Fixing America's Surface
166 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
167 determines that a health insurer or health maintenance
168 organization is in compliance with, or is actively undertaking
169 compliance with, the consumer privacy protection rules adopted
170 by the United States Department of Health and Human Services, in
171 conformance with the Health Insurance Portability and
172 Affordability Act, that health insurer or health maintenance
173 organization is in compliance with this section.

174 Section 8. Subsection (1) of section 627.416, Florida
175 Statutes, is amended, and subsection (4) is added to that

176 section, to read:

177 627.416 Execution of policies.—

178 (1) Except as set forth in subsection (4), ~~every~~ insurance
 179 policy shall be executed in the name of and on behalf of the
 180 insurer by its officer, attorney in fact, employee, or
 181 representative duly authorized by the insurer.

182 (4) An insurer may elect to issue an insurance policy that
 183 is not executed by an officer, attorney in fact, employee, or
 184 representative, provided that such policy may not be rendered
 185 invalid by reason of the lack of execution thereof.

186 Section 9. Subsection (2) of section 627.43141, Florida
 187 Statutes, is amended to read:

188 627.43141 Notice of change in policy terms.—

189 (2) A renewal policy may contain a change in policy terms.
 190 If such change occurs, the insurer shall give the named insured
 191 advance written notice summarizing ~~of~~ the change, which may be
 192 enclosed along with the written notice of renewal premium
 193 required under ss. 627.4133 and 627.728 or sent separately
 194 within the timeframe required under the Florida Insurance Code
 195 for the provision of a notice of nonrenewal to the named insured
 196 for that line of insurance. The insurer must also provide a
 197 sample copy of the notice to the named insured's insurance agent
 198 before or at the same time that notice is provided to the named
 199 insured. Such notice shall be entitled "Notice of Change in
 200 Policy Terms."

201 Section 10. Subsections (1), (3), (6), and (9) of section
202 627.7015, Florida Statutes, are amended to read:

203 627.7015 Alternative procedure for resolution of disputed
204 property insurance claims.—

205 (1) This section sets forth a nonadversarial alternative
206 dispute resolution procedure for a mediated claim resolution
207 conference prompted by the need for effective, fair, and timely
208 handling of property insurance claims. There is a particular
209 need for an informal, nonthreatening forum for helping parties
210 who elect this procedure to resolve their claims disputes
211 because most homeowner and commercial residential insurance
212 policies obligate policyholders to participate in a potentially
213 expensive and time-consuming adversarial appraisal process
214 before litigation. The procedure set forth in this section is
215 designed to bring the parties together for a mediated claims
216 settlement conference without any of the trappings or drawbacks
217 of an adversarial process. Before resorting to these procedures,
218 policyholders and insurers are encouraged to resolve claims as
219 quickly and fairly as possible. This section is available with
220 respect to claims under personal lines and commercial
221 residential policies before commencing the appraisal process, or
222 before commencing litigation. Mediation may be requested only by
223 the policyholder, as a first-party claimant, a third-party, as
224 an assignee of the policy benefits, or the insurer. However, an
225 insurer is not required to participate in any mediation

226 requested by a third-party assignee of the policy benefits. If
227 requested by the policyholder, participation by legal counsel is
228 permitted. Mediation under this section is also available to
229 litigants referred to the department by a county court or
230 circuit court. This section does not apply to commercial
231 coverages, to private passenger motor vehicle insurance
232 coverages, or to disputes relating to liability coverages in
233 policies of property insurance.

234 (3) The costs of mediation must ~~shall~~ be reasonable, and
235 the insurer must ~~shall~~ bear all of the cost of conducting
236 mediation conferences, except as otherwise provided in this
237 section. If a policyholder ~~an insured~~ fails to appear at the
238 conference, the conference must ~~shall~~ be rescheduled upon the
239 policyholder's ~~insured's~~ payment of the costs of a rescheduled
240 conference. If the insurer fails to appear at the conference,
241 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual
242 cash expenses incurred in attending the conference if the
243 insurer's failure to attend was not due to a good cause
244 acceptable to the department. An insurer will be deemed to have
245 failed to appear if the insurer's representative lacks authority
246 to settle the full value of the claim. The insurer shall incur
247 an additional fee for a rescheduled conference necessitated by
248 the insurer's failure to appear at a scheduled conference. The
249 fees assessed by the administrator must ~~shall~~ include a charge
250 necessary to defray the expenses of the department related to

251 its duties under this section and must ~~shall~~ be deposited in the
 252 Insurance Regulatory Trust Fund.

253 (6) Mediation is nonbinding; however, if a written
 254 settlement is reached, the policyholder ~~insured~~ has 3 business
 255 days within which the policyholder ~~insured~~ may rescind the
 256 settlement unless the policyholder ~~insured~~ has cashed or
 257 deposited any check or draft disbursed to the policyholder
 258 ~~insured~~ for the disputed matters as a result of the conference.
 259 If a settlement agreement is reached and is not rescinded, it is
 260 ~~shall be~~ binding and acts ~~act~~ as a release of all specific
 261 claims that were presented in that mediation conference.

262 (9) For purposes of this section, the term "claim" refers
 263 to any dispute between an insurer and a policyholder relating to
 264 a material issue of fact other than a dispute:

265 (a) With respect to which the insurer has a reasonable
 266 basis to suspect fraud;

267 (b) When ~~Where~~, based on agreed-upon facts as to the cause
 268 of loss, there is no coverage under the policy;

269 (c) With respect to which the insurer has a reasonable
 270 basis to believe that the policyholder has intentionally made a
 271 material misrepresentation of fact which is relevant to the
 272 claim, and the entire request for payment of a loss has been
 273 denied on the basis of the material misrepresentation;

274 (d) With respect to which the amount in controversy is
 275 less than \$500, unless the parties agree to mediate a dispute

276 involving a lesser amount; or

277 (e) With respect to a windstorm or hurricane loss that
 278 does not comply with s. 627.70132.

279 Section 11. Subsection (5) of section 627.728, Florida
 280 Statutes, is amended to read:

281 627.728 Cancellations; nonrenewals.—

282 (5) United States postal proof of mailing, ~~or~~ certified or
 283 registered mailing, or other mailing using the Intelligent Mail
 284 barcode or other similar tracking method used or approved by the
 285 United States Postal Service of notice of cancellation, of
 286 intention not to renew, or of reasons for cancellation, or of
 287 the intention of the insurer to issue a policy by an insurer
 288 under the same ownership or management, to the first-named
 289 insured at the address shown in the policy, are ~~shall be~~
 290 sufficient proof of notice.

291 Section 12. Paragraph (b) of subsection (8) of section
 292 627.748, Florida Statutes, is amended to read:

293 627.748 Transportation network companies.—

294 (8) TRANSPORTATION NETWORK COMPANY AND INSURER;
 295 DISCLOSURE; EXCLUSIONS.—

296 (b)1. An insurer that provides an automobile liability
 297 insurance policy under this part may exclude any and all
 298 coverage afforded under the policy issued to an owner or
 299 operator of a TNC vehicle ~~while driving that vehicle~~ for any
 300 loss or injury that occurs while a TNC driver is logged on to a

301 digital network and driving a motor vehicle, or when ~~while~~ a TNC
302 driver provides a prearranged ride. Exclusions imposed under
303 this subsection are limited to coverage while a TNC driver is
304 logged on to a digital network or while a TNC driver provides a
305 prearranged ride. This right to exclude all coverage may apply
306 to any coverage included in an automobile insurance policy,
307 including, but not limited to:

- 308 a. Liability coverage for bodily injury and property
309 damage;
- 310 b. Uninsured and underinsured motorist coverage;
- 311 c. Medical payments coverage;
- 312 d. Comprehensive physical damage coverage;
- 313 e. Collision physical damage coverage; and
- 314 f. Personal injury protection.

315 2. The exclusions described in subparagraph 1. apply
316 notwithstanding any requirement under chapter 324. These
317 exclusions do not affect or diminish coverage otherwise
318 available for permissive drivers or resident relatives under the
319 personal automobile insurance policy of the TNC driver or owner
320 of the TNC vehicle who are not occupying the TNC vehicle at the
321 time of loss. This section does not require that a personal
322 automobile insurance policy provide coverage while the TNC
323 driver is logged on to a digital network, while the TNC driver
324 is engaged in a prearranged ride, or while the TNC driver
325 otherwise uses a vehicle to transport riders for compensation.

326 3. This section must not be construed to require an
327 insurer to use any particular policy language or reference to
328 this section in order to exclude any and all coverage for any
329 loss or injury that occurs while a TNC driver is logged on to a
330 digital network or while a TNC driver provides a prearranged
331 ride.

332 4. This section does not preclude an insurer from
333 providing primary or excess coverage for the TNC driver's
334 vehicle by contract or endorsement.

335 Section 13. Subsections (11) through (14) of section
336 628.4615, Florida Statutes, are renumbered as subsections (12)
337 through (15), respectively, subsections (1) and (7) of that
338 section are amended, and a new subsection (11) is added to that
339 section, to read:

340 628.4615 Specialty insurers; acquisition of controlling
341 stock, ownership interest, assets, or control; merger or
342 consolidation.—

343 (1) For the purposes of this section, the term "specialty
344 insurer" means any person holding a license or certificate of
345 authority as:

346 (a) A motor vehicle service agreement company authorized
347 to issue motor vehicle service agreements as those terms are
348 defined in s. 634.011;

349 (b) A home warranty association authorized to issue "home
350 warranties" as those terms are defined in s. 634.301;

351 (c) A service warranty association authorized to issue
352 "service warranties" as those terms are defined in s.
353 634.401(13) and (14);

354 (d) A prepaid limited health service organization
355 authorized to issue prepaid limited health service contracts, as
356 those terms are defined in chapter 636;

357 (e) An authorized health maintenance organization
358 operating pursuant to s. 641.21;

359 (f) An authorized prepaid health clinic operating pursuant
360 to s. 641.405;

361 (g) A legal expense insurance corporation authorized to
362 engage in a legal expense insurance business pursuant to s.
363 642.021;

364 (h) A provider that is licensed to operate a facility that
365 undertakes to provide continuing care as those terms are defined
366 in s. 651.011;

367 (i) A multiple-employer welfare arrangement operating
368 pursuant to ss. 624.436-624.446;

369 (j) A premium finance company authorized to finance
370 insurance premiums pursuant to s. 627.828; ~~or~~

371 (k) A corporation authorized to accept donor annuity
372 agreements pursuant to s. 627.481; or

373 (l) A viatical settlement provider authorized to do
374 business in this state under part X of chapter 626.

375 (7) The office may disapprove any acquisition subject to

376 ~~the provisions of~~ this section by any person or any affiliated
377 person of such person who:

378 (a) Willfully violates this section;

379 (b) In violation of an order of the office issued pursuant
380 to subsection (12) ~~(11)~~, fails to divest himself or herself of
381 any stock or ownership interest obtained in violation of this
382 section or fails to divest himself or herself of any direct or
383 indirect control of such stock or ownership interest, within 25
384 days after such order; or

385 (c) In violation of an order issued by the office pursuant
386 to subsection (12) ~~(11)~~, acquires an additional stock or
387 ownership interest in a specialty insurer or controlling company
388 or direct or indirect control of such stock or ownership
389 interest, without complying with this section.

390 (11) A person may rebut a presumption of control by filing
391 a disclaimer of control with the office on a form prescribed by
392 the commission. The disclaimer must fully disclose all material
393 relationships and bases for affiliation between the person and
394 the specialty insurer as well as the basis for disclaiming the
395 affiliation. In lieu of such form, a person or acquiring party
396 may file with the office a copy of a Schedule 13G filed with the
397 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
398 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
399 of 1934, as amended. After a disclaimer has been filed, the
400 specialty insurer is relieved of any duty to register or report

401 under this section which may arise out of the specialty
402 insurer's relationship with the person unless the office
403 disallows the disclaimer.

404 Section 14. Subsection (4) of section 628.8015, Florida
405 Statutes, is amended to read:

406 628.8015 Own-risk and solvency assessment; corporate
407 governance annual disclosure.—

408 (4) CONFIDENTIALITY.—The required filings and related
409 documents submitted pursuant to subsections (2) and (3) are
410 privileged such that they may not be produced in response to a
411 subpoena or other discovery directed to the office, and any such
412 filings and related documents, ~~if obtained from the office,~~ are
413 not admissible in evidence in any private civil action. However,
414 the department or office may use these filings and related
415 documents in the furtherance of any regulatory or legal action
416 brought against an insurer as part of the official duties of the
417 department or office. A waiver of any applicable claim of
418 privilege in these filings and related documents may not occur
419 because of a disclosure to the office under this section,
420 because of any other provision of the Insurance Code, or because
421 of sharing under s. 624.4212. The office or a person receiving
422 these filings and related documents, while acting under the
423 authority of the office, or with whom such filings and related
424 documents are shared pursuant to s. 624.4212, is not permitted
425 or required to testify in any private civil action concerning

426 any such filings or related documents.

427 Section 15. Paragraph (b) of subsection (6) of section
 428 629.401, Florida Statutes, is amended to read:

429 629.401 Insurance exchange.—

430 (6)

431 (b) In addition to the insurance laws specified in
 432 paragraph (a), the office shall regulate the exchange pursuant
 433 to the following powers, rights, and duties:

434 1. General examination powers.—The office shall examine
 435 the affairs, transactions, accounts, records, and assets of any
 436 security fund, exchange, members, and associate brokers as often
 437 as it deems advisable. The examination may be conducted by the
 438 accredited examiners of the office at the offices of the entity
 439 or person being examined. The office shall examine in like
 440 manner each prospective member or associate broker applying for
 441 membership in an exchange.

442 2. Office approval and applications of underwriting
 443 members.—No underwriting member shall commence operation without
 444 the approval of the office. Before commencing operation, an
 445 underwriting member shall provide a written application
 446 containing:

447 a. Name, type, and purpose of the underwriting member.

448 b. Name, residence address, business background, and
 449 qualifications of each person associated or to be associated in
 450 the formation or financing of the underwriting member.

451 c. Full disclosure of the terms of all understandings and
 452 agreements existing or proposed among persons so associated
 453 relative to the underwriting member, or the formation or
 454 financing thereof, accompanied by a copy of each such agreement
 455 or understanding.

456 d. Full disclosure of the terms of all understandings and
 457 agreements existing or proposed for management or exclusive
 458 agency contracts.

459 3. Investigation of underwriting member applications.—In
 460 connection with any proposal to establish an underwriting
 461 member, the office shall make an investigation of:

462 a. The character, reputation, financial standing, and
 463 motives of the organizers, incorporators, or subscribers
 464 organizing the proposed underwriting member.

465 b. The character, financial responsibility, insurance
 466 experience, and business qualifications of its proposed
 467 officers.

468 c. The character, financial responsibility, business
 469 experience, and standing of the proposed stockholders and
 470 directors, or owners.

471 4. Notice of management changes.—An underwriting member
 472 shall promptly give the office written notice of any change
 473 among the directors or principal officers of the underwriting
 474 member within 30 days after such change. The office shall
 475 investigate the new directors or principal officers of the

476 | underwriting member. The office's investigation shall include an
477 | investigation of the character, financial responsibility,
478 | insurance experience, and business qualifications of any new
479 | directors or principal officers. As a result of the
480 | investigation, the office may require the underwriting member to
481 | replace any new directors or principal officers.

482 | 5. Alternate financial statement.—In lieu of any financial
483 | examination, the office may accept an audited financial
484 | statement.

485 | 6. Correction and reconstruction of records.—If the office
486 | finds any accounts or records to be inadequate, or inadequately
487 | kept or posted, it may employ experts to reconstruct, rewrite,
488 | post, or balance them at the expense of the person or entity
489 | being examined if such person or entity has failed to maintain,
490 | complete, or correct such records or accounts after the office
491 | has given him or her or it notice and reasonable opportunity to
492 | do so.

493 | 7. Obstruction of examinations.—Any person or entity who
494 | or which willfully obstructs the office or its examiner in an
495 | examination is guilty of a misdemeanor of the second degree,
496 | punishable as provided in s. 775.082 or s. 775.083.

497 | 8. Filing of annual statement.—Each underwriting member
498 | shall file with the office a full and true statement of its
499 | financial condition, transactions, and affairs. The statement
500 | shall be filed on or before March 1 of each year, or within such

501 extension of time as the office for good cause grants, and shall
502 be for the preceding calendar year. The statement shall contain
503 information generally included in insurer financial statements
504 prepared in accordance with generally accepted insurance
505 accounting principles and practices and in a form generally
506 utilized by insurers for financial statements, sworn to by at
507 least two executive officers of the underwriting member. The
508 form of the financial statements shall be the approved form of
509 the National Association of Insurance Commissioners or its
510 successor organization. The commission may by rule require each
511 insurer to submit any part of the information contained in the
512 financial statement in a computer-readable form compatible with
513 the office's electronic data processing system. In addition to
514 information furnished in connection with its annual statement,
515 an underwriting member must furnish to the office as soon as
516 reasonably possible such information about its transactions or
517 affairs as the office requests in writing. All information
518 furnished pursuant to the office's request must be verified by
519 the oath of two executive officers of the underwriting member.

520 9. Record maintenance.—Each underwriting member shall have
521 and maintain its principal place of business in this state and
522 shall keep therein complete records of its assets, transactions,
523 and affairs in accordance with such methods and systems as are
524 customary for or suitable to the kind or kinds of insurance
525 transacted.

526 10. Examination of agents.—If the department has reason to
527 believe that any agent, as defined in s. 626.015 or s. 626.914,
528 has violated or is violating any provision of the insurance law,
529 or upon receipt of a written complaint signed by any interested
530 person indicating that any such violation may exist, the
531 department shall conduct such examination as it deems necessary
532 of the accounts, records, documents, and transactions pertaining
533 to or affecting the insurance affairs of such agent.

534 11. Written reports of office.—The office or its examiner
535 shall make a full and true written report of any examination.
536 The report shall contain only information obtained from
537 examination of the records, accounts, files, and documents of or
538 relative to the person or entity examined or from testimony of
539 individuals under oath, together with relevant conclusions and
540 recommendations of the examiner based thereon. The office shall
541 furnish a copy of the report to the person or entity examined
542 not less than 30 days prior to filing the report in its office.
543 If such person or entity so requests in writing within such 30-
544 day period, the office shall grant a hearing with respect to the
545 report and shall not file the report until after the hearing and
546 after such modifications have been made therein as the office
547 deems proper.

548 12. Admissibility of reports.—The report of an examination
549 when filed shall be admissible in evidence in any action or
550 proceeding brought by the office against the person or entity

551 examined, or against his or her or its officers, employees, or
552 agents. The office or its examiners may at any time testify and
553 offer other proper evidence as to information secured or matters
554 discovered during the course of an examination, whether or not a
555 written report of the examination has been either made,
556 furnished, or filed in the office.

557 13. Publication of reports.—After an examination report
558 has been filed, the office may publish the results of any such
559 examination in one or more newspapers published in this state
560 whenever it deems it to be in the public interest.

561 14. Consideration of examination reports by entity
562 examined.—After the examination report of an underwriting member
563 has been filed, an affidavit shall be filed with the office, not
564 more than 30 days after the report has been filed, on a form
565 furnished by the office and signed by the person or a
566 representative of any entity examined, stating that the report
567 has been read and that the recommendations made in the report
568 will be considered within a reasonable time.

569 15. Examination costs.—Each person or entity examined by
570 the office shall pay to the office the expenses incurred in such
571 examination.

572 16. Exchange costs.—An exchange shall reimburse the office
573 for any expenses incurred by it relating to the regulation of
574 the exchange and its members, except as specified in
575 subparagraph 15.

576 17. Powers of examiners.—Any examiner appointed by the
577 office, as to the subject of any examination, investigation, or
578 hearing being conducted by him or her, may administer oaths,
579 examine and cross-examine witnesses, and receive oral and
580 documentary evidence, and shall have the power to subpoena
581 witnesses, compel their attendance and testimony, and require by
582 subpoena the production of books, papers, records, files,
583 correspondence, documents, or other evidence which the examiner
584 deems relevant to the inquiry. If any person refuses to comply
585 with any such subpoena or to testify as to any matter concerning
586 which he or she may be lawfully interrogated, the Circuit Court
587 of Leon County or the circuit court of the county wherein such
588 examination, investigation, or hearing is being conducted, or of
589 the county wherein such person resides, on the office's
590 application may issue an order requiring such person to comply
591 with the subpoena and to testify; and any failure to obey such
592 an order of the court may be punished by the court as a contempt
593 thereof. Subpoenas shall be served, and proof of such service
594 made, in the same manner as if issued by a circuit court.
595 Witness fees and mileage, if claimed, shall be allowed the same
596 as for testimony in a circuit court.

597 18. False testimony.—Any person willfully testifying
598 falsely under oath as to any matter material to any examination,
599 investigation, or hearing shall upon conviction thereof be
600 guilty of perjury and shall be punished accordingly.

601 19. Self-incrimination.—

602 a. If any person asks to be excused from attending or
603 testifying or from producing any books, papers, records,
604 contracts, documents, or other evidence in connection with any
605 examination, hearing, or investigation being conducted by the
606 office or its examiner, on the ground that the testimony or
607 evidence required of the person may tend to incriminate him or
608 her or subject him or her to a penalty or forfeiture, and the
609 person notwithstanding is directed to give such testimony or
610 produce such evidence, he or she shall, if so directed by the
611 office and the Department of Legal Affairs, nonetheless comply
612 with such direction; but the person shall not thereafter be
613 prosecuted or subjected to any penalty or forfeiture for or on
614 account of any transaction, matter, or thing concerning which he
615 or she may have so testified or produced evidence, and no
616 testimony so given or evidence so produced shall be received
617 against him or her upon any criminal action, investigation, or
618 proceeding; except that no such person so testifying shall be
619 exempt from prosecution or punishment for any perjury committed
620 by him or her in such testimony, and the testimony or evidence
621 so given or produced shall be admissible against him or her upon
622 any criminal action, investigation, or proceeding concerning
623 such perjury, nor shall he or she be exempt from the refusal,
624 suspension, or revocation of any license, permission, or
625 authority conferred, or to be conferred, pursuant to the

626 insurance law.

627 b. Any such individual may execute, acknowledge, and file
628 with the office a statement expressly waiving such immunity or
629 privilege in respect to any transaction, matter, or thing
630 specified in such statement, and thereupon the testimony of such
631 individual or such evidence in relation to such transaction,
632 matter, or thing may be received or produced before any judge or
633 justice, court, tribunal, grand jury, or otherwise; and if such
634 testimony or evidence is so received or produced, such
635 individual shall not be entitled to any immunity or privileges
636 on account of any testimony so given or evidence so produced.

637 20. Penalty for failure to testify.—Any person who refuses
638 or fails, without lawful cause, to testify relative to the
639 affairs of any member, associate broker, or other person when
640 subpoenaed and requested by the office to so testify, as
641 provided in subparagraph 17., shall, in addition to the penalty
642 provided in subparagraph 17., be guilty of a misdemeanor of the
643 second degree, punishable as provided in s. 775.082 or s.
644 775.083.

645 21. Name selection.—No underwriting member shall be formed
646 or authorized to transact insurance in this state under a name
647 which is the same as that of any authorized insurer or is so
648 nearly similar thereto as to cause or tend to cause confusion or
649 under a name which would tend to mislead as to the type of
650 organization of the insurer. Before incorporating under or using

651 any name, the underwriting syndicate or proposed underwriting
652 syndicate shall submit its name or proposed name to the office
653 for the approval of the office.

654 22. Capitalization.—An underwriting member approved on or
655 after July 2, 1987, shall provide an initial paid-in capital and
656 surplus of \$3 million and thereafter shall maintain a minimum
657 policyholder surplus of \$2 million in order to be permitted to
658 write insurance. Underwriting members approved prior to July 2,
659 1987, shall maintain a minimum policyholder surplus of \$1
660 million. After June 29, 1988, underwriting members approved
661 prior to July 2, 1987, must maintain a minimum policyholder
662 surplus of \$1.5 million to write insurance. After June 29, 1989,
663 underwriting members approved prior to July 2, 1987, must
664 maintain a minimum policyholder surplus of \$1.75 million to
665 write insurance. After December 30, 1989, all underwriting
666 members, regardless of the date they were approved, must
667 maintain a minimum policyholder surplus of \$2 million to write
668 insurance. Except for that portion of the paid-in capital and
669 surplus which shall be maintained in a security fund of an
670 exchange, the paid-in capital and surplus shall be invested by
671 an underwriting member in a manner consistent with ss. 625.301-
672 625.340. The portion of the paid-in capital and surplus in any
673 security fund of an exchange shall be invested in a manner
674 limited to investments for life insurance companies under the
675 Florida insurance laws.

676 23. Limitations on coverage written.—

677 a. Limit of risk.—No underwriting member shall expose
678 itself to any loss on any one risk in an amount exceeding 10
679 percent of its surplus to policyholders. Any risk or portion of
680 any risk which shall have been reinsured in an assuming
681 reinsurer authorized or approved to do such business in this
682 state shall be deducted in determining the limitation of risk
683 prescribed in this section.

684 b. Restrictions on premiums written.—If the office has
685 reason to believe that the underwriting member's ratio of actual
686 or projected annual gross written premiums to policyholder
687 surplus exceeds 8 to 1 or the underwriting member's ratio of
688 actual or projected annual net premiums to policyholder surplus
689 exceeds 4 to 1, the office may establish maximum gross or net
690 annual premiums to be written by the underwriting member
691 consistent with maintaining the ratios specified in this sub-
692 subparagraph.

693 (I) Projected annual net or gross premiums shall be based
694 on the actual writings to date for the underwriting member's
695 current calendar year, its writings for the previous calendar
696 year, or both. Ratios shall be computed on an annualized basis.

697 (II) For purposes of this sub-subparagraph, the term
698 "gross written premiums" means direct premiums written and
699 reinsurance assumed.

700 c. Surplus as to policyholders.—For the purpose of

701 determining the limitation on coverage written, surplus as to
702 policyholders shall be deemed to include any voluntary reserves,
703 or any part thereof, which are not required by or pursuant to
704 law and shall be determined from the last sworn statement of
705 such underwriting member with the office, or by the last report
706 or examination filed by the office, whichever is more recent at
707 the time of assumption of such risk.

708 24. Unearned premium reserves.~~An underwriting member must~~
709 at all times maintain an unearned premium reserve equal to 50
710 percent of the net written premiums of the subscribers on
711 policies having 1 year or less to run, and pro rata on those for
712 longer periods, ~~All unearned premium reserves for business~~
713 ~~written on the exchange shall be calculated on a monthly or more~~
714 ~~frequent basis or on such other basis as determined by the~~
715 ~~office;~~ except that all premiums on any marine or transportation
716 insurance trip risk shall be deemed unearned until the trip is
717 terminated. For the purpose of this subparagraph, the term "net
718 written premiums" means the premium payments made by subscribers
719 plus the premiums due from subscribers, after deducting the
720 amounts specifically provided in the subscribers' agreements for
721 expenses, including reinsurance costs and fees paid to the
722 attorney in fact, provided that the power of attorney agreement
723 contains an explicit provision requiring the attorney in fact to
724 refund any unearned subscribers fees on a pro-rata basis for
725 cancelled policies. If there is no such provision, the unearned

726 premium reserve shall be calculated without any adjustment for
727 fees paid to the attorney in fact. If the unearned premium
728 reserves at any time do not amount to \$100,000, there shall be
729 maintained on deposit at the exchange at all times additional
730 funds in cash or eligible securities which, together with the
731 unearned premium reserves, equal \$100,000. In calculating the
732 foregoing reserves, the amount of the attorney's bond, as filed
733 with the office and as required by s. 629.121, shall be included
734 in such reserves. If at any time the unearned premium reserves
735 is less than the foregoing requirements, the subscribers, or the
736 attorney in fact, shall advance funds to make up the deficiency.
737 Such advances shall only be repaid out of the surplus of the
738 exchange and only after receiving written approval from the
739 office.

740 25. Loss reserves.—All underwriting members of an exchange
741 shall maintain loss reserves, including a reserve for incurred
742 but not reported claims. The reserves shall be subject to review
743 by the office, and, if loss experience shows that an
744 underwriting member's loss reserves are inadequate, the office
745 shall require the underwriting member to maintain loss reserves
746 in such additional amount as is needed to make them adequate.

747 26. Distribution of profits.—An underwriting member shall
748 not distribute any profits in the form of cash or other assets
749 to owners except out of that part of its available and
750 accumulated surplus funds which is derived from realized net

751 operating profits on its business and realized capital gains. In
752 any one year such payments to owners shall not exceed 30 percent
753 of such surplus as of December 31 of the immediately preceding
754 year, unless otherwise approved by the office. No distribution
755 of profits shall be made that would render an underwriting
756 member either impaired or insolvent.

757 27. Stock dividends.—A stock dividend may be paid by an
758 underwriting member out of any available surplus funds in excess
759 of the aggregate amount of surplus advanced to the underwriting
760 member under subparagraph 29.

761 28. Dividends from earned surplus.—A dividend otherwise
762 lawful may be payable out of an underwriting member's earned
763 surplus even though the total surplus of the underwriting member
764 is then less than the aggregate of its past contributed surplus
765 resulting from issuance of its capital stock at a price in
766 excess of the par value thereof.

767 29. Borrowing of money by underwriting members.—

768 a. An underwriting member may borrow money to defray the
769 expenses of its organization, provide it with surplus funds, or
770 for any purpose of its business, upon a written agreement that
771 such money is required to be repaid only out of the underwriting
772 member's surplus in excess of that stipulated in such agreement.
773 The agreement may provide for interest not exceeding 15 percent
774 simple interest per annum. The interest shall or shall not
775 constitute a liability of the underwriting member as to its

776 funds other than such excess of surplus, as stipulated in the
777 agreement. No commission or promotion expense shall be paid in
778 connection with any such loan. The use of any surplus note and
779 any repayments thereof shall be subject to the approval of the
780 office.

781 b. Money so borrowed, together with any interest thereon
782 if so stipulated in the agreement, shall not form a part of the
783 underwriting member's legal liabilities except as to its surplus
784 in excess of the amount thereof stipulated in the agreement, nor
785 be the basis of any setoff; but until repayment, financial
786 statements filed or published by an underwriting member shall
787 show as a footnote thereto the amount thereof then unpaid,
788 together with any interest thereon accrued but unpaid.

789 30. Liquidation, rehabilitation, and restrictions.—The
790 office, upon a showing that a member or associate broker of an
791 exchange has met one or more of the grounds contained in part I
792 of chapter 631, may restrict sales by type of risk, policy or
793 contract limits, premium levels, or policy or contract
794 provisions; increase surplus or capital requirements of
795 underwriting members; issue cease and desist orders; suspend or
796 restrict a member's or associate broker's right to transact
797 business; place an underwriting member under conservatorship or
798 rehabilitation; or seek an order of liquidation as authorized by
799 part I of chapter 631.

800 31. Prohibited conduct.—The following acts by a member,

801 associate broker, or affiliated person shall constitute
 802 prohibited conduct:

- 803 a. Fraud.
- 804 b. Fraudulent or dishonest acts committed by a member or
 805 associate broker prior to admission to an exchange, if the facts
 806 and circumstances were not disclosed to the office upon
 807 application to become a member or associate broker.
- 808 c. Conduct detrimental to the welfare of an exchange.
- 809 d. Unethical or improper practices or conduct,
 810 inconsistent with just and equitable principles of trade as set
 811 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.
- 812 e. Failure to use due diligence to ascertain the insurance
 813 needs of a client or a principal.
- 814 f. Misstatements made under oath or upon an application
 815 for membership on an exchange.
- 816 g. Failure to testify or produce documents when requested
 817 by the office.
- 818 h. Willful violation of any law of this state.
- 819 i. Failure of an officer or principal to testify under
 820 oath concerning a member, associate broker, or other person's
 821 affairs as they relate to the operation of an exchange.
- 822 j. Violation of the constitution and bylaws of the
 823 exchange.

824 32. Penalties for participating in prohibited conduct.—
 825 a. The office may order the suspension of further

826 transaction of business on the exchange of any member or
827 associate broker found to have engaged in prohibited conduct. In
828 addition, any member or associate broker found to have engaged
829 in prohibited conduct may be subject to reprimand, censure,
830 and/or a fine not exceeding \$25,000 imposed by the office.

831 b. Any member which has an affiliated person who is found
832 to have engaged in prohibited conduct shall be subject to
833 involuntary withdrawal or in addition thereto may be subject to
834 suspension, reprimand, censure, and/or a fine not exceeding
835 \$25,000.

836 33. Reduction of penalties.—Any suspension, reprimand,
837 censure, or fine may be remitted or reduced by the office on
838 such terms and conditions as are deemed fair and equitable.

839 34. Other offenses.—Any member or associate broker that is
840 suspended shall be deprived, during the period of suspension, of
841 all rights and privileges of a member or of an associate broker
842 and may be proceeded against by the office for any offense
843 committed either before or after the date of suspension.

844 35. Reinstatement.—Any member or associate broker that is
845 suspended may be reinstated at any time on such terms and
846 conditions as the office may specify.

847 36. Remittance of fines.—Fines imposed under this section
848 shall be remitted to the office and shall be paid into the
849 Insurance Regulatory Trust Fund.

850 37. Failure to pay fines.—When a member or associate

851 broker has failed to pay a fine for 15 days after it becomes
852 payable, such member or associate broker shall be suspended,
853 unless the office has granted an extension of time to pay such
854 fine.

855 38. Changes in ownership or assets.—In the event of a
856 major change in the ownership or a major change in the assets of
857 an underwriting member, the underwriting member shall report
858 such change in writing to the office within 30 days of the
859 effective date thereof. The report shall set forth the details
860 of the change. Any change in ownership or assets of more than 5
861 percent shall be considered a major change.

862 39. Retaliation.—

863 a. When by or pursuant to the laws of any other state or
864 foreign country any taxes, licenses, or other fees, in the
865 aggregate, and any fines, penalties, deposit requirements, or
866 other material obligations, prohibitions, or restrictions are or
867 would be imposed upon an exchange or upon the agents or
868 representatives of such exchange which are in excess of such
869 taxes, licenses, and other fees, in the aggregate, or which are
870 in excess of such fines, penalties, deposit requirements, or
871 other obligations, prohibitions, or restrictions directly
872 imposed upon similar exchanges or upon the agents or
873 representatives of such exchanges of such other state or country
874 under the statutes of this state, so long as such laws of such
875 other state or country continue in force or are so applied, the

876 same taxes, licenses, and other fees, in the aggregate, or
877 fines, penalties, deposit requirements, or other material
878 obligations, prohibitions, or restrictions of whatever kind
879 shall be imposed by the office upon the exchanges, or upon the
880 agents or representatives of such exchanges, of such other state
881 or country doing business or seeking to do business in this
882 state.

883 b. Any tax, license, or other obligation imposed by any
884 city, county, or other political subdivision or agency of a
885 state, jurisdiction, or foreign country on an exchange, or on
886 the agents or representatives on an exchange, shall be deemed to
887 be imposed by such state, jurisdiction, or foreign country
888 within the meaning of sub-subparagraph a.

889 40. Agents.—

890 a. Agents as defined in ss. 626.015 and 626.914 who are
891 broker members or associate broker members of an exchange shall
892 be allowed only to place on an exchange the same kind or kinds
893 of business that the agent is licensed to place pursuant to
894 Florida law. Direct Florida business as defined in s. 626.916 or
895 s. 626.917 shall be written through a broker member who is a
896 surplus lines agent as defined in s. 626.914. The activities of
897 each broker member or associate broker with regard to an
898 exchange shall be subject to all applicable provisions of the
899 insurance laws of this state, and all such activities shall
900 constitute transactions under his or her license as an insurance

901 agent for purposes of the Florida insurance law.

902 b. Premium payments and other requirements.—If an
 903 underwriting member has assumed the risk as to a surplus lines
 904 coverage and if the premium therefor has been received by the
 905 surplus lines agent who placed such insurance, then in all
 906 questions thereafter arising under the coverage as between the
 907 underwriting member and the insured, the underwriting member
 908 shall be deemed to have received the premium due to it for such
 909 coverage; and the underwriting member shall be liable to the
 910 insured as to losses covered by such insurance, and for unearned
 911 premiums which may become payable to the insured upon
 912 cancellation of such insurance, whether or not in fact the
 913 surplus lines agent is indebted to the underwriting member with
 914 respect to such insurance or for any other cause.

915 41. Improperly issued contracts, riders, and
 916 endorsements.—

917 a. Any insurance policy, rider, or endorsement issued by
 918 an underwriting member and otherwise valid which contains any
 919 condition or provision not in compliance with the requirements
 920 of this section shall not be thereby rendered invalid, except as
 921 provided in s. 627.415, but shall be construed and applied in
 922 accordance with such conditions and provisions as would have
 923 applied had such policy, rider, or endorsement been in full
 924 compliance with this section. In the event an underwriting
 925 member issues or delivers any policy for an amount which exceeds

926 any limitations otherwise provided in this section, the
927 underwriting member shall be liable to the insured or his or her
928 beneficiary for the full amount stated in the policy in addition
929 to any other penalties that may be imposed.

930 b. Any insurance contract delivered or issued for delivery
931 in this state governing a subject or subjects of insurance
932 resident, located, or to be performed in this state which,
933 pursuant to the provisions of this section, the underwriting
934 member may not lawfully insure under such a contract shall be
935 cancelable at any time by the underwriting member, any provision
936 of the contract to the contrary notwithstanding; and the
937 underwriting member shall promptly cancel the contract in
938 accordance with the request of the office therefor. No such
939 illegality or cancellation shall be deemed to relieve the
940 underwriting syndicate of any liability incurred by it under the
941 contract while in force or to prohibit the underwriting
942 syndicate from retaining the pro rata earned premium thereon.
943 This provision does not relieve the underwriting syndicate from
944 any penalty otherwise incurred by the underwriting syndicate.

945 42. Satisfaction of judgments.—

946 a. Every judgment or decree for the recovery of money
947 heretofore or hereafter entered in any court of competent
948 jurisdiction against any underwriting member shall be fully
949 satisfied within 60 days from and after the entry thereof or, in
950 the case of an appeal from such judgment or decree, within 60

951 days from and after the affirmance of the judgment or decree by
952 the appellate court.

953 b. If the judgment or decree is not satisfied as required
954 under sub-subparagraph a., and proof of such failure to satisfy
955 is made by filing with the office a certified transcript of the
956 docket of the judgment or the decree together with a certificate
957 by the clerk of the court wherein the judgment or decree remains
958 unsatisfied, in whole or in part, after the time provided in
959 sub-subparagraph a., the office shall forthwith prohibit the
960 underwriting member from transacting business. The office shall
961 not permit such underwriting member to write any new business
962 until the judgment or decree is wholly paid and satisfied and
963 proof thereof is filed with the office under the official
964 certificate of the clerk of the court wherein the judgment was
965 recovered, showing that the judgment or decree is satisfied of
966 record, and until the expenses and fees incurred in the case are
967 also paid by the underwriting syndicate.

968 43. Tender and exchange offers.—No person shall conclude a
969 tender offer or an exchange offer or otherwise acquire 5 percent
970 or more of the outstanding voting securities of an underwriting
971 member or controlling company or purchase 5 percent or more of
972 the ownership of an underwriting member or controlling company
973 unless such person has filed with, and obtained the approval of,
974 the office and sent to such underwriting member a statement
975 setting forth:

976 a. The identity of, and background information on, each
977 person by whom, or on whose behalf, the acquisition is to be
978 made; and, if the acquisition is to be made by or on behalf of a
979 corporation, association, or trust, the identity of and
980 background information on each director, officer, trustee, or
981 other natural person performing duties similar to those of a
982 director, officer, or trustee for the corporation, association,
983 or trust.

984 b. The source and amount of the funds or other
985 consideration used, or to be used, in making the acquisition.

986 c. Any plans or proposals which such person may have to
987 liquidate such member, to sell its assets, or to merge or
988 consolidate it.

989 d. The percentage of ownership which such person proposes
990 to acquire and the terms of the offer or exchange, as the case
991 may be.

992 e. Information as to any contracts, arrangements, or
993 understandings with any party with respect to any securities of
994 such member or controlling company, including, but not limited
995 to, information relating to the transfer of any securities,
996 option arrangements, or puts or calls or the giving or
997 withholding of proxies, naming the party with whom such
998 contract, arrangements, or understandings have been entered and
999 giving the details thereof.

1000 f. The office may disapprove any acquisition subject to

1001 the provisions of this subparagraph by any person or any
 1002 affiliated person of such person who:

1003 (I) Willfully violates this subparagraph;

1004 (II) In violation of an order of the office issued
 1005 pursuant to sub-subparagraph j., fails to divest himself or
 1006 herself of any stock obtained in violation of this subparagraph,
 1007 or fails to divest himself or herself of any direct or indirect
 1008 control of such stock, within 25 days after such order; or

1009 (III) In violation of an order issued by the office
 1010 pursuant to sub-subparagraph j., acquires additional stock of
 1011 the underwriting member or controlling company, or direct or
 1012 indirect control of such stock, without complying with this
 1013 subparagraph.

1014 g. The person or persons filing the statement required by
 1015 this subparagraph have the burden of proof. The office shall
 1016 approve any such acquisition if it finds, on the basis of the
 1017 record made during any proceeding or on the basis of the filed
 1018 statement if no proceeding is conducted, that:

1019 (I) Upon completion of the acquisition, the underwriting
 1020 member will be able to satisfy the requirements for the approval
 1021 to write the line or lines of insurance for which it is
 1022 presently approved;

1023 (II) The financial condition of the acquiring person or
 1024 persons will not jeopardize the financial stability of the
 1025 underwriting member or prejudice the interests of its

1026 | policyholders or the public;

1027 | (III) Any plan or proposal which the acquiring person has,

1028 | or acquiring persons have, made:

1029 | (A) To liquidate the insurer, sell its assets, or merge or

1030 | consolidate it with any person, or to make any other major

1031 | change in its business or corporate structure or management; or

1032 | (B) To liquidate any controlling company, sell its assets,

1033 | or merge or consolidate it with any person, or to make any major

1034 | change in its business or corporate structure or management

1035 | which would have an effect upon the underwriting member

1036 |

1037 | is fair and free of prejudice to the policyholders of the

1038 | underwriting member or to the public;

1039 | (IV) The competence, experience, and integrity of those

1040 | persons who will control directly or indirectly the operation of

1041 | the underwriting member indicate that the acquisition is in the

1042 | best interest of the policyholders of the underwriting member

1043 | and in the public interest;

1044 | (V) The natural persons for whom background information is

1045 | required to be furnished pursuant to this subparagraph have such

1046 | backgrounds as to indicate that it is in the best interests of

1047 | the policyholders of the underwriting member, and in the public

1048 | interest, to permit such persons to exercise control over such

1049 | underwriting member;

1050 | (VI) The officers and directors to be employed after the

1051 acquisition have sufficient insurance experience and ability to
1052 assure reasonable promise of successful operation;

1053 (VII) The management of the underwriting member after the
1054 acquisition will be competent and trustworthy and will possess
1055 sufficient managerial experience so as to make the proposed
1056 operation of the underwriting member not hazardous to the
1057 insurance-buying public;

1058 (VIII) The management of the underwriting member after the
1059 acquisition will not include any person who has directly or
1060 indirectly through ownership, control, reinsurance transactions,
1061 or other insurance or business relations unlawfully manipulated
1062 the assets, accounts, finances, or books of any insurer or
1063 underwriting member or otherwise acted in bad faith with respect
1064 thereto;

1065 (IX) The acquisition is not likely to be hazardous or
1066 prejudicial to the underwriting member's policyholders or the
1067 public; and

1068 (X) The effect of the acquisition of control would not
1069 substantially lessen competition in insurance in this state or
1070 would not tend to create a monopoly therein.

1071 h. No vote by the stockholder of record, or by any other
1072 person, of any security acquired in contravention of the
1073 provisions of this subparagraph is valid. Any acquisition of any
1074 security contrary to the provisions of this subparagraph is
1075 void. Upon the petition of the underwriting member or

1076 controlling company, the circuit court for the county in which
1077 the principal office of such underwriting member is located may,
1078 without limiting the generality of its authority, order the
1079 issuance or entry of an injunction or other order to enforce the
1080 provisions of this subparagraph. There shall be a private right
1081 of action in favor of the underwriting member or controlling
1082 company to enforce the provisions of this subparagraph. No
1083 demand upon the office that it perform its functions shall be
1084 required as a prerequisite to any suit by the underwriting
1085 member or controlling company against any other person, and in
1086 no case shall the office be deemed a necessary party to any
1087 action by such underwriting member or controlling company to
1088 enforce the provisions of this subparagraph. Any person who
1089 makes or proposes an acquisition requiring the filing of a
1090 statement pursuant to this subparagraph, or who files such a
1091 statement, shall be deemed to have thereby designated the Chief
1092 Financial Officer as such person's agent for service of process
1093 under this subparagraph and shall thereby be deemed to have
1094 submitted himself or herself to the administrative jurisdiction
1095 of the office and to the jurisdiction of the circuit court.

1096 i. Any approval by the office under this subparagraph does
1097 not constitute a recommendation by the office for an
1098 acquisition, tender offer, or exchange offer. It is unlawful for
1099 a person to represent that the office's approval constitutes a
1100 recommendation. A person who violates the provisions of this

1101 sub-subparagraph is guilty of a felony of the third degree,
1102 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1103 The statute-of-limitations period for the prosecution of an
1104 offense committed under this sub-subparagraph is 5 years.

1105 j. Upon notification to the office by the underwriting
1106 member or a controlling company that any person or any
1107 affiliated person of such person has acquired 5 percent or more
1108 of the outstanding voting securities of the underwriting member
1109 or controlling company without complying with the provisions of
1110 this subparagraph, the office shall order that the person and
1111 any affiliated person of such person cease acquisition of any
1112 further securities of the underwriting member or controlling
1113 company; however, the person or any affiliated person of such
1114 person may request a proceeding, which proceeding shall be
1115 convened within 7 days after the rendering of the order for the
1116 sole purpose of determining whether the person, individually or
1117 in connection with any affiliated person of such person, has
1118 acquired 5 percent or more of the outstanding voting securities
1119 of an underwriting member or controlling company. Upon the
1120 failure of the person or affiliated person to request a hearing
1121 within 7 days, or upon a determination at a hearing convened
1122 pursuant to this sub-subparagraph that the person or affiliated
1123 person has acquired voting securities of an underwriting member
1124 or controlling company in violation of this subparagraph, the
1125 office may order the person and affiliated person to divest

1126 | themselves of any voting securities so acquired.

1127 | k.(I) The office shall, if necessary to protect the public
1128 | interest, suspend or revoke the certificate of authority of any
1129 | underwriting member or controlling company:

1130 | (A) The control of which is acquired in violation of this
1131 | subparagraph;

1132 | (B) That is controlled, directly or indirectly, by any
1133 | person or any affiliated person of such person who, in violation
1134 | of this subparagraph, has obtained control of an underwriting
1135 | member or controlling company; or

1136 | (C) That is controlled, directly or indirectly, by any
1137 | person who, directly or indirectly, controls any other person
1138 | who, in violation of this subparagraph, acquires control of an
1139 | underwriting member or controlling company.

1140 | (II) If any underwriting member is subject to suspension
1141 | or revocation pursuant to sub-sub-subparagraph (I), the
1142 | underwriting member shall be deemed to be in such condition, or
1143 | to be using or to have been subject to such methods or practices
1144 | in the conduct of its business, as to render its further
1145 | transaction of insurance presently or prospectively hazardous to
1146 | its policyholders, creditors, or stockholders or to the public.

1147 | l.(I) For the purpose of this sub-sub-subparagraph, the
1148 | term "affiliated person" of another person means:

1149 | (A) The spouse of such other person;

1150 | (B) The parents of such other person and their lineal

1151 descendants and the parents of such other person's spouse and
 1152 their lineal descendants;

1153 (C) Any person who directly or indirectly owns or
 1154 controls, or holds with power to vote, 5 percent or more of the
 1155 outstanding voting securities of such other person;

1156 (D) Any person 5 percent or more of the outstanding voting
 1157 securities of which are directly or indirectly owned or
 1158 controlled, or held with power to vote, by such other person;

1159 (E) Any person or group of persons who directly or
 1160 indirectly control, are controlled by, or are under common
 1161 control with such other person; or any officer, director,
 1162 partner, copartner, or employee of such other person;

1163 (F) If such other person is an investment company, any
 1164 investment adviser of such company or any member of an advisory
 1165 board of such company;

1166 (G) If such other person is an unincorporated investment
 1167 company not having a board of directors, the depositor of such
 1168 company; or

1169 (H) Any person who has entered into an agreement, written
 1170 or unwritten, to act in concert with such other person in
 1171 acquiring or limiting the disposition of securities of an
 1172 underwriting member or controlling company.

1173 (II) For the purposes of this section, the term
 1174 "controlling company" means any corporation, trust, or
 1175 association owning, directly or indirectly, 25 percent or more

1176 | of the voting securities of one or more underwriting members.

1177 | m. The commission may adopt, amend, or repeal rules that
1178 | are necessary to implement the provisions of this subparagraph,
1179 | pursuant to chapter 120.

1180 | 44. Background information.—The information as to the
1181 | background and identity of each person about whom information is
1182 | required to be furnished pursuant to sub-subparagraph 43.a.
1183 | shall include, but shall not be limited to:

1184 | a. Such person's occupations, positions of employment, and
1185 | offices held during the past 10 years.

1186 | b. The principal business and address of any business,
1187 | corporation, or other organization in which each such office was
1188 | held or in which such occupation or position of employment was
1189 | carried on.

1190 | c. Whether, at any time during such 10-year period, such
1191 | person was convicted of any crime other than a traffic
1192 | violation.

1193 | d. Whether, during such 10-year period, such person has
1194 | been the subject of any proceeding for the revocation of any
1195 | license and, if so, the nature of such proceeding and the
1196 | disposition thereof.

1197 | e. Whether, during such 10-year period, such person has
1198 | been the subject of any proceeding under the federal Bankruptcy
1199 | Act or whether, during such 10-year period, any corporation,
1200 | partnership, firm, trust, or association in which such person

1201 was a director, officer, trustee, partner, or other official has
 1202 been subject to any such proceeding, either during the time in
 1203 which such person was a director, officer, trustee, partner, or
 1204 other official, or within 12 months thereafter.

1205 f. Whether, during such 10-year period, such person has
 1206 been enjoined, either temporarily or permanently, by a court of
 1207 competent jurisdiction from violating any federal or state law
 1208 regulating the business of insurance, securities, or banking, or
 1209 from carrying out any particular practice or practices in the
 1210 course of the business of insurance, securities, or banking,
 1211 together with details of any such event.

1212 45. Security fund.—All underwriting members shall be
 1213 members of the security fund of any exchange.

1214 46. Underwriting member defined.—Whenever the term
 1215 "underwriting member" is used in this subsection, it shall be
 1216 construed to mean "underwriting syndicate."

1217 47. Offsets.—Any action, requirement, or constraint
 1218 imposed by the office shall reduce or offset similar actions,
 1219 requirements, or constraints of any exchange.

1220 48. Restriction on member ownership.—

1221 a. Investments existing prior to July 2, 1987.—The
 1222 investment in any member by brokers, agents, and intermediaries
 1223 transacting business on the exchange, and the investment in any
 1224 such broker, agent, or intermediary by any member, directly or
 1225 indirectly, shall in each case be limited in the aggregate to

1226 less than 20 percent of the total investment in such member,
1227 broker, agent, or intermediary, as the case may be. After
1228 December 31, 1987, the aggregate percent of the total investment
1229 in such member by any broker, agent, or intermediary and the
1230 aggregate percent of the total investment in any such broker,
1231 agent, or intermediary by any member, directly or indirectly,
1232 shall not exceed 15 percent. After June 30, 1988, such aggregate
1233 percent shall not exceed 10 percent and after December 31, 1988,
1234 such aggregate percent shall not exceed 5 percent.

1235 b. Investments arising on or after July 2, 1987.—The
1236 investment in any underwriting member by brokers, agents, or
1237 intermediaries transacting business on the exchange, and the
1238 investment in any such broker, agent, or intermediary by any
1239 underwriting member, directly or indirectly, shall in each case
1240 be limited in the aggregate to less than 5 percent of the total
1241 investment in such underwriting member, broker, agent, or
1242 intermediary.

1243 49. "Underwriting manager" defined.—"Underwriting manager"
1244 as used in this subparagraph includes any person, partnership,
1245 corporation, or organization providing any of the following
1246 services to underwriting members of the exchange:

1247 a. Office management and allied services, including
1248 correspondence and secretarial services.

1249 b. Accounting services, including bookkeeping and
1250 financial report preparation.

1251 c. Investment and banking consultations and services.

1252 d. Underwriting functions and services including the
1253 acceptance, rejection, placement, and marketing of risk.

1254 50. Prohibition of underwriting manager investment.—Any
1255 direct or indirect investment in any underwriting manager by a
1256 broker member or any affiliated person of a broker member or any
1257 direct or indirect investment in a broker member by an
1258 underwriting manager or any affiliated person of an underwriting
1259 manager is prohibited. "Affiliated person" for purposes of this
1260 subparagraph is defined in subparagraph 43.

1261 51. An underwriting member may not accept reinsurance on
1262 an assumed basis from an affiliate or a controlling company, nor
1263 may a broker member or management company place reinsurance from
1264 an affiliate or controlling company of theirs with an
1265 underwriting member. "Affiliate and controlling company" for
1266 purposes of this subparagraph is defined in subparagraph 43.

1267 52. Premium defined.—"Premium" is the consideration for
1268 insurance, by whatever name called. Any "assessment" or any
1269 "membership," "policy," "survey," "inspection," "service" fee or
1270 charge or similar fee or charge in consideration for an
1271 insurance contract is deemed part of the premium.

1272 53. Rules.—The commission shall adopt rules necessary for
1273 or as an aid to the effectuation of any provision of this
1274 section.

1275 Section 16. Subsection (6) of section 634.121, Florida

1276 Statutes, is amended to read:

1277 634.121 Forms, required procedures, provisions; delivery
 1278 and definitions.—

1279 (6) (a) Each service agreement, which includes a copy of
 1280 the application form, must be mailed, delivered, or otherwise
 1281 provided electronically transmitted to the agreement holder as
 1282 provided in s. 627.421. As used in s. 627.421, the term:

1283 1. "Insurance policies and endorsements," "policy and
 1284 endorsements," "policy," and "policy form and endorsement form"
 1285 include a motor vehicle service agreement and related
 1286 endorsement forms.

1287 2. "Insured" includes a motor vehicle service agreement
 1288 holder.

1289 3. "Insurer" includes a motor vehicle service agreement
 1290 company.

1291 (b) If the motor vehicle service agreement company elects
 1292 to post motor vehicle service agreements on its Internet website
 1293 in lieu of mailing or delivery to agreement holders the motor
 1294 vehicle service agreement company must comply with the
 1295 requirements of s. 627.421(4) within 45 days after the date of
 1296 purchase. Electronic transmission of a service agreement
 1297 constitutes delivery to the agreement holder. The electronic
 1298 transmission must notify the agreement holder of his or her
 1299 right to receive the service agreement via United States mail
 1300 rather than electronic transmission. If the agreement holder

1301 ~~communicates to the service agreement company electronically or~~
1302 ~~in writing that he or she does not agree to receipt by~~
1303 ~~electronic transmission, a paper copy of the service agreement~~
1304 ~~shall be provided to the agreement holder.~~

1305 Section 17. Section 641.3107, Florida Statutes, is amended
1306 to read:

1307 641.3107 Delivery of contract; definitions.—

1308 (1) Unless delivered upon execution or issuance, A health
1309 maintenance contract, certificate of coverage, endorsements and
1310 riders, or member handbook shall be mailed, ~~or~~ delivered, or
1311 otherwise provided to the subscriber or, in the case of a group
1312 health maintenance contract, to the employer or other person who
1313 will hold the contract on behalf of the subscriber group, as
1314 provided in s. 627.421.

1315 (2) As used in s. 627.421, the term:

1316 (a) "Insurance policies and endorsements," "policy and
1317 endorsements," "policy," and "policy form and endorsement form"
1318 include the health maintenance contract, endorsement and riders,
1319 certificate of coverage, or member handbook.

1320 (b) "Insured" includes a subscriber or, in the case of a
1321 group health maintenance contract, to the employer or other
1322 person who will hold the contract on behalf of the subscriber
1323 group.

1324 (c) "Insurer" includes a health maintenance organization.

1325 (3) If the health maintenance organization elects to post
1326 health maintenance contracts on its Internet website in lieu of
1327 mailing or delivery to subscribers or the person who will hold
1328 the contract on behalf of a subscriber group the health
1329 maintenance organization must comply with the requirements of s.
1330 627.421(4) within 10 working days from approval of the
1331 enrollment form by the health maintenance organization or by the
1332 effective date of coverage, whichever occurs first. However, if
1333 the employer or other person who will hold the contract on
1334 behalf of the subscriber group requires retroactive enrollment
1335 of a subscriber, the organization shall deliver the contract,
1336 certificate, or member handbook to the subscriber within 10 days
1337 after receiving notice from the employer of the retroactive
1338 enrollment. This section does not apply to the delivery of those
1339 contracts specified in s. 641.31(13).

1340 Section 18. This act shall take effect upon becoming a
1341 law.