

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. 628.4615, F.S.; revising the

34 definition of the term "specialty insurer" to include

35 viatical settlement providers; providing requirements

36 and procedures for a person seeking to rebut a

37 presumption of control in a specialty insurer;

38 amending s. 628.8015, F.S.; revising the type of

39 documents that are not admissible in evidence in a

40 private civil action; amending s. 629.401, F.S.;

41 revising reserve requirements for reciprocal insurers;

42 amending s. 634.121, F.S.; providing definitions;

43 providing that provisions relating to the delivery of

44 insurance policy documents by insurers to

45 policyholders apply to certain motor vehicle service

46 agreements provided by motor vehicle service agreement

47 companies; deleting specified methods for the delivery

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

49 providing definitions; providing that provisions

50 relating to the delivery of insurance policy documents

51 by insurers to policyholders apply to delivery of such
 52 documents by health maintenance organizations to
 53 subscribers; providing effective dates.
 54

55 Be It Enacted by the Legislature of the State of Florida:
 56

57 Section 1. Paragraph (c) is added to subsection (3) of
 58 section 625.151, Florida Statutes, to read:

59 625.151 Valuation of other securities.—

60 (3) Stock of a subsidiary corporation of an insurer may
 61 ~~shall~~ not be valued at an amount in excess of the net value
 62 thereof as based upon those assets only of the subsidiary which
 63 would be eligible under part II for investment of the funds of
 64 the insurer directly.

65 (c) This subsection does not apply to stock of a
 66 subsidiary corporation or related entities of a foreign insurer
 67 that is permissible under the laws of its state of domicile if
 68 the state of domicile is a member of the National Association of
 69 Insurance Commissioners.

70 Section 2. Subsection (7) is added to section 625.325,
 71 Florida Statutes, to read:

72 625.325 Investments in subsidiaries and related
 73 corporations.—

74 (7) APPLICABILITY.—This section does not apply to a
 75 foreign insurer's investments in its subsidiaries or related

76 corporations if:

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

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

81 1. Permitted under the laws of the foreign insurer's state
 82 of domicile.

83 2.a. Assigned a rating of 1, 2, or 3 by the Securities
 84 Valuation Office of the of the National Association of Insurance
 85 Commissioners; or

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

91 Section 3. Paragraph (j) of subsection (2) of section
 92 626.221, Florida Statutes, is amended to read:

93 626.221 Examination requirement; exemptions.—

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

96 (j) An applicant for license as an all-lines adjuster who
 97 has the designation of Accredited Claims Adjuster (ACA) from a
 98 regionally accredited postsecondary institution in this state,
 99 Associate in Claims (AIC) from the Insurance Institute of
 100 America, Professional Claims Adjuster (PCA) from the

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

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

115 626.914 Definitions.—As used in this Surplus Lines Law,
116 the term:

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

125 Section 5. Paragraph (a) of subsection (2) of section

126 626.918, Florida Statutes, is repealed.

127 Section 6. Effective October 1, 2018, subsections (1) and
 128 (3) of section 626.932, Florida Statutes, are amended to read:

129 626.932 Surplus lines tax.—

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

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

147 Section 7. Section 626.9651, Florida Statutes, is amended
 148 to read:

149 626.9651 Privacy.—The department and commission must ~~shall~~
 150 each adopt rules consistent with other provisions of the Florida

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

171 Section 8. Subsection (1) of section 627.416, Florida
172 Statutes, is amended, and subsection (4) is added to that
173 section, to read:

174 627.416 Execution of policies.—

175 (1) Except as set forth in subsection (4), ~~every~~ insurance

176 policy shall be executed in the name of and on behalf of the
177 insurer by its officer, attorney in fact, employee, or
178 representative duly authorized by the insurer.

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

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

185 627.43141 Notice of change in policy terms.—

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

198 Section 10. Subsections (1), (3), (6), and (9) of section
199 627.7015, Florida Statutes, are amended to read:

200 627.7015 Alternative procedure for resolution of disputed

201 | property insurance claims.-

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

226 litigants referred to the department by a county court or
227 circuit court. This section does not apply to commercial
228 coverages, to private passenger motor vehicle insurance
229 coverages, or to disputes relating to liability coverages in
230 policies of property insurance.

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

250 (6) Mediation is nonbinding; however, if a written

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

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

262 (a) With respect to which the insurer has a reasonable
263 basis to suspect fraud;

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

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

271 (d) With respect to which the amount in controversy is
272 less than \$500, unless the parties agree to mediate a dispute
273 involving a lesser amount; or

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

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

278 627.728 Cancellations; nonrenewals.—

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

288 Section 12. Subsections (11) through (14) of section
289 628.4615, Florida Statutes, are renumbered as subsections (12)
290 through (15), respectively, subsections (1) and (7) of that
291 section are amended, and a new subsection (11) is added to that
292 section, to read:

293 628.4615 Specialty insurers; acquisition of controlling
294 stock, ownership interest, assets, or control; merger or
295 consolidation.—

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

299 (a) A motor vehicle service agreement company authorized
300 to issue motor vehicle service agreements as those terms are

301 defined in s. 634.011;

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

304 (c) A service warranty association authorized to issue
305 "service warranties" as those terms are defined in s.
306 634.401(13) and (14);

307 (d) A prepaid limited health service organization
308 authorized to issue prepaid limited health service contracts, as
309 those terms are defined in chapter 636;

310 (e) An authorized health maintenance organization
311 operating pursuant to s. 641.21;

312 (f) An authorized prepaid health clinic operating pursuant
313 to s. 641.405;

314 (g) A legal expense insurance corporation authorized to
315 engage in a legal expense insurance business pursuant to s.
316 642.021;

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

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

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

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

326 (1) A viatical settlement provider authorized to do
 327 business in this state under part X of chapter 626.

328 (7) The office may disapprove any acquisition subject to
 329 ~~the provisions of~~ this section by any person or any affiliated
 330 person of such person who:

331 (a) Willfully violates this section;

332 (b) In violation of an order of the office issued pursuant
 333 to subsection (12) ~~(11)~~, fails to divest himself or herself of
 334 any stock or ownership interest obtained in violation of this
 335 section or fails to divest himself or herself of any direct or
 336 indirect control of such stock or ownership interest, within 25
 337 days after such order; or

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

343 (11) A person may rebut a presumption of control by filing
 344 a disclaimer of control with the office on a form prescribed by
 345 the commission. The disclaimer must fully disclose all material
 346 relationships and bases for affiliation between the person and
 347 the specialty insurer as well as the basis for disclaiming the
 348 affiliation. In lieu of such form, a person or acquiring party
 349 may file with the office a copy of a Schedule 13G filed with the
 350 Securities and Exchange Commission pursuant to Rule 13d-1(b) or

351 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
352 of 1934, as amended. After a disclaimer has been filed, the
353 specialty insurer is relieved of any duty to register or report
354 under this section which may arise out of the specialty
355 insurer's relationship with the person unless the office
356 disallows the disclaimer.

357 Section 13. Subsection (4) of section 628.8015, Florida
358 Statutes, is amended to read:

359 628.8015 Own-risk and solvency assessment; corporate
360 governance annual disclosure.—

361 (4) CONFIDENTIALITY.—The required filings and related
362 documents submitted pursuant to subsections (2) and (3) are
363 privileged such that they may not be produced in response to a
364 subpoena or other discovery directed to the office, and any such
365 filings and related documents, ~~if obtained from the office,~~ are
366 not admissible in evidence in any private civil action. However,
367 the department or office may use these filings and related
368 documents in the furtherance of any regulatory or legal action
369 brought against an insurer as part of the official duties of the
370 department or office. A waiver of any applicable claim of
371 privilege in these filings and related documents may not occur
372 because of a disclosure to the office under this section,
373 because of any other provision of the Insurance Code, or because
374 of sharing under s. 624.4212. The office or a person receiving
375 these filings and related documents, while acting under the

376 authority of the office, or with whom such filings and related
377 documents are shared pursuant to s. 624.4212, is not permitted
378 or required to testify in any private civil action concerning
379 any such filings or related documents.

380 Section 14. Paragraph (b) of subsection (6) of section
381 629.401, Florida Statutes, is amended to read:

382 629.401 Insurance exchange.—

383 (6)

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

387 1. General examination powers.—The office shall examine
388 the affairs, transactions, accounts, records, and assets of any
389 security fund, exchange, members, and associate brokers as often
390 as it deems advisable. The examination may be conducted by the
391 accredited examiners of the office at the offices of the entity
392 or person being examined. The office shall examine in like
393 manner each prospective member or associate broker applying for
394 membership in an exchange.

395 2. Office approval and applications of underwriting
396 members.—No underwriting member shall commence operation without
397 the approval of the office. Before commencing operation, an
398 underwriting member shall provide a written application
399 containing:

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

401 b. Name, residence address, business background, and
402 qualifications of each person associated or to be associated in
403 the formation or financing of the underwriting member.

404 c. Full disclosure of the terms of all understandings and
405 agreements existing or proposed among persons so associated
406 relative to the underwriting member, or the formation or
407 financing thereof, accompanied by a copy of each such agreement
408 or understanding.

409 d. Full disclosure of the terms of all understandings and
410 agreements existing or proposed for management or exclusive
411 agency contracts.

412 3. Investigation of underwriting member applications.—In
413 connection with any proposal to establish an underwriting
414 member, the office shall make an investigation of:

415 a. The character, reputation, financial standing, and
416 motives of the organizers, incorporators, or subscribers
417 organizing the proposed underwriting member.

418 b. The character, financial responsibility, insurance
419 experience, and business qualifications of its proposed
420 officers.

421 c. The character, financial responsibility, business
422 experience, and standing of the proposed stockholders and
423 directors, or owners.

424 4. Notice of management changes.—An underwriting member
425 shall promptly give the office written notice of any change

426 among the directors or principal officers of the underwriting
427 member within 30 days after such change. The office shall
428 investigate the new directors or principal officers of the
429 underwriting member. The office's investigation shall include an
430 investigation of the character, financial responsibility,
431 insurance experience, and business qualifications of any new
432 directors or principal officers. As a result of the
433 investigation, the office may require the underwriting member to
434 replace any new directors or principal officers.

435 5. Alternate financial statement.—In lieu of any financial
436 examination, the office may accept an audited financial
437 statement.

438 6. Correction and reconstruction of records.—If the office
439 finds any accounts or records to be inadequate, or inadequately
440 kept or posted, it may employ experts to reconstruct, rewrite,
441 post, or balance them at the expense of the person or entity
442 being examined if such person or entity has failed to maintain,
443 complete, or correct such records or accounts after the office
444 has given him or her or it notice and reasonable opportunity to
445 do so.

446 7. Obstruction of examinations.—Any person or entity who
447 or which willfully obstructs the office or its examiner in an
448 examination is guilty of a misdemeanor of the second degree,
449 punishable as provided in s. 775.082 or s. 775.083.

450 8. Filing of annual statement.—Each underwriting member

451 shall file with the office a full and true statement of its
452 financial condition, transactions, and affairs. The statement
453 shall be filed on or before March 1 of each year, or within such
454 extension of time as the office for good cause grants, and shall
455 be for the preceding calendar year. The statement shall contain
456 information generally included in insurer financial statements
457 prepared in accordance with generally accepted insurance
458 accounting principles and practices and in a form generally
459 utilized by insurers for financial statements, sworn to by at
460 least two executive officers of the underwriting member. The
461 form of the financial statements shall be the approved form of
462 the National Association of Insurance Commissioners or its
463 successor organization. The commission may by rule require each
464 insurer to submit any part of the information contained in the
465 financial statement in a computer-readable form compatible with
466 the office's electronic data processing system. In addition to
467 information furnished in connection with its annual statement,
468 an underwriting member must furnish to the office as soon as
469 reasonably possible such information about its transactions or
470 affairs as the office requests in writing. All information
471 furnished pursuant to the office's request must be verified by
472 the oath of two executive officers of the underwriting member.

473 9. Record maintenance.—Each underwriting member shall have
474 and maintain its principal place of business in this state and
475 shall keep therein complete records of its assets, transactions,

476 and affairs in accordance with such methods and systems as are
477 customary for or suitable to the kind or kinds of insurance
478 transacted.

479 10. Examination of agents.—If the department has reason to
480 believe that any agent, as defined in s. 626.015 or s. 626.914,
481 has violated or is violating any provision of the insurance law,
482 or upon receipt of a written complaint signed by any interested
483 person indicating that any such violation may exist, the
484 department shall conduct such examination as it deems necessary
485 of the accounts, records, documents, and transactions pertaining
486 to or affecting the insurance affairs of such agent.

487 11. Written reports of office.—The office or its examiner
488 shall make a full and true written report of any examination.
489 The report shall contain only information obtained from
490 examination of the records, accounts, files, and documents of or
491 relative to the person or entity examined or from testimony of
492 individuals under oath, together with relevant conclusions and
493 recommendations of the examiner based thereon. The office shall
494 furnish a copy of the report to the person or entity examined
495 not less than 30 days prior to filing the report in its office.
496 If such person or entity so requests in writing within such 30-
497 day period, the office shall grant a hearing with respect to the
498 report and shall not file the report until after the hearing and
499 after such modifications have been made therein as the office
500 deems proper.

501 12. Admissibility of reports.—The report of an examination
502 when filed shall be admissible in evidence in any action or
503 proceeding brought by the office against the person or entity
504 examined, or against his or her or its officers, employees, or
505 agents. The office or its examiners may at any time testify and
506 offer other proper evidence as to information secured or matters
507 discovered during the course of an examination, whether or not a
508 written report of the examination has been either made,
509 furnished, or filed in the office.

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

514 14. Consideration of examination reports by entity
515 examined.—After the examination report of an underwriting member
516 has been filed, an affidavit shall be filed with the office, not
517 more than 30 days after the report has been filed, on a form
518 furnished by the office and signed by the person or a
519 representative of any entity examined, stating that the report
520 has been read and that the recommendations made in the report
521 will be considered within a reasonable time.

522 15. Examination costs.—Each person or entity examined by
523 the office shall pay to the office the expenses incurred in such
524 examination.

525 16. Exchange costs.—An exchange shall reimburse the office

526 | for any expenses incurred by it relating to the regulation of
527 | the exchange and its members, except as specified in
528 | subparagraph 15.

529 | 17. Powers of examiners.—Any examiner appointed by the
530 | office, as to the subject of any examination, investigation, or
531 | hearing being conducted by him or her, may administer oaths,
532 | examine and cross-examine witnesses, and receive oral and
533 | documentary evidence, and shall have the power to subpoena
534 | witnesses, compel their attendance and testimony, and require by
535 | subpoena the production of books, papers, records, files,
536 | correspondence, documents, or other evidence which the examiner
537 | deems relevant to the inquiry. If any person refuses to comply
538 | with any such subpoena or to testify as to any matter concerning
539 | which he or she may be lawfully interrogated, the Circuit Court
540 | of Leon County or the circuit court of the county wherein such
541 | examination, investigation, or hearing is being conducted, or of
542 | the county wherein such person resides, on the office's
543 | application may issue an order requiring such person to comply
544 | with the subpoena and to testify; and any failure to obey such
545 | an order of the court may be punished by the court as a contempt
546 | thereof. Subpoenas shall be served, and proof of such service
547 | made, in the same manner as if issued by a circuit court.
548 | Witness fees and mileage, if claimed, shall be allowed the same
549 | as for testimony in a circuit court.

550 | 18. False testimony.—Any person willfully testifying

551 | falsely under oath as to any matter material to any examination,
552 | investigation, or hearing shall upon conviction thereof be
553 | guilty of perjury and shall be punished accordingly.

554 | 19. Self-incrimination.—

555 | a. If any person asks to be excused from attending or
556 | testifying or from producing any books, papers, records,
557 | contracts, documents, or other evidence in connection with any
558 | examination, hearing, or investigation being conducted by the
559 | office or its examiner, on the ground that the testimony or
560 | evidence required of the person may tend to incriminate him or
561 | her or subject him or her to a penalty or forfeiture, and the
562 | person notwithstanding is directed to give such testimony or
563 | produce such evidence, he or she shall, if so directed by the
564 | office and the Department of Legal Affairs, nonetheless comply
565 | with such direction; but the person shall not thereafter be
566 | prosecuted or subjected to any penalty or forfeiture for or on
567 | account of any transaction, matter, or thing concerning which he
568 | or she may have so testified or produced evidence, and no
569 | testimony so given or evidence so produced shall be received
570 | against him or her upon any criminal action, investigation, or
571 | proceeding; except that no such person so testifying shall be
572 | exempt from prosecution or punishment for any perjury committed
573 | by him or her in such testimony, and the testimony or evidence
574 | so given or produced shall be admissible against him or her upon
575 | any criminal action, investigation, or proceeding concerning

576 such perjury, nor shall he or she be exempt from the refusal,
577 suspension, or revocation of any license, permission, or
578 authority conferred, or to be conferred, pursuant to the
579 insurance law.

580 b. Any such individual may execute, acknowledge, and file
581 with the office a statement expressly waiving such immunity or
582 privilege in respect to any transaction, matter, or thing
583 specified in such statement, and thereupon the testimony of such
584 individual or such evidence in relation to such transaction,
585 matter, or thing may be received or produced before any judge or
586 justice, court, tribunal, grand jury, or otherwise; and if such
587 testimony or evidence is so received or produced, such
588 individual shall not be entitled to any immunity or privileges
589 on account of any testimony so given or evidence so produced.

590 20. Penalty for failure to testify.—Any person who refuses
591 or fails, without lawful cause, to testify relative to the
592 affairs of any member, associate broker, or other person when
593 subpoenaed and requested by the office to so testify, as
594 provided in subparagraph 17., shall, in addition to the penalty
595 provided in subparagraph 17., be guilty of a misdemeanor of the
596 second degree, punishable as provided in s. 775.082 or s.
597 775.083.

598 21. Name selection.—No underwriting member shall be formed
599 or authorized to transact insurance in this state under a name
600 which is the same as that of any authorized insurer or is so

601 nearly similar thereto as to cause or tend to cause confusion or
602 under a name which would tend to mislead as to the type of
603 organization of the insurer. Before incorporating under or using
604 any name, the underwriting syndicate or proposed underwriting
605 syndicate shall submit its name or proposed name to the office
606 for the approval of the office.

607 22. Capitalization.—An underwriting member approved on or
608 after July 2, 1987, shall provide an initial paid-in capital and
609 surplus of \$3 million and thereafter shall maintain a minimum
610 policyholder surplus of \$2 million in order to be permitted to
611 write insurance. Underwriting members approved prior to July 2,
612 1987, shall maintain a minimum policyholder surplus of \$1
613 million. After June 29, 1988, underwriting members approved
614 prior to July 2, 1987, must maintain a minimum policyholder
615 surplus of \$1.5 million to write insurance. After June 29, 1989,
616 underwriting members approved prior to July 2, 1987, must
617 maintain a minimum policyholder surplus of \$1.75 million to
618 write insurance. After December 30, 1989, all underwriting
619 members, regardless of the date they were approved, must
620 maintain a minimum policyholder surplus of \$2 million to write
621 insurance. Except for that portion of the paid-in capital and
622 surplus which shall be maintained in a security fund of an
623 exchange, the paid-in capital and surplus shall be invested by
624 an underwriting member in a manner consistent with ss. 625.301-
625 625.340. The portion of the paid-in capital and surplus in any

626 security fund of an exchange shall be invested in a manner
627 limited to investments for life insurance companies under the
628 Florida insurance laws.

629 23. Limitations on coverage written.—

630 a. Limit of risk.—No underwriting member shall expose
631 itself to any loss on any one risk in an amount exceeding 10
632 percent of its surplus to policyholders. Any risk or portion of
633 any risk which shall have been reinsured in an assuming
634 reinsurer authorized or approved to do such business in this
635 state shall be deducted in determining the limitation of risk
636 prescribed in this section.

637 b. Restrictions on premiums written.—If the office has
638 reason to believe that the underwriting member's ratio of actual
639 or projected annual gross written premiums to policyholder
640 surplus exceeds 8 to 1 or the underwriting member's ratio of
641 actual or projected annual net premiums to policyholder surplus
642 exceeds 4 to 1, the office may establish maximum gross or net
643 annual premiums to be written by the underwriting member
644 consistent with maintaining the ratios specified in this sub-
645 subparagraph.

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

650 (II) For purposes of this sub-subparagraph, the term

651 "gross written premiums" means direct premiums written and
652 reinsurance assumed.

653 c. Surplus as to policyholders.—For the purpose of
654 determining the limitation on coverage written, surplus as to
655 policyholders shall be deemed to include any voluntary reserves,
656 or any part thereof, which are not required by or pursuant to
657 law and shall be determined from the last sworn statement of
658 such underwriting member with the office, or by the last report
659 or examination filed by the office, whichever is more recent at
660 the time of assumption of such risk.

661 24. Unearned premium reserves.—An underwriting member must
662 at all times maintain an unearned premium reserve equal to 50
663 percent of the net written premiums of the subscribers on
664 policies having 1 year or less to run, and pro rata on those for
665 longer periods, ~~All unearned premium reserves for business~~
666 ~~written on the exchange shall be calculated on a monthly or more~~
667 ~~frequent basis or on such other basis as determined by the~~
668 ~~office;~~ except that all premiums on any marine or transportation
669 insurance trip risk shall be deemed unearned until the trip is
670 terminated. For the purpose of this subparagraph, the term "net
671 written premiums" means the premium payments made by subscribers
672 plus the premiums due from subscribers, after deducting the
673 amounts specifically provided in the subscribers' agreements for
674 expenses, including reinsurance costs and fees paid to the
675 attorney in fact, provided that the power of attorney agreement

676 contains an explicit provision requiring the attorney in fact to
677 refund any unearned subscribers fees on a pro-rata basis for
678 cancelled policies. If there is no such provision, the unearned
679 premium reserve shall be calculated without any adjustment for
680 fees paid to the attorney in fact. If the unearned premium
681 reserves at any time do not amount to \$100,000, there shall be
682 maintained on deposit at the exchange at all times additional
683 funds in cash or eligible securities which, together with the
684 unearned premium reserves, equal \$100,000. In calculating the
685 foregoing reserves, the amount of the attorney's bond, as filed
686 with the office and as required by s. 629.121, shall be included
687 in such reserves. If at any time the unearned premium reserves
688 is less than the foregoing requirements, the subscribers, or the
689 attorney in fact, shall advance funds to make up the deficiency.
690 Such advances shall only be repaid out of the surplus of the
691 exchange and only after receiving written approval from the
692 office.

693 25. Loss reserves.—All underwriting members of an exchange
694 shall maintain loss reserves, including a reserve for incurred
695 but not reported claims. The reserves shall be subject to review
696 by the office, and, if loss experience shows that an
697 underwriting member's loss reserves are inadequate, the office
698 shall require the underwriting member to maintain loss reserves
699 in such additional amount as is needed to make them adequate.

700 26. Distribution of profits.—An underwriting member shall

701 not distribute any profits in the form of cash or other assets
702 to owners except out of that part of its available and
703 accumulated surplus funds which is derived from realized net
704 operating profits on its business and realized capital gains. In
705 any one year such payments to owners shall not exceed 30 percent
706 of such surplus as of December 31 of the immediately preceding
707 year, unless otherwise approved by the office. No distribution
708 of profits shall be made that would render an underwriting
709 member either impaired or insolvent.

710 27. Stock dividends.—A stock dividend may be paid by an
711 underwriting member out of any available surplus funds in excess
712 of the aggregate amount of surplus advanced to the underwriting
713 member under subparagraph 29.

714 28. Dividends from earned surplus.—A dividend otherwise
715 lawful may be payable out of an underwriting member's earned
716 surplus even though the total surplus of the underwriting member
717 is then less than the aggregate of its past contributed surplus
718 resulting from issuance of its capital stock at a price in
719 excess of the par value thereof.

720 29. Borrowing of money by underwriting members.—

721 a. An underwriting member may borrow money to defray the
722 expenses of its organization, provide it with surplus funds, or
723 for any purpose of its business, upon a written agreement that
724 such money is required to be repaid only out of the underwriting
725 member's surplus in excess of that stipulated in such agreement.

726 The agreement may provide for interest not exceeding 15 percent
727 simple interest per annum. The interest shall or shall not
728 constitute a liability of the underwriting member as to its
729 funds other than such excess of surplus, as stipulated in the
730 agreement. No commission or promotion expense shall be paid in
731 connection with any such loan. The use of any surplus note and
732 any repayments thereof shall be subject to the approval of the
733 office.

734 b. Money so borrowed, together with any interest thereon
735 if so stipulated in the agreement, shall not form a part of the
736 underwriting member's legal liabilities except as to its surplus
737 in excess of the amount thereof stipulated in the agreement, nor
738 be the basis of any setoff; but until repayment, financial
739 statements filed or published by an underwriting member shall
740 show as a footnote thereto the amount thereof then unpaid,
741 together with any interest thereon accrued but unpaid.

742 30. Liquidation, rehabilitation, and restrictions.—The
743 office, upon a showing that a member or associate broker of an
744 exchange has met one or more of the grounds contained in part I
745 of chapter 631, may restrict sales by type of risk, policy or
746 contract limits, premium levels, or policy or contract
747 provisions; increase surplus or capital requirements of
748 underwriting members; issue cease and desist orders; suspend or
749 restrict a member's or associate broker's right to transact
750 business; place an underwriting member under conservatorship or

751 rehabilitation; or seek an order of liquidation as authorized by
752 part I of chapter 631.

753 31. Prohibited conduct.—The following acts by a member,
754 associate broker, or affiliated person shall constitute
755 prohibited conduct:

756 a. Fraud.

757 b. Fraudulent or dishonest acts committed by a member or
758 associate broker prior to admission to an exchange, if the facts
759 and circumstances were not disclosed to the office upon
760 application to become a member or associate broker.

761 c. Conduct detrimental to the welfare of an exchange.

762 d. Unethical or improper practices or conduct,
763 inconsistent with just and equitable principles of trade as set
764 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.

765 e. Failure to use due diligence to ascertain the insurance
766 needs of a client or a principal.

767 f. Misstatements made under oath or upon an application
768 for membership on an exchange.

769 g. Failure to testify or produce documents when requested
770 by the office.

771 h. Willful violation of any law of this state.

772 i. Failure of an officer or principal to testify under
773 oath concerning a member, associate broker, or other person's
774 affairs as they relate to the operation of an exchange.

775 j. Violation of the constitution and bylaws of the

776 exchange.

777 32. Penalties for participating in prohibited conduct.—

778 a. The office may order the suspension of further
779 transaction of business on the exchange of any member or
780 associate broker found to have engaged in prohibited conduct. In
781 addition, any member or associate broker found to have engaged
782 in prohibited conduct may be subject to reprimand, censure,
783 and/or a fine not exceeding \$25,000 imposed by the office.

784 b. Any member which has an affiliated person who is found
785 to have engaged in prohibited conduct shall be subject to
786 involuntary withdrawal or in addition thereto may be subject to
787 suspension, reprimand, censure, and/or a fine not exceeding
788 \$25,000.

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

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

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

800 36. Remittance of fines.—Fines imposed under this section

801 shall be remitted to the office and shall be paid into the
 802 Insurance Regulatory Trust Fund.

803 37. Failure to pay fines.—When a member or associate
 804 broker has failed to pay a fine for 15 days after it becomes
 805 payable, such member or associate broker shall be suspended,
 806 unless the office has granted an extension of time to pay such
 807 fine.

808 38. Changes in ownership or assets.—In the event of a
 809 major change in the ownership or a major change in the assets of
 810 an underwriting member, the underwriting member shall report
 811 such change in writing to the office within 30 days of the
 812 effective date thereof. The report shall set forth the details
 813 of the change. Any change in ownership or assets of more than 5
 814 percent shall be considered a major change.

815 39. Retaliation.—

816 a. When by or pursuant to the laws of any other state or
 817 foreign country any taxes, licenses, or other fees, in the
 818 aggregate, and any fines, penalties, deposit requirements, or
 819 other material obligations, prohibitions, or restrictions are or
 820 would be imposed upon an exchange or upon the agents or
 821 representatives of such exchange which are in excess of such
 822 taxes, licenses, and other fees, in the aggregate, or which are
 823 in excess of such fines, penalties, deposit requirements, or
 824 other obligations, prohibitions, or restrictions directly
 825 imposed upon similar exchanges or upon the agents or

826 representatives of such exchanges of such other state or country
 827 under the statutes of this state, so long as such laws of such
 828 other state or country continue in force or are so applied, the
 829 same taxes, licenses, and other fees, in the aggregate, or
 830 fines, penalties, deposit requirements, or other material
 831 obligations, prohibitions, or restrictions of whatever kind
 832 shall be imposed by the office upon the exchanges, or upon the
 833 agents or representatives of such exchanges, of such other state
 834 or country doing business or seeking to do business in this
 835 state.

836 b. Any tax, license, or other obligation imposed by any
 837 city, county, or other political subdivision or agency of a
 838 state, jurisdiction, or foreign country on an exchange, or on
 839 the agents or representatives on an exchange, shall be deemed to
 840 be imposed by such state, jurisdiction, or foreign country
 841 within the meaning of sub-subparagraph a.

842 40. Agents.—

843 a. Agents as defined in ss. 626.015 and 626.914 who are
 844 broker members or associate broker members of an exchange shall
 845 be allowed only to place on an exchange the same kind or kinds
 846 of business that the agent is licensed to place pursuant to
 847 Florida law. Direct Florida business as defined in s. 626.916 or
 848 s. 626.917 shall be written through a broker member who is a
 849 surplus lines agent as defined in s. 626.914. The activities of
 850 each broker member or associate broker with regard to an

851 exchange shall be subject to all applicable provisions of the
852 insurance laws of this state, and all such activities shall
853 constitute transactions under his or her license as an insurance
854 agent for purposes of the Florida insurance law.

855 b. Premium payments and other requirements.—If an
856 underwriting member has assumed the risk as to a surplus lines
857 coverage and if the premium therefor has been received by the
858 surplus lines agent who placed such insurance, then in all
859 questions thereafter arising under the coverage as between the
860 underwriting member and the insured, the underwriting member
861 shall be deemed to have received the premium due to it for such
862 coverage; and the underwriting member shall be liable to the
863 insured as to losses covered by such insurance, and for unearned
864 premiums which may become payable to the insured upon
865 cancellation of such insurance, whether or not in fact the
866 surplus lines agent is indebted to the underwriting member with
867 respect to such insurance or for any other cause.

868 41. Improperly issued contracts, riders, and
869 endorsements.—

870 a. Any insurance policy, rider, or endorsement issued by
871 an underwriting member and otherwise valid which contains any
872 condition or provision not in compliance with the requirements
873 of this section shall not be thereby rendered invalid, except as
874 provided in s. 627.415, but shall be construed and applied in
875 accordance with such conditions and provisions as would have

876 applied had such policy, rider, or endorsement been in full
877 compliance with this section. In the event an underwriting
878 member issues or delivers any policy for an amount which exceeds
879 any limitations otherwise provided in this section, the
880 underwriting member shall be liable to the insured or his or her
881 beneficiary for the full amount stated in the policy in addition
882 to any other penalties that may be imposed.

883 b. Any insurance contract delivered or issued for delivery
884 in this state governing a subject or subjects of insurance
885 resident, located, or to be performed in this state which,
886 pursuant to the provisions of this section, the underwriting
887 member may not lawfully insure under such a contract shall be
888 cancelable at any time by the underwriting member, any provision
889 of the contract to the contrary notwithstanding; and the
890 underwriting member shall promptly cancel the contract in
891 accordance with the request of the office therefor. No such
892 illegality or cancellation shall be deemed to relieve the
893 underwriting syndicate of any liability incurred by it under the
894 contract while in force or to prohibit the underwriting
895 syndicate from retaining the pro rata earned premium thereon.
896 This provision does not relieve the underwriting syndicate from
897 any penalty otherwise incurred by the underwriting syndicate.

898 42. Satisfaction of judgments.—

899 a. Every judgment or decree for the recovery of money
900 heretofore or hereafter entered in any court of competent

901 jurisdiction against any underwriting member shall be fully
902 satisfied within 60 days from and after the entry thereof or, in
903 the case of an appeal from such judgment or decree, within 60
904 days from and after the affirmance of the judgment or decree by
905 the appellate court.

906 b. If the judgment or decree is not satisfied as required
907 under sub-subparagraph a., and proof of such failure to satisfy
908 is made by filing with the office a certified transcript of the
909 docket of the judgment or the decree together with a certificate
910 by the clerk of the court wherein the judgment or decree remains
911 unsatisfied, in whole or in part, after the time provided in
912 sub-subparagraph a., the office shall forthwith prohibit the
913 underwriting member from transacting business. The office shall
914 not permit such underwriting member to write any new business
915 until the judgment or decree is wholly paid and satisfied and
916 proof thereof is filed with the office under the official
917 certificate of the clerk of the court wherein the judgment was
918 recovered, showing that the judgment or decree is satisfied of
919 record, and until the expenses and fees incurred in the case are
920 also paid by the underwriting syndicate.

921 43. Tender and exchange offers.—No person shall conclude a
922 tender offer or an exchange offer or otherwise acquire 5 percent
923 or more of the outstanding voting securities of an underwriting
924 member or controlling company or purchase 5 percent or more of
925 the ownership of an underwriting member or controlling company

926 unless such person has filed with, and obtained the approval of,
927 the office and sent to such underwriting member a statement
928 setting forth:

929 a. The identity of, and background information on, each
930 person by whom, or on whose behalf, the acquisition is to be
931 made; and, if the acquisition is to be made by or on behalf of a
932 corporation, association, or trust, the identity of and
933 background information on each director, officer, trustee, or
934 other natural person performing duties similar to those of a
935 director, officer, or trustee for the corporation, association,
936 or trust.

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

939 c. Any plans or proposals which such person may have to
940 liquidate such member, to sell its assets, or to merge or
941 consolidate it.

942 d. The percentage of ownership which such person proposes
943 to acquire and the terms of the offer or exchange, as the case
944 may be.

945 e. Information as to any contracts, arrangements, or
946 understandings with any party with respect to any securities of
947 such member or controlling company, including, but not limited
948 to, information relating to the transfer of any securities,
949 option arrangements, or puts or calls or the giving or
950 withholding of proxies, naming the party with whom such

951 contract, arrangements, or understandings have been entered and
952 giving the details thereof.

953 f. The office may disapprove any acquisition subject to
954 the provisions of this subparagraph by any person or any
955 affiliated person of such person who:

956 (I) Willfully violates this subparagraph;

957 (II) In violation of an order of the office issued
958 pursuant to sub-subparagraph j., fails to divest himself or
959 herself of any stock obtained in violation of this subparagraph,
960 or fails to divest himself or herself of any direct or indirect
961 control of such stock, within 25 days after such order; or

962 (III) In violation of an order issued by the office
963 pursuant to sub-subparagraph j., acquires additional stock of
964 the underwriting member or controlling company, or direct or
965 indirect control of such stock, without complying with this
966 subparagraph.

967 g. The person or persons filing the statement required by
968 this subparagraph have the burden of proof. The office shall
969 approve any such acquisition if it finds, on the basis of the
970 record made during any proceeding or on the basis of the filed
971 statement if no proceeding is conducted, that:

972 (I) Upon completion of the acquisition, the underwriting
973 member will be able to satisfy the requirements for the approval
974 to write the line or lines of insurance for which it is
975 presently approved;

976 (II) The financial condition of the acquiring person or
977 persons will not jeopardize the financial stability of the
978 underwriting member or prejudice the interests of its
979 policyholders or the public;

980 (III) Any plan or proposal which the acquiring person has,
981 or acquiring persons have, made:

982 (A) To liquidate the insurer, sell its assets, or merge or
983 consolidate it with any person, or to make any other major
984 change in its business or corporate structure or management; or

985 (B) To liquidate any controlling company, sell its assets,
986 or merge or consolidate it with any person, or to make any major
987 change in its business or corporate structure or management
988 which would have an effect upon the underwriting member

989
990 is fair and free of prejudice to the policyholders of the
991 underwriting member or to the public;

992 (IV) The competence, experience, and integrity of those
993 persons who will control directly or indirectly the operation of
994 the underwriting member indicate that the acquisition is in the
995 best interest of the policyholders of the underwriting member
996 and in the public interest;

997 (V) The natural persons for whom background information is
998 required to be furnished pursuant to this subparagraph have such
999 backgrounds as to indicate that it is in the best interests of
1000 the policyholders of the underwriting member, and in the public

1001 interest, to permit such persons to exercise control over such
1002 underwriting member;

1003 (VI) The officers and directors to be employed after the
1004 acquisition have sufficient insurance experience and ability to
1005 assure reasonable promise of successful operation;

1006 (VII) The management of the underwriting member after the
1007 acquisition will be competent and trustworthy and will possess
1008 sufficient managerial experience so as to make the proposed
1009 operation of the underwriting member not hazardous to the
1010 insurance-buying public;

1011 (VIII) The management of the underwriting member after the
1012 acquisition will not include any person who has directly or
1013 indirectly through ownership, control, reinsurance transactions,
1014 or other insurance or business relations unlawfully manipulated
1015 the assets, accounts, finances, or books of any insurer or
1016 underwriting member or otherwise acted in bad faith with respect
1017 thereto;

1018 (IX) The acquisition is not likely to be hazardous or
1019 prejudicial to the underwriting member's policyholders or the
1020 public; and

1021 (X) The effect of the acquisition of control would not
1022 substantially lessen competition in insurance in this state or
1023 would not tend to create a monopoly therein.

1024 h. No vote by the stockholder of record, or by any other
1025 person, of any security acquired in contravention of the

1026 provisions of this subparagraph is valid. Any acquisition of any
1027 security contrary to the provisions of this subparagraph is
1028 void. Upon the petition of the underwriting member or
1029 controlling company, the circuit court for the county in which
1030 the principal office of such underwriting member is located may,
1031 without limiting the generality of its authority, order the
1032 issuance or entry of an injunction or other order to enforce the
1033 provisions of this subparagraph. There shall be a private right
1034 of action in favor of the underwriting member or controlling
1035 company to enforce the provisions of this subparagraph. No
1036 demand upon the office that it perform its functions shall be
1037 required as a prerequisite to any suit by the underwriting
1038 member or controlling company against any other person, and in
1039 no case shall the office be deemed a necessary party to any
1040 action by such underwriting member or controlling company to
1041 enforce the provisions of this subparagraph. Any person who
1042 makes or proposes an acquisition requiring the filing of a
1043 statement pursuant to this subparagraph, or who files such a
1044 statement, shall be deemed to have thereby designated the Chief
1045 Financial Officer as such person's agent for service of process
1046 under this subparagraph and shall thereby be deemed to have
1047 submitted himself or herself to the administrative jurisdiction
1048 of the office and to the jurisdiction of the circuit court.

1049 i. Any approval by the office under this subparagraph does
1050 not constitute a recommendation by the office for an

1051 acquisition, tender offer, or exchange offer. It is unlawful for
1052 a person to represent that the office's approval constitutes a
1053 recommendation. A person who violates the provisions of this
1054 sub-subparagraph is guilty of a felony of the third degree,
1055 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1056 The statute-of-limitations period for the prosecution of an
1057 offense committed under this sub-subparagraph is 5 years.

1058 j. Upon notification to the office by the underwriting
1059 member or a controlling company that any person or any
1060 affiliated person of such person has acquired 5 percent or more
1061 of the outstanding voting securities of the underwriting member
1062 or controlling company without complying with the provisions of
1063 this subparagraph, the office shall order that the person and
1064 any affiliated person of such person cease acquisition of any
1065 further securities of the underwriting member or controlling
1066 company; however, the person or any affiliated person of such
1067 person may request a proceeding, which proceeding shall be
1068 convened within 7 days after the rendering of the order for the
1069 sole purpose of determining whether the person, individually or
1070 in connection with any affiliated person of such person, has
1071 acquired 5 percent or more of the outstanding voting securities
1072 of an underwriting member or controlling company. Upon the
1073 failure of the person or affiliated person to request a hearing
1074 within 7 days, or upon a determination at a hearing convened
1075 pursuant to this sub-subparagraph that the person or affiliated

1076 person has acquired voting securities of an underwriting member
1077 or controlling company in violation of this subparagraph, the
1078 office may order the person and affiliated person to divest
1079 themselves of any voting securities so acquired.

1080 k.(I) The office shall, if necessary to protect the public
1081 interest, suspend or revoke the certificate of authority of any
1082 underwriting member or controlling company:

1083 (A) The control of which is acquired in violation of this
1084 subparagraph;

1085 (B) That is controlled, directly or indirectly, by any
1086 person or any affiliated person of such person who, in violation
1087 of this subparagraph, has obtained control of an underwriting
1088 member or controlling company; or

1089 (C) That is controlled, directly or indirectly, by any
1090 person who, directly or indirectly, controls any other person
1091 who, in violation of this subparagraph, acquires control of an
1092 underwriting member or controlling company.

1093 (II) If any underwriting member is subject to suspension
1094 or revocation pursuant to sub-sub-subparagraph (I), the
1095 underwriting member shall be deemed to be in such condition, or
1096 to be using or to have been subject to such methods or practices
1097 in the conduct of its business, as to render its further
1098 transaction of insurance presently or prospectively hazardous to
1099 its policyholders, creditors, or stockholders or to the public.

1100 l.(I) For the purpose of this sub-sub-subparagraph, the

1101 term "affiliated person" of another person means:

1102 (A) The spouse of such other person;

1103 (B) The parents of such other person and their lineal

1104 descendants and the parents of such other person's spouse and

1105 their lineal descendants;

1106 (C) Any person who directly or indirectly owns or

1107 controls, or holds with power to vote, 5 percent or more of the

1108 outstanding voting securities of such other person;

1109 (D) Any person 5 percent or more of the outstanding voting

1110 securities of which are directly or indirectly owned or

1111 controlled, or held with power to vote, by such other person;

1112 (E) Any person or group of persons who directly or

1113 indirectly control, are controlled by, or are under common

1114 control with such other person; or any officer, director,

1115 partner, copartner, or employee of such other person;

1116 (F) If such other person is an investment company, any

1117 investment adviser of such company or any member of an advisory

1118 board of such company;

1119 (G) If such other person is an unincorporated investment

1120 company not having a board of directors, the depositor of such

1121 company; or

1122 (H) Any person who has entered into an agreement, written

1123 or unwritten, to act in concert with such other person in

1124 acquiring or limiting the disposition of securities of an

1125 underwriting member or controlling company.

1126 (II) For the purposes of this section, the term
1127 "controlling company" means any corporation, trust, or
1128 association owning, directly or indirectly, 25 percent or more
1129 of the voting securities of one or more underwriting members.

1130 m. The commission may adopt, amend, or repeal rules that
1131 are necessary to implement the provisions of this subparagraph,
1132 pursuant to chapter 120.

1133 44. Background information.—The information as to the
1134 background and identity of each person about whom information is
1135 required to be furnished pursuant to sub-subparagraph 43.a.
1136 shall include, but shall not be limited to:

1137 a. Such person's occupations, positions of employment, and
1138 offices held during the past 10 years.

1139 b. The principal business and address of any business,
1140 corporation, or other organization in which each such office was
1141 held or in which such occupation or position of employment was
1142 carried on.

1143 c. Whether, at any time during such 10-year period, such
1144 person was convicted of any crime other than a traffic
1145 violation.

1146 d. Whether, during such 10-year period, such person has
1147 been the subject of any proceeding for the revocation of any
1148 license and, if so, the nature of such proceeding and the
1149 disposition thereof.

1150 e. Whether, during such 10-year period, such person has

1151 | been the subject of any proceeding under the federal Bankruptcy
1152 | Act or whether, during such 10-year period, any corporation,
1153 | partnership, firm, trust, or association in which such person
1154 | was a director, officer, trustee, partner, or other official has
1155 | been subject to any such proceeding, either during the time in
1156 | which such person was a director, officer, trustee, partner, or
1157 | other official, or within 12 months thereafter.

1158 | f. Whether, during such 10-year period, such person has
1159 | been enjoined, either temporarily or permanently, by a court of
1160 | competent jurisdiction from violating any federal or state law
1161 | regulating the business of insurance, securities, or banking, or
1162 | from carrying out any particular practice or practices in the
1163 | course of the business of insurance, securities, or banking,
1164 | together with details of any such event.

1165 | 45. Security fund.—All underwriting members shall be
1166 | members of the security fund of any exchange.

1167 | 46. Underwriting member defined.—Whenever the term
1168 | "underwriting member" is used in this subsection, it shall be
1169 | construed to mean "underwriting syndicate."

1170 | 47. Offsets.—Any action, requirement, or constraint
1171 | imposed by the office shall reduce or offset similar actions,
1172 | requirements, or constraints of any exchange.

1173 | 48. Restriction on member ownership.—

1174 | a. Investments existing prior to July 2, 1987.—The
1175 | investment in any member by brokers, agents, and intermediaries

1176 transacting business on the exchange, and the investment in any
1177 such broker, agent, or intermediary by any member, directly or
1178 indirectly, shall in each case be limited in the aggregate to
1179 less than 20 percent of the total investment in such member,
1180 broker, agent, or intermediary, as the case may be. After
1181 December 31, 1987, the aggregate percent of the total investment
1182 in such member by any broker, agent, or intermediary and the
1183 aggregate percent of the total investment in any such broker,
1184 agent, or intermediary by any member, directly or indirectly,
1185 shall not exceed 15 percent. After June 30, 1988, such aggregate
1186 percent shall not exceed 10 percent and after December 31, 1988,
1187 such aggregate percent shall not exceed 5 percent.

1188 b. Investments arising on or after July 2, 1987.—The
1189 investment in any underwriting member by brokers, agents, or
1190 intermediaries transacting business on the exchange, and the
1191 investment in any such broker, agent, or intermediary by any
1192 underwriting member, directly or indirectly, shall in each case
1193 be limited in the aggregate to less than 5 percent of the total
1194 investment in such underwriting member, broker, agent, or
1195 intermediary.

1196 49. "Underwriting manager" defined.—"Underwriting manager"
1197 as used in this subparagraph includes any person, partnership,
1198 corporation, or organization providing any of the following
1199 services to underwriting members of the exchange:

1200 a. Office management and allied services, including

1201 correspondence and secretarial services.

1202 b. Accounting services, including bookkeeping and
1203 financial report preparation.

1204 c. Investment and banking consultations and services.

1205 d. Underwriting functions and services including the
1206 acceptance, rejection, placement, and marketing of risk.

1207 50. Prohibition of underwriting manager investment.—Any
1208 direct or indirect investment in any underwriting manager by a
1209 broker member or any affiliated person of a broker member or any
1210 direct or indirect investment in a broker member by an
1211 underwriting manager or any affiliated person of an underwriting
1212 manager is prohibited. "Affiliated person" for purposes of this
1213 subparagraph is defined in subparagraph 43.

1214 51. An underwriting member may not accept reinsurance on
1215 an assumed basis from an affiliate or a controlling company, nor
1216 may a broker member or management company place reinsurance from
1217 an affiliate or controlling company of theirs with an
1218 underwriting member. "Affiliate and controlling company" for
1219 purposes of this subparagraph is defined in subparagraph 43.

1220 52. Premium defined.—"Premium" is the consideration for
1221 insurance, by whatever name called. Any "assessment" or any
1222 "membership," "policy," "survey," "inspection," "service" fee or
1223 charge or similar fee or charge in consideration for an
1224 insurance contract is deemed part of the premium.

1225 53. Rules.—The commission shall adopt rules necessary for

1226 or as an aid to the effectuation of any provision of this
1227 section.

1228 Section 15. Subsection (6) of section 634.121, Florida
1229 Statutes, is amended to read:

1230 634.121 Forms, required procedures, provisions; delivery
1231 and definitions.-

1232 (6) (a) Each service agreement, which includes a copy of
1233 the application form, must be mailed, delivered, or otherwise
1234 provided electronically transmitted to the agreement holder as
1235 provided in s. 627.421. As used in s. 627.421, the term:

1236 1. "Insurance policies and endorsements," "policy and
1237 endorsements," "policy," and "policy form and endorsement form"
1238 include a motor vehicle service agreement and related
1239 endorsement forms.

1240 2. "Insured" includes a motor vehicle service agreement
1241 holder.

1242 3. "Insurer" includes a motor vehicle service agreement
1243 company.

1244 (b) If the motor vehicle service agreement company elects
1245 to post motor vehicle service agreements on its Internet website
1246 in lieu of mailing or delivery to agreement holders the motor
1247 vehicle service agreement company must comply with the
1248 requirements of s. 627.421(4) within 45 days after the date of
1249 purchase. Electronic transmission of a service agreement
1250 constitutes delivery to the agreement holder. The electronic

1251 ~~transmission must notify the agreement holder of his or her~~
 1252 ~~right to receive the service agreement via United States mail~~
 1253 ~~rather than electronic transmission. If the agreement holder~~
 1254 ~~communicates to the service agreement company electronically or~~
 1255 ~~in writing that he or she does not agree to receipt by~~
 1256 ~~electronic transmission, a paper copy of the service agreement~~
 1257 ~~shall be provided to the agreement holder.~~

1258 Section 16. Section 641.3107, Florida Statutes, is amended
 1259 to read:

1260 641.3107 Delivery of contract; definitions.—

1261 (1) Unless delivered upon execution or issuance, A health
 1262 maintenance contract, certificate of coverage, endorsements and
 1263 riders, or member handbook shall be mailed, ~~or~~ delivered, or
 1264 otherwise provided to the subscriber or, in the case of a group
 1265 health maintenance contract, to the employer or other person who
 1266 will hold the contract on behalf of the subscriber group, as
 1267 provided in s. 627.421.

1268 (2) As used in s. 627.421, the term:

1269 (a) "Insurance policies and endorsements," "policy and
 1270 endorsements," "policy," and "policy form and endorsement form"
 1271 include the health maintenance contract, endorsement and riders,
 1272 certificate of coverage, or member handbook.

1273 (b) "Insured" includes a subscriber or, in the case of a
 1274 group health maintenance contract, to the employer or other

1275 person who will hold the contract on behalf of the subscriber
1276 group.

1277 (c) "Insurer" includes a health maintenance organization.

1278 (3) If the health maintenance organization elects to post
1279 health maintenance contracts on its Internet website in lieu of
1280 mailing or delivery to subscribers or the person who will hold
1281 the contract on behalf of a subscriber group the health
1282 maintenance organization must comply with the requirements of s.
1283 627.421(4) ~~within 10 working days from approval of the~~
1284 ~~enrollment form by the health maintenance organization or by the~~
1285 ~~effective date of coverage, whichever occurs first. However, if~~
1286 ~~the employer or other person who will hold the contract on~~
1287 ~~behalf of the subscriber group requires retroactive enrollment~~
1288 ~~of a subscriber, the organization shall deliver the contract,~~
1289 ~~certificate, or member handbook to the subscriber within 10 days~~
1290 ~~after receiving notice from the employer of the retroactive~~
1291 enrollment. This section does not apply to the delivery of those
1292 contracts specified in s. 641.31(13).

1293 Section 17. Except as otherwise expressly provided in this
1294 act, this act shall take effect upon becoming a law.