



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. 626.9651, F.S.; revising requirements for
19 rules adopted by the Department of Financial Services
20 and the Financial Services Commission relating to the
21 privacy of certain consumer information; amending s.
22 627.416, F.S.; revising requirements for execution of
23 insurance policies; amending s. 627.43141, F.S.;
24 revising the requirements for notice of change in
25 policy terms; amending s. 627.7015, F.S.; authorizing



26 | insurers to participate in mediations requested by
27 | third parties; revising terminology; amending s.
28 | 627.728, F.S.; providing requirements for sufficient
29 | proof of notice for certain motor vehicle insurance
30 | notices; amending s. 628.4615, F.S.; revising the
31 | definition of the term "specialty insurer" to include
32 | viatical settlement providers; providing requirements
33 | and procedures for a person seeking to rebut a
34 | presumption of control in a specialty insurer;
35 | amending s. 628.8015, F.S.; revising the type of
36 | documents that are not admissible in evidence in a
37 | private civil action; amending s. 629.401, F.S.;
38 | revising reserve requirements for reciprocal insurers;
39 | amending s. 634.121, F.S.; providing definitions;
40 | providing that provisions relating to the delivery of
41 | insurance policy documents by insurers to
42 | policyholders apply to certain motor vehicle service
43 | agreements provided by motor vehicle service agreement
44 | companies; deleting specified methods for the delivery
45 | of such documents; amending s. 641.3107, F.S.;
46 | providing definitions; providing that provisions
47 | relating to the delivery of insurance policy documents
48 | by insurers to policyholders apply to delivery of such
49 | documents by health maintenance organizations to
50 | subscribers; providing effective dates.



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

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

625.151 Valuation of other securities.—

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

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

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

625.325 Investments in subsidiaries and related corporations.—

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

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



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

78 1. Permitted under the laws of the foreign insurer's state
 79 of domicile.

80 2.a. Assigned a rating of 1, 2, or 3 by the Securities
 81 Valuation Office of the of the National Association of Insurance
 82 Commissioners; or

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

88 Section 3. Paragraph (j) of subsection (2) of section
 89 626.221, Florida Statutes, is amended to read:

90 626.221 Examination requirement; exemptions.—

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

93 (j) An applicant for license as an all-lines adjuster who
 94 has the designation of Accredited Claims Adjuster (ACA) from a
 95 regionally accredited postsecondary institution in this state,
 96 Associate in Claims (AIC) from the Insurance Institute of
 97 America, Professional Claims Adjuster (PCA) from the
 98 Professional Career Institute, Professional Property Insurance
 99 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
 100 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster



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

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

112 626.914 Definitions.—As used in this Surplus Lines Law,
113 the term:

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

122 Section 5. Paragraph (a) of subsection (2) of section
123 626.918, Florida Statutes, is repealed.

124 Section 6. Section 626.9651, Florida Statutes, is amended
125 to read:



126 626.9651 Privacy.—The department and commission must ~~shall~~
127 each adopt rules consistent with other provisions of the Florida
128 Insurance Code to govern the use of a consumer's nonpublic
129 personal financial and health information. These rules must be
130 based on, consistent with, and not more restrictive than the
131 Privacy of Consumer Financial and Health Information Regulation,
132 adopted September 26, 2000, by the National Association of
133 Insurance Commissioners; however, the rules must permit the use
134 and disclosure of nonpublic personal health information for
135 scientific, medical, or public policy research, in accordance
136 with federal law. In addition, these rules must be consistent
137 with, and not more restrictive than, the standards contained in
138 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
139 102, as amended in Title LXXV of the Fixing America's Surface
140 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
141 determines that a health insurer or health maintenance
142 organization is in compliance with, or is actively undertaking
143 compliance with, the consumer privacy protection rules adopted
144 by the United States Department of Health and Human Services, in
145 conformance with the Health Insurance Portability and
146 Affordability Act, that health insurer or health maintenance
147 organization is in compliance with this section.

148 Section 7. Subsection (1) of section 627.416, Florida
149 Statutes, is amended, and subsection (4) is added to that
150 section, to read:



151 627.416 Execution of policies.—

152 (1) Except as set forth in subsection (4), every insurance
153 policy shall be executed in the name of and on behalf of the
154 insurer by its officer, attorney in fact, employee, or
155 representative duly authorized by the insurer.

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

160 Section 8. Subsection (2) of section 627.43141, Florida
161 Statutes, is amended to read:

162 627.43141 Notice of change in policy terms.—

163 (2) A renewal policy may contain a change in policy terms.
164 If such change occurs, the insurer shall give the named insured
165 advance written notice summarizing ~~of~~ the change, which may be
166 enclosed along with the written notice of renewal premium
167 required under ss. 627.4133 and 627.728 or sent separately
168 within the timeframe required under the Florida Insurance Code
169 for the provision of a notice of nonrenewal to the named insured
170 for that line of insurance. The insurer must also provide a
171 sample copy of the notice to the named insured's insurance agent
172 before or at the same time that notice is provided to the named
173 insured. Such notice shall be entitled "Notice of Change in
174 Policy Terms."

175 Section 9. Subsections (1), (3), (6), and (9) of section



176 | 627.7015, Florida Statutes, are amended to read:

177 | 627.7015 Alternative procedure for resolution of disputed
178 | property insurance claims.—

179 | (1) This section sets forth a nonadversarial alternative
180 | dispute resolution procedure for a mediated claim resolution
181 | conference prompted by the need for effective, fair, and timely
182 | handling of property insurance claims. There is a particular
183 | need for an informal, nonthreatening forum for helping parties
184 | who elect this procedure to resolve their claims disputes
185 | because most homeowner and commercial residential insurance
186 | policies obligate policyholders to participate in a potentially
187 | expensive and time-consuming adversarial appraisal process
188 | before litigation. The procedure set forth in this section is
189 | designed to bring the parties together for a mediated claims
190 | settlement conference without any of the trappings or drawbacks
191 | of an adversarial process. Before resorting to these procedures,
192 | policyholders and insurers are encouraged to resolve claims as
193 | quickly and fairly as possible. This section is available with
194 | respect to claims under personal lines and commercial
195 | residential policies before commencing the appraisal process, or
196 | before commencing litigation. Mediation may be requested only by
197 | the policyholder, as a first-party claimant, a third-party, as
198 | an assignee of the policy benefits, or the insurer. However, an
199 | insurer is not required to participate in any mediation
200 | requested by a third-party assignee of the policy benefits. If



201 requested by the policyholder, participation by legal counsel is
202 permitted. Mediation under this section is also available to
203 litigants referred to the department by a county court or
204 circuit court. This section does not apply to commercial
205 coverages, to private passenger motor vehicle insurance
206 coverages, or to disputes relating to liability coverages in
207 policies of property insurance.

208 (3) The costs of mediation must ~~shall~~ be reasonable, and
209 the insurer must ~~shall~~ bear all of the cost of conducting
210 mediation conferences, except as otherwise provided in this
211 section. If a policyholder ~~an insured~~ fails to appear at the
212 conference, the conference must ~~shall~~ be rescheduled upon the
213 policyholder's ~~insured's~~ payment of the costs of a rescheduled
214 conference. If the insurer fails to appear at the conference,
215 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual
216 cash expenses incurred in attending the conference if the
217 insurer's failure to attend was not due to a good cause
218 acceptable to the department. An insurer will be deemed to have
219 failed to appear if the insurer's representative lacks authority
220 to settle the full value of the claim. The insurer shall incur
221 an additional fee for a rescheduled conference necessitated by
222 the insurer's failure to appear at a scheduled conference. The
223 fees assessed by the administrator must ~~shall~~ include a charge
224 necessary to defray the expenses of the department related to
225 its duties under this section and must ~~shall~~ be deposited in the



226 Insurance Regulatory Trust Fund.

227 (6) Mediation is nonbinding; however, if a written
228 settlement is reached, the policyholder ~~insured~~ has 3 business
229 days within which the policyholder ~~insured~~ may rescind the
230 settlement unless the policyholder ~~insured~~ has cashed or
231 deposited any check or draft disbursed to the policyholder
232 ~~insured~~ for the disputed matters as a result of the conference.
233 If a settlement agreement is reached and is not rescinded, it is
234 ~~shall be~~ binding and acts ~~act~~ as a release of all specific
235 claims that were presented in that mediation conference.

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

239 (a) With respect to which the insurer has a reasonable
240 basis to suspect fraud;

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

243 (c) With respect to which the insurer has a reasonable
244 basis to believe that the policyholder has intentionally made a
245 material misrepresentation of fact which is relevant to the
246 claim, and the entire request for payment of a loss has been
247 denied on the basis of the material misrepresentation;

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



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

253 Section 10. Subsection (5) of section 627.728, Florida
254 Statutes, is amended to read:

255 627.728 Cancellations; nonrenewals.—

256 (5) United States postal proof of mailing, ~~or~~ certified or
257 registered mailing, or other mailing using the Intelligent Mail
258 barcode or other similar tracking method used or approved by the
259 United States Postal Service of notice of cancellation, of
260 intention not to renew, or of reasons for cancellation, or of
261 the intention of the insurer to issue a policy by an insurer
262 under the same ownership or management, to the first-named
263 insured at the address shown in the policy, are ~~shall be~~
264 sufficient proof of notice.

265 Section 11. Subsections (11) through (14) of section
266 628.4615, Florida Statutes, are renumbered as subsections (12)
267 through (15), respectively, subsections (1) and (7) of that
268 section are amended, and a new subsection (11) is added to that
269 section, to read:

270 628.4615 Specialty insurers; acquisition of controlling
271 stock, ownership interest, assets, or control; merger or
272 consolidation.—

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



276 (a) A motor vehicle service agreement company authorized
277 to issue motor vehicle service agreements as those terms are
278 defined in s. 634.011;

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

281 (c) A service warranty association authorized to issue
282 "service warranties" as those terms are defined in s.
283 634.401(13) and (14);

284 (d) A prepaid limited health service organization
285 authorized to issue prepaid limited health service contracts, as
286 those terms are defined in chapter 636;

287 (e) An authorized health maintenance organization
288 operating pursuant to s. 641.21;

289 (f) An authorized prepaid health clinic operating pursuant
290 to s. 641.405;

291 (g) A legal expense insurance corporation authorized to
292 engage in a legal expense insurance business pursuant to s.
293 642.021;

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

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

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



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

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

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

308 (a) Willfully violates this section;

309 (b) In violation of an order of the office issued pursuant
310 to subsection (12) ~~(11)~~, fails to divest himself or herself of
311 any stock or ownership interest obtained in violation of this
312 section or fails to divest himself or herself of any direct or
313 indirect control of such stock or ownership interest, within 25
314 days after such order; or

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

320 (11) A person may rebut a presumption of control by filing
321 a disclaimer of control with the office on a form prescribed by
322 the commission. The disclaimer must fully disclose all material
323 relationships and bases for affiliation between the person and
324 the specialty insurer as well as the basis for disclaiming the
325 affiliation. In lieu of such form, a person or acquiring party



326 | may file with the office a copy of a Schedule 13G filed with the
327 | Securities and Exchange Commission pursuant to Rule 13d-1(b) or
328 | (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
329 | of 1934, as amended. After a disclaimer has been filed, the
330 | specialty insurer is relieved of any duty to register or report
331 | under this section which may arise out of the specialty
332 | insurer's relationship with the person unless the office
333 | disallows the disclaimer.

334 | Section 12. Subsection (4) of section 628.8015, Florida
335 | Statutes, is amended to read:

336 | 628.8015 Own-risk and solvency assessment; corporate
337 | governance annual disclosure.—

338 | (4) CONFIDENTIALITY.—The required filings and related
339 | documents submitted pursuant to subsections (2) and (3) are
340 | privileged such that they may not be produced in response to a
341 | subpoena or other discovery directed to the office, and any such
342 | filings and related documents, ~~if obtained from the office,~~ are
343 | not admissible in evidence in any private civil action. However,
344 | the department or office may use these filings and related
345 | documents in the furtherance of any regulatory or legal action
346 | brought against an insurer as part of the official duties of the
347 | department or office. A waiver of any applicable claim of
348 | privilege in these filings and related documents may not occur
349 | because of a disclosure to the office under this section,
350 | because of any other provision of the Insurance Code, or because



351 of sharing under s. 624.4212. The office or a person receiving
352 these filings and related documents, while acting under the
353 authority of the office, or with whom such filings and related
354 documents are shared pursuant to s. 624.4212, is not permitted
355 or required to testify in any private civil action concerning
356 any such filings or related documents.

357 Section 13. Paragraph (b) of subsection (6) of section
358 629.401, Florida Statutes, is amended to read:

359 629.401 Insurance exchange.—

360 (6)

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

364 1. General examination powers.—The office shall examine
365 the affairs, transactions, accounts, records, and assets of any
366 security fund, exchange, members, and associate brokers as often
367 as it deems advisable. The examination may be conducted by the
368 accredited examiners of the office at the offices of the entity
369 or person being examined. The office shall examine in like
370 manner each prospective member or associate broker applying for
371 membership in an exchange.

372 2. Office approval and applications of underwriting
373 members.—No underwriting member shall commence operation without
374 the approval of the office. Before commencing operation, an
375 underwriting member shall provide a written application



376 containing:

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

378 b. Name, residence address, business background, and
379 qualifications of each person associated or to be associated in
380 the formation or financing of the underwriting member.

381 c. Full disclosure of the terms of all understandings and
382 agreements existing or proposed among persons so associated
383 relative to the underwriting member, or the formation or
384 financing thereof, accompanied by a copy of each such agreement
385 or understanding.

386 d. Full disclosure of the terms of all understandings and
387 agreements existing or proposed for management or exclusive
388 agency contracts.

389 3. Investigation of underwriting member applications.—In
390 connection with any proposal to establish an underwriting
391 member, the office shall make an investigation of:

392 a. The character, reputation, financial standing, and
393 motives of the organizers, incorporators, or subscribers
394 organizing the proposed underwriting member.

395 b. The character, financial responsibility, insurance
396 experience, and business qualifications of its proposed
397 officers.

398 c. The character, financial responsibility, business
399 experience, and standing of the proposed stockholders and
400 directors, or owners.



401 4. Notice of management changes.—An underwriting member
402 shall promptly give the office written notice of any change
403 among the directors or principal officers of the underwriting
404 member within 30 days after such change. The office shall
405 investigate the new directors or principal officers of the
406 underwriting member. The office's investigation shall include an
407 investigation of the character, financial responsibility,
408 insurance experience, and business qualifications of any new
409 directors or principal officers. As a result of the
410 investigation, the office may require the underwriting member to
411 replace any new directors or principal officers.

412 5. Alternate financial statement.—In lieu of any financial
413 examination, the office may accept an audited financial
414 statement.

415 6. Correction and reconstruction of records.—If the office
416 finds any accounts or records to be inadequate, or inadequately
417 kept or posted, it may employ experts to reconstruct, rewrite,
418 post, or balance them at the expense of the person or entity
419 being examined if such person or entity has failed to maintain,
420 complete, or correct such records or accounts after the office
421 has given him or her or it notice and reasonable opportunity to
422 do so.

423 7. Obstruction of examinations.—Any person or entity who
424 or which willfully obstructs the office or its examiner in an
425 examination is guilty of a misdemeanor of the second degree,



426 | punishable as provided in s. 775.082 or s. 775.083.

427 | 8. Filing of annual statement.—Each underwriting member
428 | shall file with the office a full and true statement of its
429 | financial condition, transactions, and affairs. The statement
430 | shall be filed on or before March 1 of each year, or within such
431 | extension of time as the office for good cause grants, and shall
432 | be for the preceding calendar year. The statement shall contain
433 | information generally included in insurer financial statements
434 | prepared in accordance with generally accepted insurance
435 | accounting principles and practices and in a form generally
436 | utilized by insurers for financial statements, sworn to by at
437 | least two executive officers of the underwriting member. The
438 | form of the financial statements shall be the approved form of
439 | the National Association of Insurance Commissioners or its
440 | successor organization. The commission may by rule require each
441 | insurer to submit any part of the information contained in the
442 | financial statement in a computer-readable form compatible with
443 | the office's electronic data processing system. In addition to
444 | information furnished in connection with its annual statement,
445 | an underwriting member must furnish to the office as soon as
446 | reasonably possible such information about its transactions or
447 | affairs as the office requests in writing. All information
448 | furnished pursuant to the office's request must be verified by
449 | the oath of two executive officers of the underwriting member.

450 | 9. Record maintenance.—Each underwriting member shall have



451 and maintain its principal place of business in this state and
452 shall keep therein complete records of its assets, transactions,
453 and affairs in accordance with such methods and systems as are
454 customary for or suitable to the kind or kinds of insurance
455 transacted.

456 10. Examination of agents.—If the department has reason to
457 believe that any agent, as defined in s. 626.015 or s. 626.914,
458 has violated or is violating any provision of the insurance law,
459 or upon receipt of a written complaint signed by any interested
460 person indicating that any such violation may exist, the
461 department shall conduct such examination as it deems necessary
462 of the accounts, records, documents, and transactions pertaining
463 to or affecting the insurance affairs of such agent.

464 11. Written reports of office.—The office or its examiner
465 shall make a full and true written report of any examination.
466 The report shall contain only information obtained from
467 examination of the records, accounts, files, and documents of or
468 relative to the person or entity examined or from testimony of
469 individuals under oath, together with relevant conclusions and
470 recommendations of the examiner based thereon. The office shall
471 furnish a copy of the report to the person or entity examined
472 not less than 30 days prior to filing the report in its office.
473 If such person or entity so requests in writing within such 30-
474 day period, the office shall grant a hearing with respect to the
475 report and shall not file the report until after the hearing and



476 after such modifications have been made therein as the office
477 deems proper.

478 12. Admissibility of reports.—The report of an examination
479 when filed shall be admissible in evidence in any action or
480 proceeding brought by the office against the person or entity
481 examined, or against his or her or its officers, employees, or
482 agents. The office or its examiners may at any time testify and
483 offer other proper evidence as to information secured or matters
484 discovered during the course of an examination, whether or not a
485 written report of the examination has been either made,
486 furnished, or filed in the office.

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

491 14. Consideration of examination reports by entity
492 examined.—After the examination report of an underwriting member
493 has been filed, an affidavit shall be filed with the office, not
494 more than 30 days after the report has been filed, on a form
495 furnished by the office and signed by the person or a
496 representative of any entity examined, stating that the report
497 has been read and that the recommendations made in the report
498 will be considered within a reasonable time.

499 15. Examination costs.—Each person or entity examined by
500 the office shall pay to the office the expenses incurred in such



501 examination.

502 16. Exchange costs.—An exchange shall reimburse the office
503 for any expenses incurred by it relating to the regulation of
504 the exchange and its members, except as specified in
505 subparagraph 15.

506 17. Powers of examiners.—Any examiner appointed by the
507 office, as to the subject of any examination, investigation, or
508 hearing being conducted by him or her, may administer oaths,
509 examine and cross-examine witnesses, and receive oral and
510 documentary evidence, and shall have the power to subpoena
511 witnesses, compel their attendance and testimony, and require by
512 subpoena the production of books, papers, records, files,
513 correspondence, documents, or other evidence which the examiner
514 deems relevant to the inquiry. If any person refuses to comply
515 with any such subpoena or to testify as to any matter concerning
516 which he or she may be lawfully interrogated, the Circuit Court
517 of Leon County or the circuit court of the county wherein such
518 examination, investigation, or hearing is being conducted, or of
519 the county wherein such person resides, on the office's
520 application may issue an order requiring such person to comply
521 with the subpoena and to testify; and any failure to obey such
522 an order of the court may be punished by the court as a contempt
523 thereof. Subpoenas shall be served, and proof of such service
524 made, in the same manner as if issued by a circuit court.
525 Witness fees and mileage, if claimed, shall be allowed the same



526 | as for testimony in a circuit court.

527 | 18. False testimony.—Any person willfully testifying
528 | falsely under oath as to any matter material to any examination,
529 | investigation, or hearing shall upon conviction thereof be
530 | guilty of perjury and shall be punished accordingly.

531 | 19. Self-incrimination.—

532 | a. If any person asks to be excused from attending or
533 | testifying or from producing any books, papers, records,
534 | contracts, documents, or other evidence in connection with any
535 | examination, hearing, or investigation being conducted by the
536 | office or its examiner, on the ground that the testimony or
537 | evidence required of the person may tend to incriminate him or
538 | her or subject him or her to a penalty or forfeiture, and the
539 | person notwithstanding is directed to give such testimony or
540 | produce such evidence, he or she shall, if so directed by the
541 | office and the Department of Legal Affairs, nonetheless comply
542 | with such direction; but the person shall not thereafter be
543 | prosecuted or subjected to any penalty or forfeiture for or on
544 | account of any transaction, matter, or thing concerning which he
545 | or she may have so testified or produced evidence, and no
546 | testimony so given or evidence so produced shall be received
547 | against him or her upon any criminal action, investigation, or
548 | proceeding; except that no such person so testifying shall be
549 | exempt from prosecution or punishment for any perjury committed
550 | by him or her in such testimony, and the testimony or evidence



551 so given or produced shall be admissible against him or her upon
552 any criminal action, investigation, or proceeding concerning
553 such perjury, nor shall he or she be exempt from the refusal,
554 suspension, or revocation of any license, permission, or
555 authority conferred, or to be conferred, pursuant to the
556 insurance law.

557 b. Any such individual may execute, acknowledge, and file
558 with the office a statement expressly waiving such immunity or
559 privilege in respect to any transaction, matter, or thing
560 specified in such statement, and thereupon the testimony of such
561 individual or such evidence in relation to such transaction,
562 matter, or thing may be received or produced before any judge or
563 justice, court, tribunal, grand jury, or otherwise; and if such
564 testimony or evidence is so received or produced, such
565 individual shall not be entitled to any immunity or privileges
566 on account of any testimony so given or evidence so produced.

567 20. Penalty for failure to testify.—Any person who refuses
568 or fails, without lawful cause, to testify relative to the
569 affairs of any member, associate broker, or other person when
570 subpoenaed and requested by the office to so testify, as
571 provided in subparagraph 17., shall, in addition to the penalty
572 provided in subparagraph 17., be guilty of a misdemeanor of the
573 second degree, punishable as provided in s. 775.082 or s.
574 775.083.

575 21. Name selection.—No underwriting member shall be formed



576 or authorized to transact insurance in this state under a name
577 which is the same as that of any authorized insurer or is so
578 nearly similar thereto as to cause or tend to cause confusion or
579 under a name which would tend to mislead as to the type of
580 organization of the insurer. Before incorporating under or using
581 any name, the underwriting syndicate or proposed underwriting
582 syndicate shall submit its name or proposed name to the office
583 for the approval of the office.

584 22. Capitalization.—An underwriting member approved on or
585 after July 2, 1987, shall provide an initial paid-in capital and
586 surplus of \$3 million and thereafter shall maintain a minimum
587 policyholder surplus of \$2 million in order to be permitted to
588 write insurance. Underwriting members approved prior to July 2,
589 1987, shall maintain a minimum policyholder surplus of \$1
590 million. After June 29, 1988, underwriting members approved
591 prior to July 2, 1987, must maintain a minimum policyholder
592 surplus of \$1.5 million to write insurance. After June 29, 1989,
593 underwriting members approved prior to July 2, 1987, must
594 maintain a minimum policyholder surplus of \$1.75 million to
595 write insurance. After December 30, 1989, all underwriting
596 members, regardless of the date they were approved, must
597 maintain a minimum policyholder surplus of \$2 million to write
598 insurance. Except for that portion of the paid-in capital and
599 surplus which shall be maintained in a security fund of an
600 exchange, the paid-in capital and surplus shall be invested by



601 an underwriting member in a manner consistent with ss. 625.301-
602 625.340. The portion of the paid-in capital and surplus in any
603 security fund of an exchange shall be invested in a manner
604 limited to investments for life insurance companies under the
605 Florida insurance laws.

606 23. Limitations on coverage written.-

607 a. Limit of risk.-No underwriting member shall expose
608 itself to any loss on any one risk in an amount exceeding 10
609 percent of its surplus to policyholders. Any risk or portion of
610 any risk which shall have been reinsured in an assuming
611 reinsurer authorized or approved to do such business in this
612 state shall be deducted in determining the limitation of risk
613 prescribed in this section.

614 b. Restrictions on premiums written.-If the office has
615 reason to believe that the underwriting member's ratio of actual
616 or projected annual gross written premiums to policyholder
617 surplus exceeds 8 to 1 or the underwriting member's ratio of
618 actual or projected annual net premiums to policyholder surplus
619 exceeds 4 to 1, the office may establish maximum gross or net
620 annual premiums to be written by the underwriting member
621 consistent with maintaining the ratios specified in this sub-
622 subparagraph.

623 (I) Projected annual net or gross premiums shall be based
624 on the actual writings to date for the underwriting member's
625 current calendar year, its writings for the previous calendar



626 | year, or both. Ratios shall be computed on an annualized basis.

627 | (II) For purposes of this sub-subparagraph, the term
628 | "gross written premiums" means direct premiums written and
629 | reinsurance assumed.

630 | c. Surplus as to policyholders.—For the purpose of
631 | determining the limitation on coverage written, surplus as to
632 | policyholders shall be deemed to include any voluntary reserves,
633 | or any part thereof, which are not required by or pursuant to
634 | law and shall be determined from the last sworn statement of
635 | such underwriting member with the office, or by the last report
636 | or examination filed by the office, whichever is more recent at
637 | the time of assumption of such risk.

638 | 24. Unearned premium reserves.—An underwriting member must
639 | at all times maintain an unearned premium reserve equal to 50
640 | percent of the net written premiums of the subscribers on
641 | policies having 1 year or less to run, and pro rata on those for
642 | longer periods, All unearned premium reserves for business
643 | written on the exchange shall be calculated on a monthly or more
644 | frequent basis or on such other basis as determined by the
645 | office; except that all premiums on any marine or transportation
646 | insurance trip risk shall be deemed unearned until the trip is
647 | terminated. For the purpose of this subparagraph, the term "net
648 | written premiums" means the premium payments made by subscribers
649 | plus the premiums due from subscribers, after deducting the
650 | amounts specifically provided in the subscribers' agreements for



651 expenses, including reinsurance costs and fees paid to the
652 attorney in fact, provided that the power of attorney agreement
653 contains an explicit provision requiring the attorney in fact to
654 refund any unearned subscribers fees on a pro-rata basis for
655 cancelled policies. If there is no such provision, the unearned
656 premium reserve shall be calculated without any adjustment for
657 fees paid to the attorney in fact. If the unearned premium
658 reserves at any time do not amount to \$100,000, there shall be
659 maintained on deposit at the exchange at all times additional
660 funds in cash or eligible securities which, together with the
661 unearned premium reserves, equal \$100,000. In calculating the
662 foregoing reserves, the amount of the attorney's bond, as filed
663 with the office and as required by s. 629.121, shall be included
664 in such reserves. If at any time the unearned premium reserves
665 is less than the foregoing requirements, the subscribers, or the
666 attorney in fact, shall advance funds to make up the deficiency.
667 Such advances shall only be repaid out of the surplus of the
668 exchange and only after receiving written approval from the
669 office.

670 25. Loss reserves.—All underwriting members of an exchange
671 shall maintain loss reserves, including a reserve for incurred
672 but not reported claims. The reserves shall be subject to review
673 by the office, and, if loss experience shows that an
674 underwriting member's loss reserves are inadequate, the office
675 shall require the underwriting member to maintain loss reserves



676 | in such additional amount as is needed to make them adequate.

677 | 26. Distribution of profits.—An underwriting member shall
678 | not distribute any profits in the form of cash or other assets
679 | to owners except out of that part of its available and
680 | accumulated surplus funds which is derived from realized net
681 | operating profits on its business and realized capital gains. In
682 | any one year such payments to owners shall not exceed 30 percent
683 | of such surplus as of December 31 of the immediately preceding
684 | year, unless otherwise approved by the office. No distribution
685 | of profits shall be made that would render an underwriting
686 | member either impaired or insolvent.

687 | 27. Stock dividends.—A stock dividend may be paid by an
688 | underwriting member out of any available surplus funds in excess
689 | of the aggregate amount of surplus advanced to the underwriting
690 | member under subparagraph 29.

691 | 28. Dividends from earned surplus.—A dividend otherwise
692 | lawful may be payable out of an underwriting member's earned
693 | surplus even though the total surplus of the underwriting member
694 | is then less than the aggregate of its past contributed surplus
695 | resulting from issuance of its capital stock at a price in
696 | excess of the par value thereof.

697 | 29. Borrowing of money by underwriting members.—

698 | a. An underwriting member may borrow money to defray the
699 | expenses of its organization, provide it with surplus funds, or
700 | for any purpose of its business, upon a written agreement that



701 such money is required to be repaid only out of the underwriting
702 member's surplus in excess of that stipulated in such agreement.
703 The agreement may provide for interest not exceeding 15 percent
704 simple interest per annum. The interest shall or shall not
705 constitute a liability of the underwriting member as to its
706 funds other than such excess of surplus, as stipulated in the
707 agreement. No commission or promotion expense shall be paid in
708 connection with any such loan. The use of any surplus note and
709 any repayments thereof shall be subject to the approval of the
710 office.

711 b. Money so borrowed, together with any interest thereon
712 if so stipulated in the agreement, shall not form a part of the
713 underwriting member's legal liabilities except as to its surplus
714 in excess of the amount thereof stipulated in the agreement, nor
715 be the basis of any setoff; but until repayment, financial
716 statements filed or published by an underwriting member shall
717 show as a footnote thereto the amount thereof then unpaid,
718 together with any interest thereon accrued but unpaid.

719 30. Liquidation, rehabilitation, and restrictions.—The
720 office, upon a showing that a member or associate broker of an
721 exchange has met one or more of the grounds contained in part I
722 of chapter 631, may restrict sales by type of risk, policy or
723 contract limits, premium levels, or policy or contract
724 provisions; increase surplus or capital requirements of
725 underwriting members; issue cease and desist orders; suspend or



726 restrict a member's or associate broker's right to transact
727 business; place an underwriting member under conservatorship or
728 rehabilitation; or seek an order of liquidation as authorized by
729 part I of chapter 631.

730 31. Prohibited conduct.—The following acts by a member,
731 associate broker, or affiliated person shall constitute
732 prohibited conduct:

733 a. Fraud.

734 b. Fraudulent or dishonest acts committed by a member or
735 associate broker prior to admission to an exchange, if the facts
736 and circumstances were not disclosed to the office upon
737 application to become a member or associate broker.

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

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

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

744 f. Misstatements made under oath or upon an application
745 for membership on an exchange.

746 g. Failure to testify or produce documents when requested
747 by the office.

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

749 i. Failure of an officer or principal to testify under
750 oath concerning a member, associate broker, or other person's



751 | affairs as they relate to the operation of an exchange.

752 | j. Violation of the constitution and bylaws of the
753 | exchange.

754 | 32. Penalties for participating in prohibited conduct.—

755 | a. The office may order the suspension of further
756 | transaction of business on the exchange of any member or
757 | associate broker found to have engaged in prohibited conduct. In
758 | addition, any member or associate broker found to have engaged
759 | in prohibited conduct may be subject to reprimand, censure,
760 | and/or a fine not exceeding \$25,000 imposed by the office.

761 | b. Any member which has an affiliated person who is found
762 | to have engaged in prohibited conduct shall be subject to
763 | involuntary withdrawal or in addition thereto may be subject to
764 | suspension, reprimand, censure, and/or a fine not exceeding
765 | \$25,000.

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

769 | 34. Other offenses.—Any member or associate broker that is
770 | suspended shall be deprived, during the period of suspension, of
771 | all rights and privileges of a member or of an associate broker
772 | and may be proceeded against by the office for any offense
773 | committed either before or after the date of suspension.

774 | 35. Reinstatement.—Any member or associate broker that is
775 | suspended may be reinstated at any time on such terms and



776 conditions as the office may specify.

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

780 37. Failure to pay fines.—When a member or associate
781 broker has failed to pay a fine for 15 days after it becomes
782 payable, such member or associate broker shall be suspended,
783 unless the office has granted an extension of time to pay such
784 fine.

785 38. Changes in ownership or assets.—In the event of a
786 major change in the ownership or a major change in the assets of
787 an underwriting member, the underwriting member shall report
788 such change in writing to the office within 30 days of the
789 effective date thereof. The report shall set forth the details
790 of the change. Any change in ownership or assets of more than 5
791 percent shall be considered a major change.

792 39. Retaliation.—

793 a. When by or pursuant to the laws of any other state or
794 foreign country any taxes, licenses, or other fees, in the
795 aggregate, and any fines, penalties, deposit requirements, or
796 other material obligations, prohibitions, or restrictions are or
797 would be imposed upon an exchange or upon the agents or
798 representatives of such exchange which are in excess of such
799 taxes, licenses, and other fees, in the aggregate, or which are
800 in excess of such fines, penalties, deposit requirements, or



801 other obligations, prohibitions, or restrictions directly
802 imposed upon similar exchanges or upon the agents or
803 representatives of such exchanges of such other state or country
804 under the statutes of this state, so long as such laws of such
805 other state or country continue in force or are so applied, the
806 same taxes, licenses, and other fees, in the aggregate, or
807 fines, penalties, deposit requirements, or other material
808 obligations, prohibitions, or restrictions of whatever kind
809 shall be imposed by the office upon the exchanges, or upon the
810 agents or representatives of such exchanges, of such other state
811 or country doing business or seeking to do business in this
812 state.

813 b. Any tax, license, or other obligation imposed by any
814 city, county, or other political subdivision or agency of a
815 state, jurisdiction, or foreign country on an exchange, or on
816 the agents or representatives on an exchange, shall be deemed to
817 be imposed by such state, jurisdiction, or foreign country
818 within the meaning of sub-subparagraph a.

819 40. Agents.—

820 a. Agents as defined in ss. 626.015 and 626.914 who are
821 broker members or associate broker members of an exchange shall
822 be allowed only to place on an exchange the same kind or kinds
823 of business that the agent is licensed to place pursuant to
824 Florida law. Direct Florida business as defined in s. 626.916 or
825 s. 626.917 shall be written through a broker member who is a



826 surplus lines agent as defined in s. 626.914. The activities of
827 each broker member or associate broker with regard to an
828 exchange shall be subject to all applicable provisions of the
829 insurance laws of this state, and all such activities shall
830 constitute transactions under his or her license as an insurance
831 agent for purposes of the Florida insurance law.

832 b. Premium payments and other requirements.—If an
833 underwriting member has assumed the risk as to a surplus lines
834 coverage and if the premium therefor has been received by the
835 surplus lines agent who placed such insurance, then in all
836 questions thereafter arising under the coverage as between the
837 underwriting member and the insured, the underwriting member
838 shall be deemed to have received the premium due to it for such
839 coverage; and the underwriting member shall be liable to the
840 insured as to losses covered by such insurance, and for unearned
841 premiums which may become payable to the insured upon
842 cancellation of such insurance, whether or not in fact the
843 surplus lines agent is indebted to the underwriting member with
844 respect to such insurance or for any other cause.

845 41. Improperly issued contracts, riders, and
846 endorsements.—

847 a. Any insurance policy, rider, or endorsement issued by
848 an underwriting member and otherwise valid which contains any
849 condition or provision not in compliance with the requirements
850 of this section shall not be thereby rendered invalid, except as



851 provided in s. 627.415, but shall be construed and applied in
852 accordance with such conditions and provisions as would have
853 applied had such policy, rider, or endorsement been in full
854 compliance with this section. In the event an underwriting
855 member issues or delivers any policy for an amount which exceeds
856 any limitations otherwise provided in this section, the
857 underwriting member shall be liable to the insured or his or her
858 beneficiary for the full amount stated in the policy in addition
859 to any other penalties that may be imposed.

860 b. Any insurance contract delivered or issued for delivery
861 in this state governing a subject or subjects of insurance
862 resident, located, or to be performed in this state which,
863 pursuant to the provisions of this section, the underwriting
864 member may not lawfully insure under such a contract shall be
865 cancelable at any time by the underwriting member, any provision
866 of the contract to the contrary notwithstanding; and the
867 underwriting member shall promptly cancel the contract in
868 accordance with the request of the office therefor. No such
869 illegality or cancellation shall be deemed to relieve the
870 underwriting syndicate of any liability incurred by it under the
871 contract while in force or to prohibit the underwriting
872 syndicate from retaining the pro rata earned premium thereon.
873 This provision does not relieve the underwriting syndicate from
874 any penalty otherwise incurred by the underwriting syndicate.

875 42. Satisfaction of judgments.—



876 a. Every judgment or decree for the recovery of money
877 heretofore or hereafter entered in any court of competent
878 jurisdiction against any underwriting member shall be fully
879 satisfied within 60 days from and after the entry thereof or, in
880 the case of an appeal from such judgment or decree, within 60
881 days from and after the affirmance of the judgment or decree by
882 the appellate court.

883 b. If the judgment or decree is not satisfied as required
884 under sub-subparagraph a., and proof of such failure to satisfy
885 is made by filing with the office a certified transcript of the
886 docket of the judgment or the decree together with a certificate
887 by the clerk of the court wherein the judgment or decree remains
888 unsatisfied, in whole or in part, after the time provided in
889 sub-subparagraph a., the office shall forthwith prohibit the
890 underwriting member from transacting business. The office shall
891 not permit such underwriting member to write any new business
892 until the judgment or decree is wholly paid and satisfied and
893 proof thereof is filed with the office under the official
894 certificate of the clerk of the court wherein the judgment was
895 recovered, showing that the judgment or decree is satisfied of
896 record, and until the expenses and fees incurred in the case are
897 also paid by the underwriting syndicate.

898 43. Tender and exchange offers.—No person shall conclude a
899 tender offer or an exchange offer or otherwise acquire 5 percent
900 or more of the outstanding voting securities of an underwriting



901 member or controlling company or purchase 5 percent or more of
902 the ownership of an underwriting member or controlling company
903 unless such person has filed with, and obtained the approval of,
904 the office and sent to such underwriting member a statement
905 setting forth:

906 a. The identity of, and background information on, each
907 person by whom, or on whose behalf, the acquisition is to be
908 made; and, if the acquisition is to be made by or on behalf of a
909 corporation, association, or trust, the identity of and
910 background information on each director, officer, trustee, or
911 other natural person performing duties similar to those of a
912 director, officer, or trustee for the corporation, association,
913 or trust.

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

916 c. Any plans or proposals which such person may have to
917 liquidate such member, to sell its assets, or to merge or
918 consolidate it.

919 d. The percentage of ownership which such person proposes
920 to acquire and the terms of the offer or exchange, as the case
921 may be.

922 e. Information as to any contracts, arrangements, or
923 understandings with any party with respect to any securities of
924 such member or controlling company, including, but not limited
925 to, information relating to the transfer of any securities,



926 option arrangements, or puts or calls or the giving or
927 withholding of proxies, naming the party with whom such
928 contract, arrangements, or understandings have been entered and
929 giving the details thereof.

930 f. The office may disapprove any acquisition subject to
931 the provisions of this subparagraph by any person or any
932 affiliated person of such person who:

933 (I) Willfully violates this subparagraph;

934 (II) In violation of an order of the office issued
935 pursuant to sub-subparagraph j., fails to divest himself or
936 herself of any stock obtained in violation of this subparagraph,
937 or fails to divest himself or herself of any direct or indirect
938 control of such stock, within 25 days after such order; or

939 (III) In violation of an order issued by the office
940 pursuant to sub-subparagraph j., acquires additional stock of
941 the underwriting member or controlling company, or direct or
942 indirect control of such stock, without complying with this
943 subparagraph.

944 g. The person or persons filing the statement required by
945 this subparagraph have the burden of proof. The office shall
946 approve any such acquisition if it finds, on the basis of the
947 record made during any proceeding or on the basis of the filed
948 statement if no proceeding is conducted, that:

949 (I) Upon completion of the acquisition, the underwriting
950 member will be able to satisfy the requirements for the approval



951 to write the line or lines of insurance for which it is
952 presently approved;

953 (II) The financial condition of the acquiring person or
954 persons will not jeopardize the financial stability of the
955 underwriting member or prejudice the interests of its
956 policyholders or the public;

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

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

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

966
967 is fair and free of prejudice to the policyholders of the
968 underwriting member or to the public;

969 (IV) The competence, experience, and integrity of those
970 persons who will control directly or indirectly the operation of
971 the underwriting member indicate that the acquisition is in the
972 best interest of the policyholders of the underwriting member
973 and in the public interest;

974 (V) The natural persons for whom background information is
975 required to be furnished pursuant to this subparagraph have such



976 | backgrounds as to indicate that it is in the best interests of
977 | the policyholders of the underwriting member, and in the public
978 | interest, to permit such persons to exercise control over such
979 | underwriting member;

980 | (VI) The officers and directors to be employed after the
981 | acquisition have sufficient insurance experience and ability to
982 | assure reasonable promise of successful operation;

983 | (VII) The management of the underwriting member after the
984 | acquisition will be competent and trustworthy and will possess
985 | sufficient managerial experience so as to make the proposed
986 | operation of the underwriting member not hazardous to the
987 | insurance-buying public;

988 | (VIII) The management of the underwriting member after the
989 | acquisition will not include any person who has directly or
990 | indirectly through ownership, control, reinsurance transactions,
991 | or other insurance or business relations unlawfully manipulated
992 | the assets, accounts, finances, or books of any insurer or
993 | underwriting member or otherwise acted in bad faith with respect
994 | thereto;

995 | (IX) The acquisition is not likely to be hazardous or
996 | prejudicial to the underwriting member's policyholders or the
997 | public; and

998 | (X) The effect of the acquisition of control would not
999 | substantially lessen competition in insurance in this state or
1000 | would not tend to create a monopoly therein.



1001 h. No vote by the stockholder of record, or by any other
1002 person, of any security acquired in contravention of the
1003 provisions of this subparagraph is valid. Any acquisition of any
1004 security contrary to the provisions of this subparagraph is
1005 void. Upon the petition of the underwriting member or
1006 controlling company, the circuit court for the county in which
1007 the principal office of such underwriting member is located may,
1008 without limiting the generality of its authority, order the
1009 issuance or entry of an injunction or other order to enforce the
1010 provisions of this subparagraph. There shall be a private right
1011 of action in favor of the underwriting member or controlling
1012 company to enforce the provisions of this subparagraph. No
1013 demand upon the office that it perform its functions shall be
1014 required as a prerequisite to any suit by the underwriting
1015 member or controlling company against any other person, and in
1016 no case shall the office be deemed a necessary party to any
1017 action by such underwriting member or controlling company to
1018 enforce the provisions of this subparagraph. Any person who
1019 makes or proposes an acquisition requiring the filing of a
1020 statement pursuant to this subparagraph, or who files such a
1021 statement, shall be deemed to have thereby designated the Chief
1022 Financial Officer as such person's agent for service of process
1023 under this subparagraph and shall thereby be deemed to have
1024 submitted himself or herself to the administrative jurisdiction
1025 of the office and to the jurisdiction of the circuit court.



1026 i. Any approval by the office under this subparagraph does
1027 not constitute a recommendation by the office for an
1028 acquisition, tender offer, or exchange offer. It is unlawful for
1029 a person to represent that the office's approval constitutes a
1030 recommendation. A person who violates the provisions of this
1031 sub-subparagraph is guilty of a felony of the third degree,
1032 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1033 The statute-of-limitations period for the prosecution of an
1034 offense committed under this sub-subparagraph is 5 years.

1035 j. Upon notification to the office by the underwriting
1036 member or a controlling company that any person or any
1037 affiliated person of such person has acquired 5 percent or more
1038 of the outstanding voting securities of the underwriting member
1039 or controlling company without complying with the provisions of
1040 this subparagraph, the office shall order that the person and
1041 any affiliated person of such person cease acquisition of any
1042 further securities of the underwriting member or controlling
1043 company; however, the person or any affiliated person of such
1044 person may request a proceeding, which proceeding shall be
1045 convened within 7 days after the rendering of the order for the
1046 sole purpose of determining whether the person, individually or
1047 in connection with any affiliated person of such person, has
1048 acquired 5 percent or more of the outstanding voting securities
1049 of an underwriting member or controlling company. Upon the
1050 failure of the person or affiliated person to request a hearing



1051 within 7 days, or upon a determination at a hearing convened
1052 pursuant to this sub-subparagraph that the person or affiliated
1053 person has acquired voting securities of an underwriting member
1054 or controlling company in violation of this subparagraph, the
1055 office may order the person and affiliated person to divest
1056 themselves of any voting securities so acquired.

1057 k.(I) The office shall, if necessary to protect the public
1058 interest, suspend or revoke the certificate of authority of any
1059 underwriting member or controlling company:

1060 (A) The control of which is acquired in violation of this
1061 subparagraph;

1062 (B) That is controlled, directly or indirectly, by any
1063 person or any affiliated person of such person who, in violation
1064 of this subparagraph, has obtained control of an underwriting
1065 member or controlling company; or

1066 (C) That is controlled, directly or indirectly, by any
1067 person who, directly or indirectly, controls any other person
1068 who, in violation of this subparagraph, acquires control of an
1069 underwriting member or controlling company.

1070 (II) If any underwriting member is subject to suspension
1071 or revocation pursuant to sub-sub-subparagraph (I), the
1072 underwriting member shall be deemed to be in such condition, or
1073 to be using or to have been subject to such methods or practices
1074 in the conduct of its business, as to render its further
1075 transaction of insurance presently or prospectively hazardous to



1076 its policyholders, creditors, or stockholders or to the public.

1077 1.(I) For the purpose of this sub-sub-subparagraph, the
1078 term "affiliated person" of another person means:

1079 (A) The spouse of such other person;

1080 (B) The parents of such other person and their lineal
1081 descendants and the parents of such other person's spouse and
1082 their lineal descendants;

1083 (C) Any person who directly or indirectly owns or
1084 controls, or holds with power to vote, 5 percent or more of the
1085 outstanding voting securities of such other person;

1086 (D) Any person 5 percent or more of the outstanding voting
1087 securities of which are directly or indirectly owned or
1088 controlled, or held with power to vote, by such other person;

1089 (E) Any person or group of persons who directly or
1090 indirectly control, are controlled by, or are under common
1091 control with such other person; or any officer, director,
1092 partner, copartner, or employee of such other person;

1093 (F) If such other person is an investment company, any
1094 investment adviser of such company or any member of an advisory
1095 board of such company;

1096 (G) If such other person is an unincorporated investment
1097 company not having a board of directors, the depositor of such
1098 company; or

1099 (H) Any person who has entered into an agreement, written
1100 or unwritten, to act in concert with such other person in



1101 acquiring or limiting the disposition of securities of an
1102 underwriting member or controlling company.

1103 (II) For the purposes of this section, the term
1104 "controlling company" means any corporation, trust, or
1105 association owning, directly or indirectly, 25 percent or more
1106 of the voting securities of one or more underwriting members.

1107 m. The commission may adopt, amend, or repeal rules that
1108 are necessary to implement the provisions of this subparagraph,
1109 pursuant to chapter 120.

1110 44. Background information.—The information as to the
1111 background and identity of each person about whom information is
1112 required to be furnished pursuant to sub-subparagraph 43.a.
1113 shall include, but shall not be limited to:

1114 a. Such person's occupations, positions of employment, and
1115 offices held during the past 10 years.

1116 b. The principal business and address of any business,
1117 corporation, or other organization in which each such office was
1118 held or in which such occupation or position of employment was
1119 carried on.

1120 c. Whether, at any time during such 10-year period, such
1121 person was convicted of any crime other than a traffic
1122 violation.

1123 d. Whether, during such 10-year period, such person has
1124 been the subject of any proceeding for the revocation of any
1125 license and, if so, the nature of such proceeding and the



1126 disposition thereof.

1127 e. Whether, during such 10-year period, such person has
1128 been the subject of any proceeding under the federal Bankruptcy
1129 Act or whether, during such 10-year period, any corporation,
1130 partnership, firm, trust, or association in which such person
1131 was a director, officer, trustee, partner, or other official has
1132 been subject to any such proceeding, either during the time in
1133 which such person was a director, officer, trustee, partner, or
1134 other official, or within 12 months thereafter.

1135 f. Whether, during such 10-year period, such person has
1136 been enjoined, either temporarily or permanently, by a court of
1137 competent jurisdiction from violating any federal or state law
1138 regulating the business of insurance, securities, or banking, or
1139 from carrying out any particular practice or practices in the
1140 course of the business of insurance, securities, or banking,
1141 together with details of any such event.

1142 45. Security fund.—All underwriting members shall be
1143 members of the security fund of any exchange.

1144 46. Underwriting member defined.—Whenever the term
1145 "underwriting member" is used in this subsection, it shall be
1146 construed to mean "underwriting syndicate."

1147 47. Offsets.—Any action, requirement, or constraint
1148 imposed by the office shall reduce or offset similar actions,
1149 requirements, or constraints of any exchange.

1150 48. Restriction on member ownership.—



1151 a. Investments existing prior to July 2, 1987.—The
1152 investment in any member by brokers, agents, and intermediaries
1153 transacting business on the exchange, and the investment in any
1154 such broker, agent, or intermediary by any member, directly or
1155 indirectly, shall in each case be limited in the aggregate to
1156 less than 20 percent of the total investment in such member,
1157 broker, agent, or intermediary, as the case may be. After
1158 December 31, 1987, the aggregate percent of the total investment
1159 in such member by any broker, agent, or intermediary and the
1160 aggregate percent of the total investment in any such broker,
1161 agent, or intermediary by any member, directly or indirectly,
1162 shall not exceed 15 percent. After June 30, 1988, such aggregate
1163 percent shall not exceed 10 percent and after December 31, 1988,
1164 such aggregate percent shall not exceed 5 percent.

1165 b. Investments arising on or after July 2, 1987.—The
1166 investment in any underwriting member by brokers, agents, or
1167 intermediaries transacting business on the exchange, and the
1168 investment in any such broker, agent, or intermediary by any
1169 underwriting member, directly or indirectly, shall in each case
1170 be limited in the aggregate to less than 5 percent of the total
1171 investment in such underwriting member, broker, agent, or
1172 intermediary.

1173 49. "Underwriting manager" defined.—"Underwriting manager"
1174 as used in this subparagraph includes any person, partnership,
1175 corporation, or organization providing any of the following



1176 services to underwriting members of the exchange:
1177 a. Office management and allied services, including
1178 correspondence and secretarial services.
1179 b. Accounting services, including bookkeeping and
1180 financial report preparation.
1181 c. Investment and banking consultations and services.
1182 d. Underwriting functions and services including the
1183 acceptance, rejection, placement, and marketing of risk.
1184 50. Prohibition of underwriting manager investment.—Any
1185 direct or indirect investment in any underwriting manager by a
1186 broker member or any affiliated person of a broker member or any
1187 direct or indirect investment in a broker member by an
1188 underwriting manager or any affiliated person of an underwriting
1189 manager is prohibited. "Affiliated person" for purposes of this
1190 subparagraph is defined in subparagraph 43.
1191 51. An underwriting member may not accept reinsurance on
1192 an assumed basis from an affiliate or a controlling company, nor
1193 may a broker member or management company place reinsurance from
1194 an affiliate or controlling company of theirs with an
1195 underwriting member. "Affiliate and controlling company" for
1196 purposes of this subparagraph is defined in subparagraph 43.
1197 52. Premium defined.—"Premium" is the consideration for
1198 insurance, by whatever name called. Any "assessment" or any
1199 "membership," "policy," "survey," "inspection," "service" fee or
1200 charge or similar fee or charge in consideration for an



1201 insurance contract is deemed part of the premium.

1202 53. Rules.—The commission shall adopt rules necessary for
1203 or as an aid to the effectuation of any provision of this
1204 section.

1205 Section 14. Subsection (6) of section 634.121, Florida
1206 Statutes, is amended to read:

1207 634.121 Forms, required procedures, provisions; delivery
1208 and definitions.—

1209 (6) (a) Each service agreement, which includes a copy of
1210 the application form, must be mailed, delivered, or otherwise
1211 provided electronically transmitted to the agreement holder as
1212 provided in s. 627.421. As used in s. 627.421, the term:

1213 1. "Insurance policies and endorsements," "policy and
1214 endorsements," "policy," and "policy form and endorsement form"
1215 include a motor vehicle service agreement and related
1216 endorsement forms.

1217 2. "Insured" includes a motor vehicle service agreement
1218 holder.

1219 3. "Insurer" includes a motor vehicle service agreement
1220 company.

1221 (b) If the motor vehicle service agreement company elects
1222 to post motor vehicle service agreements on its Internet website
1223 in lieu of mailing or delivery to agreement holders the motor
1224 vehicle service agreement company must comply with the
1225 requirements of s. 627.421(4) within 45 days after the date of



1226 ~~purchase. Electronic transmission of a service agreement~~
1227 ~~constitutes delivery to the agreement holder. The electronic~~
1228 ~~transmission must notify the agreement holder of his or her~~
1229 ~~right to receive the service agreement via United States mail~~
1230 ~~rather than electronic transmission. If the agreement holder~~
1231 ~~communicates to the service agreement company electronically or~~
1232 ~~in writing that he or she does not agree to receipt by~~
1233 ~~electronic transmission, a paper copy of the service agreement~~
1234 ~~shall be provided to the agreement holder.~~

1235 Section 15. Section 641.3107, Florida Statutes, is amended
1236 to read:

1237 641.3107 Delivery of contract; definitions.—

1238 (1) Unless delivered upon execution or issuance, A health
1239 maintenance contract, certificate of coverage, endorsements and
1240 riders, or member handbook shall be mailed, ~~or~~ delivered, or
1241 otherwise provided to the subscriber or, in the case of a group
1242 health maintenance contract, to the employer or other person who
1243 will hold the contract on behalf of the subscriber group, as
1244 provided in s. 627.421.

1245 (2) As used in s. 627.421, the term:

1246 (a) "Insurance policies and endorsements," "policy and
1247 endorsements," "policy," and "policy form and endorsement form"
1248 include the health maintenance contract, endorsement and riders,
1249 certificate of coverage, or member handbook.



1250 (b) "Insured" includes a subscriber or, in the case of a
1251 group health maintenance contract, to the employer or other
1252 person who will hold the contract on behalf of the subscriber
1253 group.

1254 (c) "Insurer" includes a health maintenance organization.

1255 (3) If the health maintenance organization elects to post
1256 health maintenance contracts on its Internet website in lieu of
1257 mailing or delivery to subscribers or the person who will hold
1258 the contract on behalf of a subscriber group the health
1259 maintenance organization must comply with the requirements of s.
1260 627.421(4) within 10 working days from approval of the
1261 enrollment form by the health maintenance organization or by the
1262 effective date of coverage, whichever occurs first. However, if
1263 the employer or other person who will hold the contract on
1264 behalf of the subscriber group requires retroactive enrollment
1265 of a subscriber, the organization shall deliver the contract,
1266 certificate, or member handbook to the subscriber within 10 days
1267 after receiving notice from the employer of the retroactive
1268 enrollment. This section does not apply to the delivery of those
1269 contracts specified in s. 641.31(13).

1270 Section 16. Except as otherwise expressly provided in this
1271 act, this act shall take effect upon becoming a law.