



449152

LEGISLATIVE ACTION

Senate

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House

The Committee on Banking and Insurance (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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11 would be eligible under part II for investment of the funds of
12 the insurer directly.

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

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

20 625.325 Investments in subsidiaries and related
21 corporations.—

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

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

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

30 1. Permitted under the laws of the foreign insurer's state
31 of domicile.

32 2.a. Assigned a rating of 1, 2, or 3 by the NAIC's
33 Securities Valuation Office (SVO); or

34 b. Qualify for the NAIC's filing exemption rule and
35 assigned a rating by a nationally recognized statistical rating
36 organization which would be equivalent to a rating of 1, 2, or 3
37 by the SVO.

38 Section 3. Paragraph (j) of subsection (2) of section
39 626.221, Florida Statutes, is amended to read:



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40 626.221 Examination requirement; exemptions.—

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

43 (j) An applicant for license as an all-lines adjuster who
44 has the designation of Accredited Claims Adjuster (ACA) from a
45 regionally accredited postsecondary institution in this state,
46 Associate in Claims (AIC) from the Insurance Institute of
47 America, Professional Claims Adjuster (PCA) from the
48 Professional Career Institute, Professional Property Insurance
49 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
50 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
51 (CCA) from AE21 Incorporated, Claims Adjuster Certified
52 Professional (CACP) from WebCE, Inc., or Universal Claims
53 Certification (UCC) from Claims and Litigation Management
54 Alliance (CLM) whose curriculum has been approved by the
55 department and which includes comprehensive analysis of basic
56 property and casualty lines of insurance and testing at least
57 equal to that of standard department testing for the all-lines
58 adjuster license. The department shall adopt rules establishing
59 standards for the approval of curriculum.

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

62 626.914 Definitions.—As used in this Surplus Lines Law, the
63 term:

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



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69 seeking coverage from and having been rejected by at least one
70 authorized insurer currently writing this type of coverage and
71 documenting this rejection.

72 Section 5. Paragraph (a) of subsection (2) of section
73 626.918, Florida Statutes, is repealed.

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

76 626.932 Surplus lines tax.—

77 (1) The premiums charged for surplus lines coverages are
78 subject to a premium receipts tax of 4.936 ~~5~~ percent of all
79 gross premiums charged for such insurance. The surplus lines
80 agent shall collect from the insured the amount of the tax at
81 the time of the delivery of the cover note, certificate of
82 insurance, policy, or other initial confirmation of insurance,
83 in addition to the full amount of the gross premium charged by
84 the insurer for the insurance. The surplus lines agent is
85 prohibited from absorbing such tax or, as an inducement for
86 insurance or for any other reason, rebating all or any part of
87 such tax or of his or her commission.

88 (3) If a surplus lines policy covers risks or exposures
89 only partially in this state and the state is the home state as
90 defined in the federal Nonadmitted and Reinsurance Reform Act of
91 2010 (NRRRA), the tax payable must ~~shall~~ be computed on the gross
92 premium. ~~The tax must not exceed the tax rate where the risk or~~
93 ~~exposure is located.~~

94 Section 7. Section 626.9651, Florida Statutes, is amended
95 to read:

96 626.9651 Privacy.—The department and commission shall each
97 adopt rules consistent with other provisions of the Florida



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98 Insurance Code to govern the use of a consumer's nonpublic
99 personal financial and health information. These rules must be
100 based on, consistent with, and not more restrictive than the
101 Privacy of Consumer Financial and Health Information Regulation,
102 adopted September 26, 2000, by the National Association of
103 Insurance Commissioners; however, the rules must permit the use
104 and disclosure of nonpublic personal health information for
105 scientific, medical, or public policy research, in accordance
106 with federal law. In addition, these rules must be consistent
107 with, and not more restrictive than, the standards contained in
108 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
109 102, as amended in Title LXXV of the Fixing America's Surface
110 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
111 determines that a health insurer or health maintenance
112 organization is in compliance with, or is actively undertaking
113 compliance with, the consumer privacy protection rules adopted
114 by the United States Department of Health and Human Services, in
115 conformance with the Health Insurance Portability and
116 Affordability Act, that health insurer or health maintenance
117 organization is in compliance with this section.

118 Section 8. Subsection (1) of section 627.416, Florida
119 Statutes, is amended, and subsection (4) is added to that
120 section, to read:

121 627.416 Execution of policies.—

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

126 (4) An insurer may elect to issue an insurance policy that



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127 is not executed by an officer, attorney in fact, employee, or
128 representative, provided that such policy may not be rendered
129 invalid by reason of the lack of execution thereof.

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

132 627.43141 Notice of change in policy terms.—

133 (2) A renewal policy may contain a change in policy terms.
134 If such change occurs, the insurer shall give the named insured
135 advance written notice summarizing ~~of~~ the change, which may be
136 enclosed along with the written notice of renewal premium
137 required under ss. 627.4133 and 627.728 or sent separately
138 within the timeframe required under the Florida Insurance Code
139 for the provision of a notice of nonrenewal to the named insured
140 for that line of insurance. The insurer must also provide a
141 sample copy of the notice to the named insured's insurance agent
142 before or at the same time that notice is provided to the named
143 insured. Such notice must ~~shall~~ be entitled "Notice of Change in
144 Policy Terms."

145 Section 10. Subsections (1), (3), (6), and (9) of section
146 627.7015, Florida Statutes, are amended to read:

147 627.7015 Alternative procedure for resolution of disputed
148 property insurance claims.—

149 (1) This section sets forth a nonadversarial alternative
150 dispute resolution procedure for a mediated claim resolution
151 conference prompted by the need for effective, fair, and timely
152 handling of property insurance claims. There is a particular
153 need for an informal, nonthreatening forum for helping parties
154 who elect this procedure to resolve their claims disputes
155 because most homeowner and commercial residential insurance



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156 policies obligate policyholders to participate in a potentially
157 expensive and time-consuming adversarial appraisal process
158 before litigation. The procedure set forth in this section is
159 designed to bring the parties together for a mediated claims
160 settlement conference without any of the trappings or drawbacks
161 of an adversarial process. Before resorting to these procedures,
162 policyholders and insurers are encouraged to resolve claims as
163 quickly and fairly as possible. This section is available with
164 respect to claims under personal lines and commercial
165 residential policies before commencing the appraisal process, or
166 before commencing litigation. Mediation may be requested only by
167 the policyholder, as a first-party claimant; a third party, as
168 assignee of the policy benefits; or the insurer. However, an
169 insurer is not required to participate in any mediation
170 requested by a third party assignee of policy benefits. If
171 requested by the policyholder, participation by legal counsel is
172 permitted. Mediation under this section is also available to
173 litigants referred to the department by a county court or
174 circuit court. This section does not apply to commercial
175 coverages, to private passenger motor vehicle insurance
176 coverages, or to disputes relating to liability coverages in
177 policies of property insurance.

178 (3) The costs of mediation must ~~shall~~ be reasonable, and
179 the insurer shall bear all of the cost of conducting mediation
180 conferences, except as otherwise provided in this section. If
181 the policyholder ~~an insured~~ fails to appear at the conference,
182 the conference must ~~shall~~ be rescheduled upon the policyholder's
183 ~~insured's~~ payment of the costs of a rescheduled conference. If
184 the insurer fails to appear at the conference, the insurer must



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185 ~~shall~~ pay the policyholder's insured's actual cash expenses
186 incurred in attending the conference if the insurer's failure to
187 attend was not due to a good cause acceptable to the department.
188 An insurer will be deemed to have failed to appear if the
189 insurer's representative lacks authority to settle the full
190 value of the claim. The insurer shall incur an additional fee
191 for a rescheduled conference necessitated by the insurer's
192 failure to appear at a scheduled conference. The fees assessed
193 by the administrator must ~~shall~~ include a charge necessary to
194 defray the expenses of the department related to its duties
195 under this section and must ~~shall~~ be deposited in the Insurance
196 Regulatory Trust Fund.

197 (6) Mediation is nonbinding; however, if a written
198 settlement is reached, the policyholder insured has 3 business
199 days within which the policyholder insured may rescind the
200 settlement unless the policyholder insured has cashed or
201 deposited any check or draft disbursed to the policyholder
202 ~~insured~~ for the disputed matters as a result of the conference.
203 If a settlement agreement is reached and is not rescinded, it is
204 ~~shall be~~ binding and acts ~~act~~ as a release of all specific
205 claims that were presented in that mediation conference.

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

209 (a) With respect to which the insurer has a reasonable
210 basis to suspect fraud;

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

213 (c) With respect to which the insurer has a reasonable



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214 basis to believe that the policyholder has intentionally made a
215 material misrepresentation of fact which is relevant to the
216 claim, and the entire request for payment of a loss has been
217 denied on the basis of the material misrepresentation;

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

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

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

225 627.728 Cancellations; nonrenewals.—

226 (5) United States postal proof of mailing, ~~or~~ certified or
227 registered mailing, or other mailing using the Intelligent Mail
228 barcode or other similar tracking method used or approved by the
229 United States Postal Service of notice of cancellation, of
230 intention not to renew, or of reasons for cancellation, or of
231 the intention of the insurer to issue a policy by an insurer
232 under the same ownership or management, to the first-named
233 insured at the address shown in the policy is ~~shall be~~
234 sufficient proof of notice.

235 Section 12. Subsections (1) and (7) of section 628.4615,
236 Florida Statutes, are amended, present subsections (11) through
237 (14) of that section are redesignated as subsections (12)
238 through (15), respectively, and a new subsection (11) is added
239 to that section, to read:

240 628.4615 Specialty insurers; acquisition of controlling
241 stock, ownership interest, assets, or control; merger or
242 consolidation.—



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

246 (a) A motor vehicle service agreement company authorized to
247 issue motor vehicle service agreements as those terms are
248 defined in s. 634.011;

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

251 (c) A service warranty association authorized to issue
252 "service warranties" as those terms are defined in s.
253 634.401(13) and (14);

254 (d) A prepaid limited health service organization
255 authorized to issue prepaid limited health service contracts, as
256 those terms are defined in chapter 636;

257 (e) An authorized health maintenance organization operating
258 pursuant to s. 641.21;

259 (f) An authorized prepaid health clinic operating pursuant
260 to s. 641.405;

261 (g) A legal expense insurance corporation authorized to
262 engage in a legal expense insurance business pursuant to s.
263 642.021;

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

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

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

271 (k) A corporation authorized to accept donor annuity



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272 agreements pursuant to s. 627.481; or

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

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

278 (a) Willfully violates this section;

279 (b) In violation of an order of the office issued pursuant
280 to subsection (12) ~~(11)~~, fails to divest himself or herself of
281 any stock or ownership interest obtained in violation of this
282 section or fails to divest himself or herself of any direct or
283 indirect control of such stock or ownership interest, within 25
284 days after such order; or

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

290 (11) A person may rebut a presumption of control by filing
291 a disclaimer of control with the office on a form prescribed by
292 the commission. The disclaimer must fully disclose all material
293 relationships and bases for affiliation between the person and
294 the specialty insurer as well as the basis for disclaiming the
295 affiliation. In lieu of such form, a person or acquiring party
296 may file with the office a copy of a Schedule 13G filed with the
297 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
298 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
299 of 1934, as amended. After a disclaimer has been filed, the
300 specialty insurer is relieved of any duty to register or report



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301 under this section which may arise out of the specialty
302 insurer's relationship with the person unless the office
303 disallows the disclaimer.

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

306 628.8015 Own-risk and solvency assessment; corporate
307 governance annual disclosure.—

308 (4) CONFIDENTIALITY.—The required filings and related
309 documents submitted pursuant to subsections (2) and (3) are
310 privileged such that they may not be produced in response to a
311 subpoena or other discovery directed to the office, and any such
312 filings and related documents, ~~if obtained from the office,~~ are
313 not admissible in evidence in any private civil action. However,
314 the department or office may use these filings and related
315 documents in the furtherance of any regulatory or legal action
316 brought against an insurer as part of the official duties of the
317 department or office. A waiver of any applicable claim of
318 privilege in these filings and related documents may not occur
319 because of a disclosure to the office under this section,
320 because of any other provision of the Insurance Code, or because
321 of sharing under s. 624.4212. The office or a person receiving
322 these filings and related documents, while acting under the
323 authority of the office, or with whom such filings and related
324 documents are shared pursuant to s. 624.4212, is not permitted
325 or required to testify in any private civil action concerning
326 any such filings or related documents.

327 Section 14. Paragraph (b) of subsection (6) of section
328 629.401, Florida Statutes, is amended to read:

329 629.401 Insurance exchange.—



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330 (6)
331 (b) In addition to the insurance laws specified in
332 paragraph (a), the office shall regulate the exchange pursuant
333 to the following powers, rights, and duties:
334 1. General examination powers.—The office shall examine the
335 affairs, transactions, accounts, records, and assets of any
336 security fund, exchange, members, and associate brokers as often
337 as it deems advisable. The examination may be conducted by the
338 accredited examiners of the office at the offices of the entity
339 or person being examined. The office shall examine in like
340 manner each prospective member or associate broker applying for
341 membership in an exchange.
342 2. Office approval and applications of underwriting
343 members.—No underwriting member shall commence operation without
344 the approval of the office. Before commencing operation, an
345 underwriting member shall provide a written application
346 containing:
347 a. Name, type, and purpose of the underwriting member.
348 b. Name, residence address, business background, and
349 qualifications of each person associated or to be associated in
350 the formation or financing of the underwriting member.
351 c. Full disclosure of the terms of all understandings and
352 agreements existing or proposed among persons so associated
353 relative to the underwriting member, or the formation or
354 financing thereof, accompanied by a copy of each such agreement
355 or understanding.
356 d. Full disclosure of the terms of all understandings and
357 agreements existing or proposed for management or exclusive
358 agency contracts.



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359 3. Investigation of underwriting member applications.—In
360 connection with any proposal to establish an underwriting
361 member, the office shall make an investigation of:
362 a. The character, reputation, financial standing, and
363 motives of the organizers, incorporators, or subscribers
364 organizing the proposed underwriting member.
365 b. The character, financial responsibility, insurance
366 experience, and business qualifications of its proposed
367 officers.
368 c. The character, financial responsibility, business
369 experience, and standing of the proposed stockholders and
370 directors, or owners.
371 4. Notice of management changes.—An underwriting member
372 shall promptly give the office written notice of any change
373 among the directors or principal officers of the underwriting
374 member within 30 days after such change. The office shall
375 investigate the new directors or principal officers of the
376 underwriting member. The office's investigation shall include an
377 investigation of the character, financial responsibility,
378 insurance experience, and business qualifications of any new
379 directors or principal officers. As a result of the
380 investigation, the office may require the underwriting member to
381 replace any new directors or principal officers.
382 5. Alternate financial statement.—In lieu of any financial
383 examination, the office may accept an audited financial
384 statement.
385 6. Correction and reconstruction of records.—If the office
386 finds any accounts or records to be inadequate, or inadequately
387 kept or posted, it may employ experts to reconstruct, rewrite,



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388 post, or balance them at the expense of the person or entity
389 being examined if such person or entity has failed to maintain,
390 complete, or correct such records or accounts after the office
391 has given him or her or it notice and reasonable opportunity to
392 do so.

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

397 8. Filing of annual statement.—Each underwriting member
398 shall file with the office a full and true statement of its
399 financial condition, transactions, and affairs. The statement
400 shall be filed on or before March 1 of each year, or within such
401 extension of time as the office for good cause grants, and shall
402 be for the preceding calendar year. The statement shall contain
403 information generally included in insurer financial statements
404 prepared in accordance with generally accepted insurance
405 accounting principles and practices and in a form generally
406 utilized by insurers for financial statements, sworn to by at
407 least two executive officers of the underwriting member. The
408 form of the financial statements shall be the approved form of
409 the National Association of Insurance Commissioners or its
410 successor organization. The commission may by rule require each
411 insurer to submit any part of the information contained in the
412 financial statement in a computer-readable form compatible with
413 the office's electronic data processing system. In addition to
414 information furnished in connection with its annual statement,
415 an underwriting member must furnish to the office as soon as
416 reasonably possible such information about its transactions or



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417 affairs as the office requests in writing. All information
418 furnished pursuant to the office's request must be verified by
419 the oath of two executive officers of the underwriting member.

420 9. Record maintenance.—Each underwriting member shall have
421 and maintain its principal place of business in this state and
422 shall keep therein complete records of its assets, transactions,
423 and affairs in accordance with such methods and systems as are
424 customary for or suitable to the kind or kinds of insurance
425 transacted.

426 10. Examination of agents.—If the department has reason to
427 believe that any agent, as defined in s. 626.015 or s. 626.914,
428 has violated or is violating any provision of the insurance law,
429 or upon receipt of a written complaint signed by any interested
430 person indicating that any such violation may exist, the
431 department shall conduct such examination as it deems necessary
432 of the accounts, records, documents, and transactions pertaining
433 to or affecting the insurance affairs of such agent.

434 11. Written reports of office.—The office or its examiner
435 shall make a full and true written report of any examination.
436 The report shall contain only information obtained from
437 examination of the records, accounts, files, and documents of or
438 relative to the person or entity examined or from testimony of
439 individuals under oath, together with relevant conclusions and
440 recommendations of the examiner based thereon. The office shall
441 furnish a copy of the report to the person or entity examined
442 not less than 30 days prior to filing the report in its office.
443 If such person or entity so requests in writing within such 30-
444 day period, the office shall grant a hearing with respect to the
445 report and shall not file the report until after the hearing and



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446 after such modifications have been made therein as the office
447 deems proper.

448 12. Admissibility of reports.—The report of an examination
449 when filed shall be admissible in evidence in any action or
450 proceeding brought by the office against the person or entity
451 examined, or against his or her or its officers, employees, or
452 agents. The office or its examiners may at any time testify and
453 offer other proper evidence as to information secured or matters
454 discovered during the course of an examination, whether or not a
455 written report of the examination has been either made,
456 furnished, or filed in the office.

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

461 14. Consideration of examination reports by entity
462 examined.—After the examination report of an underwriting member
463 has been filed, an affidavit shall be filed with the office, not
464 more than 30 days after the report has been filed, on a form
465 furnished by the office and signed by the person or a
466 representative of any entity examined, stating that the report
467 has been read and that the recommendations made in the report
468 will be considered within a reasonable time.

469 15. Examination costs.—Each person or entity examined by
470 the office shall pay to the office the expenses incurred in such
471 examination.

472 16. Exchange costs.—An exchange shall reimburse the office
473 for any expenses incurred by it relating to the regulation of
474 the exchange and its members, except as specified in



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475 subparagraph 15.

476 17. Powers of examiners.—Any examiner appointed by the
477 office, as to the subject of any examination, investigation, or
478 hearing being conducted by him or her, may administer oaths,
479 examine and cross-examine witnesses, and receive oral and
480 documentary evidence, and shall have the power to subpoena
481 witnesses, compel their attendance and testimony, and require by
482 subpoena the production of books, papers, records, files,
483 correspondence, documents, or other evidence which the examiner
484 deems relevant to the inquiry. If any person refuses to comply
485 with any such subpoena or to testify as to any matter concerning
486 which he or she may be lawfully interrogated, the Circuit Court
487 of Leon County or the circuit court of the county wherein such
488 examination, investigation, or hearing is being conducted, or of
489 the county wherein such person resides, on the office's
490 application may issue an order requiring such person to comply
491 with the subpoena and to testify; and any failure to obey such
492 an order of the court may be punished by the court as a contempt
493 thereof. Subpoenas shall be served, and proof of such service
494 made, in the same manner as if issued by a circuit court.
495 Witness fees and mileage, if claimed, shall be allowed the same
496 as for testimony in a circuit court.

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

501 19. Self-incrimination.—

502 a. If any person asks to be excused from attending or
503 testifying or from producing any books, papers, records,



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504 contracts, documents, or other evidence in connection with any
505 examination, hearing, or investigation being conducted by the
506 office or its examiner, on the ground that the testimony or
507 evidence required of the person may tend to incriminate him or
508 her or subject him or her to a penalty or forfeiture, and the
509 person notwithstanding is directed to give such testimony or
510 produce such evidence, he or she shall, if so directed by the
511 office and the Department of Legal Affairs, nonetheless comply
512 with such direction; but the person shall not thereafter be
513 prosecuted or subjected to any penalty or forfeiture for or on
514 account of any transaction, matter, or thing concerning which he
515 or she may have so testified or produced evidence, and no
516 testimony so given or evidence so produced shall be received
517 against him or her upon any criminal action, investigation, or
518 proceeding; except that no such person so testifying shall be
519 exempt from prosecution or punishment for any perjury committed
520 by him or her in such testimony, and the testimony or evidence
521 so given or produced shall be admissible against him or her upon
522 any criminal action, investigation, or proceeding concerning
523 such perjury, nor shall he or she be exempt from the refusal,
524 suspension, or revocation of any license, permission, or
525 authority conferred, or to be conferred, pursuant to the
526 insurance law.

527 b. Any such individual may execute, acknowledge, and file
528 with the office a statement expressly waiving such immunity or
529 privilege in respect to any transaction, matter, or thing
530 specified in such statement, and thereupon the testimony of such
531 individual or such evidence in relation to such transaction,
532 matter, or thing may be received or produced before any judge or



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533 justice, court, tribunal, grand jury, or otherwise; and if such
534 testimony or evidence is so received or produced, such
535 individual shall not be entitled to any immunity or privileges
536 on account of any testimony so given or evidence so produced.

537 20. Penalty for failure to testify.—Any person who refuses
538 or fails, without lawful cause, to testify relative to the
539 affairs of any member, associate broker, or other person when
540 subpoenaed and requested by the office to so testify, as
541 provided in subparagraph 17., shall, in addition to the penalty
542 provided in subparagraph 17., be guilty of a misdemeanor of the
543 second degree, punishable as provided in s. 775.082 or s.
544 775.083.

545 21. Name selection.—No underwriting member shall be formed
546 or authorized to transact insurance in this state under a name
547 which is the same as that of any authorized insurer or is so
548 nearly similar thereto as to cause or tend to cause confusion or
549 under a name which would tend to mislead as to the type of
550 organization of the insurer. Before incorporating under or using
551 any name, the underwriting syndicate or proposed underwriting
552 syndicate shall submit its name or proposed name to the office
553 for the approval of the office.

554 22. Capitalization.—An underwriting member approved on or
555 after July 2, 1987, shall provide an initial paid-in capital and
556 surplus of \$3 million and thereafter shall maintain a minimum
557 policyholder surplus of \$2 million in order to be permitted to
558 write insurance. Underwriting members approved prior to July 2,
559 1987, shall maintain a minimum policyholder surplus of \$1
560 million. After June 29, 1988, underwriting members approved
561 prior to July 2, 1987, must maintain a minimum policyholder



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562 surplus of \$1.5 million to write insurance. After June 29, 1989,
563 underwriting members approved prior to July 2, 1987, must
564 maintain a minimum policyholder surplus of \$1.75 million to
565 write insurance. After December 30, 1989, all underwriting
566 members, regardless of the date they were approved, must
567 maintain a minimum policyholder surplus of \$2 million to write
568 insurance. Except for that portion of the paid-in capital and
569 surplus which shall be maintained in a security fund of an
570 exchange, the paid-in capital and surplus shall be invested by
571 an underwriting member in a manner consistent with ss. 625.301-
572 625.340. The portion of the paid-in capital and surplus in any
573 security fund of an exchange shall be invested in a manner
574 limited to investments for life insurance companies under the
575 Florida insurance laws.

576 23. Limitations on coverage written.—

577 a. Limit of risk.—No underwriting member shall expose
578 itself to any loss on any one risk in an amount exceeding 10
579 percent of its surplus to policyholders. Any risk or portion of
580 any risk which shall have been reinsured in an assuming
581 reinsurer authorized or approved to do such business in this
582 state shall be deducted in determining the limitation of risk
583 prescribed in this section.

584 b. Restrictions on premiums written.—If the office has
585 reason to believe that the underwriting member's ratio of actual
586 or projected annual gross written premiums to policyholder
587 surplus exceeds 8 to 1 or the underwriting member's ratio of
588 actual or projected annual net premiums to policyholder surplus
589 exceeds 4 to 1, the office may establish maximum gross or net
590 annual premiums to be written by the underwriting member



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591 consistent with maintaining the ratios specified in this sub-
592 subparagraph.

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

597 (II) For purposes of this sub-subparagraph, the term "gross
598 written premiums" means direct premiums written and reinsurance
599 assumed.

600 c. Surplus as to policyholders.—For the purpose of
601 determining the limitation on coverage written, surplus as to
602 policyholders shall be deemed to include any voluntary reserves,
603 or any part thereof, which are not required by or pursuant to
604 law and shall be determined from the last sworn statement of
605 such underwriting member with the office, or by the last report
606 or examination filed by the office, whichever is more recent at
607 the time of assumption of such risk.

608 24. Unearned premium reserves.—An underwriting member must
609 at all times maintain an unearned premium reserve equal to 50
610 percent of the net written premiums of the subscribers on
611 policies having 1 year or less to run, and pro rata on those for
612 longer periods, ~~All unearned premium reserves for business~~
613 ~~written on the exchange shall be calculated on a monthly or more~~
614 ~~frequent basis or on such other basis as determined by the~~
615 ~~office,~~ except that all premiums on any marine or transportation
616 insurance trip risk shall be deemed unearned until the trip is
617 terminated. For the purpose of this subparagraph, the term "net
618 written premiums" means the premium payments made by subscribers
619 plus the premiums due from subscribers, after deducting the



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620 amounts specifically provided in the subscribers' agreements for
621 expenses, including reinsurance costs and fees paid to the
622 attorney in fact, provided that the power of attorney agreement
623 contains an explicit provision requiring the attorney in fact to
624 refund any unearned subscribers fees on a pro-rata basis for
625 cancelled policies. If there is no such provision, the unearned
626 premium reserves must be calculated without any adjustment for
627 fees paid to the attorney in fact. If the unearned premium
628 reserves at any time do not amount to \$100,000, there must be
629 maintained on deposit at the exchange at all times additional
630 funds in cash or eligible securities, which, together with the
631 unearned premium reserves, equal \$100,000. In calculating the
632 foregoing reserves, the amount of the attorney's bond, as filed
633 with the office and as required by s. 629.121, must be included
634 in such reserves. If at any time the unearned premium reserves
635 are less than the foregoing requirements, the subscribers or the
636 attorney in fact shall advance funds to make up the deficiency.
637 Such advances must be repaid only out of the surplus of the
638 exchange and only after receiving written approval from the
639 office.

640 25. Loss reserves.—All underwriting members of an exchange
641 shall maintain loss reserves, including a reserve for incurred
642 but not reported claims. The reserves shall be subject to review
643 by the office, and, if loss experience shows that an
644 underwriting member's loss reserves are inadequate, the office
645 shall require the underwriting member to maintain loss reserves
646 in such additional amount as is needed to make them adequate.

647 26. Distribution of profits.—An underwriting member shall
648 not distribute any profits in the form of cash or other assets



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649 to owners except out of that part of its available and
650 accumulated surplus funds which is derived from realized net
651 operating profits on its business and realized capital gains. In
652 any one year such payments to owners shall not exceed 30 percent
653 of such surplus as of December 31 of the immediately preceding
654 year, unless otherwise approved by the office. No distribution
655 of profits shall be made that would render an underwriting
656 member either impaired or insolvent.

657 27. Stock dividends.—A stock dividend may be paid by an
658 underwriting member out of any available surplus funds in excess
659 of the aggregate amount of surplus advanced to the underwriting
660 member under subparagraph 29.

661 28. Dividends from earned surplus.—A dividend otherwise
662 lawful may be payable out of an underwriting member's earned
663 surplus even though the total surplus of the underwriting member
664 is then less than the aggregate of its past contributed surplus
665 resulting from issuance of its capital stock at a price in
666 excess of the par value thereof.

667 29. Borrowing of money by underwriting members.—

668 a. An underwriting member may borrow money to defray the
669 expenses of its organization, provide it with surplus funds, or
670 for any purpose of its business, upon a written agreement that
671 such money is required to be repaid only out of the underwriting
672 member's surplus in excess of that stipulated in such agreement.
673 The agreement may provide for interest not exceeding 15 percent
674 simple interest per annum. The interest shall or shall not
675 constitute a liability of the underwriting member as to its
676 funds other than such excess of surplus, as stipulated in the
677 agreement. No commission or promotion expense shall be paid in



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678 connection with any such loan. The use of any surplus note and
679 any repayments thereof shall be subject to the approval of the
680 office.

681 b. Money so borrowed, together with any interest thereon if
682 so stipulated in the agreement, shall not form a part of the
683 underwriting member's legal liabilities except as to its surplus
684 in excess of the amount thereof stipulated in the agreement, nor
685 be the basis of any setoff; but until repayment, financial
686 statements filed or published by an underwriting member shall
687 show as a footnote thereto the amount thereof then unpaid,
688 together with any interest thereon accrued but unpaid.

689 30. Liquidation, rehabilitation, and restrictions.—The
690 office, upon a showing that a member or associate broker of an
691 exchange has met one or more of the grounds contained in part I
692 of chapter 631, may restrict sales by type of risk, policy or
693 contract limits, premium levels, or policy or contract
694 provisions; increase surplus or capital requirements of
695 underwriting members; issue cease and desist orders; suspend or
696 restrict a member's or associate broker's right to transact
697 business; place an underwriting member under conservatorship or
698 rehabilitation; or seek an order of liquidation as authorized by
699 part I of chapter 631.

700 31. Prohibited conduct.—The following acts by a member,
701 associate broker, or affiliated person shall constitute
702 prohibited conduct:

703 a. Fraud.

704 b. Fraudulent or dishonest acts committed by a member or
705 associate broker prior to admission to an exchange, if the facts
706 and circumstances were not disclosed to the office upon



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707 application to become a member or associate broker.
708 c. Conduct detrimental to the welfare of an exchange.
709 d. Unethical or improper practices or conduct, inconsistent
710 with just and equitable principles of trade as set forth in, but
711 not limited to, ss. 626.951-626.9641 and 626.973.
712 e. Failure to use due diligence to ascertain the insurance
713 needs of a client or a principal.
714 f. Misstatements made under oath or upon an application for
715 membership on an exchange.
716 g. Failure to testify or produce documents when requested
717 by the office.
718 h. Willful violation of any law of this state.
719 i. Failure of an officer or principal to testify under oath
720 concerning a member, associate broker, or other person's affairs
721 as they relate to the operation of an exchange.
722 j. Violation of the constitution and bylaws of the
723 exchange.
724 32. Penalties for participating in prohibited conduct.—
725 a. The office may order the suspension of further
726 transaction of business on the exchange of any member or
727 associate broker found to have engaged in prohibited conduct. In
728 addition, any member or associate broker found to have engaged
729 in prohibited conduct may be subject to reprimand, censure,
730 and/or a fine not exceeding \$25,000 imposed by the office.
731 b. Any member which has an affiliated person who is found
732 to have engaged in prohibited conduct shall be subject to
733 involuntary withdrawal or in addition thereto may be subject to
734 suspension, reprimand, censure, and/or a fine not exceeding
735 \$25,000.



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

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

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

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

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

754 38. Changes in ownership or assets.—In the event of a major
755 change in the ownership or a major change in the assets of an
756 underwriting member, the underwriting member shall report such
757 change in writing to the office within 30 days of the effective
758 date thereof. The report shall set forth the details of the
759 change. Any change in ownership or assets of more than 5 percent
760 shall be considered a major change.

761 39. Retaliation.—

762 a. When by or pursuant to the laws of any other state or
763 foreign country any taxes, licenses, or other fees, in the
764 aggregate, and any fines, penalties, deposit requirements, or



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765 other material obligations, prohibitions, or restrictions are or
766 would be imposed upon an exchange or upon the agents or
767 representatives of such exchange which are in excess of such
768 taxes, licenses, and other fees, in the aggregate, or which are
769 in excess of such fines, penalties, deposit requirements, or
770 other obligations, prohibitions, or restrictions directly
771 imposed upon similar exchanges or upon the agents or
772 representatives of such exchanges of such other state or country
773 under the statutes of this state, so long as such laws of such
774 other state or country continue in force or are so applied, the
775 same taxes, licenses, and other fees, in the aggregate, or
776 fines, penalties, deposit requirements, or other material
777 obligations, prohibitions, or restrictions of whatever kind
778 shall be imposed by the office upon the exchanges, or upon the
779 agents or representatives of such exchanges, of such other state
780 or country doing business or seeking to do business in this
781 state.

782 b. Any tax, license, or other obligation imposed by any
783 city, county, or other political subdivision or agency of a
784 state, jurisdiction, or foreign country on an exchange, or on
785 the agents or representatives on an exchange, shall be deemed to
786 be imposed by such state, jurisdiction, or foreign country
787 within the meaning of sub-subparagraph a.

788 40. Agents.—

789 a. Agents as defined in ss. 626.015 and 626.914 who are
790 broker members or associate broker members of an exchange shall
791 be allowed only to place on an exchange the same kind or kinds
792 of business that the agent is licensed to place pursuant to
793 Florida law. Direct Florida business as defined in s. 626.916 or



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794 s. 626.917 shall be written through a broker member who is a
795 surplus lines agent as defined in s. 626.914. The activities of
796 each broker member or associate broker with regard to an
797 exchange shall be subject to all applicable provisions of the
798 insurance laws of this state, and all such activities shall
799 constitute transactions under his or her license as an insurance
800 agent for purposes of the Florida insurance law.

801 b. Premium payments and other requirements.—If an
802 underwriting member has assumed the risk as to a surplus lines
803 coverage and if the premium therefor has been received by the
804 surplus lines agent who placed such insurance, then in all
805 questions thereafter arising under the coverage as between the
806 underwriting member and the insured, the underwriting member
807 shall be deemed to have received the premium due to it for such
808 coverage; and the underwriting member shall be liable to the
809 insured as to losses covered by such insurance, and for unearned
810 premiums which may become payable to the insured upon
811 cancellation of such insurance, whether or not in fact the
812 surplus lines agent is indebted to the underwriting member with
813 respect to such insurance or for any other cause.

814 41. Improperly issued contracts, riders, and endorsements.—

815 a. Any insurance policy, rider, or endorsement issued by an
816 underwriting member and otherwise valid which contains any
817 condition or provision not in compliance with the requirements
818 of this section shall not be thereby rendered invalid, except as
819 provided in s. 627.415, but shall be construed and applied in
820 accordance with such conditions and provisions as would have
821 applied had such policy, rider, or endorsement been in full
822 compliance with this section. In the event an underwriting



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823 member issues or delivers any policy for an amount which exceeds
824 any limitations otherwise provided in this section, the
825 underwriting member shall be liable to the insured or his or her
826 beneficiary for the full amount stated in the policy in addition
827 to any other penalties that may be imposed.

828 b. Any insurance contract delivered or issued for delivery
829 in this state governing a subject or subjects of insurance
830 resident, located, or to be performed in this state which,
831 pursuant to the provisions of this section, the underwriting
832 member may not lawfully insure under such a contract shall be
833 cancelable at any time by the underwriting member, any provision
834 of the contract to the contrary notwithstanding; and the
835 underwriting member shall promptly cancel the contract in
836 accordance with the request of the office therefor. No such
837 illegality or cancellation shall be deemed to relieve the
838 underwriting syndicate of any liability incurred by it under the
839 contract while in force or to prohibit the underwriting
840 syndicate from retaining the pro rata earned premium thereon.
841 This provision does not relieve the underwriting syndicate from
842 any penalty otherwise incurred by the underwriting syndicate.

843 42. Satisfaction of judgments.—

844 a. Every judgment or decree for the recovery of money
845 heretofore or hereafter entered in any court of competent
846 jurisdiction against any underwriting member shall be fully
847 satisfied within 60 days from and after the entry thereof or, in
848 the case of an appeal from such judgment or decree, within 60
849 days from and after the affirmance of the judgment or decree by
850 the appellate court.

851 b. If the judgment or decree is not satisfied as required



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852 under sub-subparagraph a., and proof of such failure to satisfy
853 is made by filing with the office a certified transcript of the
854 docket of the judgment or the decree together with a certificate
855 by the clerk of the court wherein the judgment or decree remains
856 unsatisfied, in whole or in part, after the time provided in
857 sub-subparagraph a., the office shall forthwith prohibit the
858 underwriting member from transacting business. The office shall
859 not permit such underwriting member to write any new business
860 until the judgment or decree is wholly paid and satisfied and
861 proof thereof is filed with the office under the official
862 certificate of the clerk of the court wherein the judgment was
863 recovered, showing that the judgment or decree is satisfied of
864 record, and until the expenses and fees incurred in the case are
865 also paid by the underwriting syndicate.

866 43. Tender and exchange offers.—No person shall conclude a
867 tender offer or an exchange offer or otherwise acquire 5 percent
868 or more of the outstanding voting securities of an underwriting
869 member or controlling company or purchase 5 percent or more of
870 the ownership of an underwriting member or controlling company
871 unless such person has filed with, and obtained the approval of,
872 the office and sent to such underwriting member a statement
873 setting forth:

874 a. The identity of, and background information on, each
875 person by whom, or on whose behalf, the acquisition is to be
876 made; and, if the acquisition is to be made by or on behalf of a
877 corporation, association, or trust, the identity of and
878 background information on each director, officer, trustee, or
879 other natural person performing duties similar to those of a
880 director, officer, or trustee for the corporation, association,



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881 or trust.

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

884 c. Any plans or proposals which such person may have to
885 liquidate such member, to sell its assets, or to merge or
886 consolidate it.

887 d. The percentage of ownership which such person proposes
888 to acquire and the terms of the offer or exchange, as the case
889 may be.

890 e. Information as to any contracts, arrangements, or
891 understandings with any party with respect to any securities of
892 such member or controlling company, including, but not limited
893 to, information relating to the transfer of any securities,
894 option arrangements, or puts or calls or the giving or
895 withholding of proxies, naming the party with whom such
896 contract, arrangements, or understandings have been entered and
897 giving the details thereof.

898 f. The office may disapprove any acquisition subject to the
899 provisions of this subparagraph by any person or any affiliated
900 person of such person who:

901 (I) Willfully violates this subparagraph;

902 (II) In violation of an order of the office issued pursuant
903 to sub-subparagraph j., fails to divest himself or herself of
904 any stock obtained in violation of this subparagraph, or fails
905 to divest himself or herself of any direct or indirect control
906 of such stock, within 25 days after such order; or

907 (III) In violation of an order issued by the office
908 pursuant to sub-subparagraph j., acquires additional stock of
909 the underwriting member or controlling company, or direct or



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910 indirect control of such stock, without complying with this
911 subparagraph.

912 g. The person or persons filing the statement required by
913 this subparagraph have the burden of proof. The office shall
914 approve any such acquisition if it finds, on the basis of the
915 record made during any proceeding or on the basis of the filed
916 statement if no proceeding is conducted, that:

917 (I) Upon completion of the acquisition, the underwriting
918 member will be able to satisfy the requirements for the approval
919 to write the line or lines of insurance for which it is
920 presently approved;

921 (II) The financial condition of the acquiring person or
922 persons will not jeopardize the financial stability of the
923 underwriting member or prejudice the interests of its
924 policyholders or the public;

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

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

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

934
935 is fair and free of prejudice to the policyholders of the
936 underwriting member or to the public;

937 (IV) The competence, experience, and integrity of those
938 persons who will control directly or indirectly the operation of



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939 the underwriting member indicate that the acquisition is in the
940 best interest of the policyholders of the underwriting member
941 and in the public interest;

942 (V) The natural persons for whom background information is
943 required to be furnished pursuant to this subparagraph have such
944 backgrounds as to indicate that it is in the best interests of
945 the policyholders of the underwriting member, and in the public
946 interest, to permit such persons to exercise control over such
947 underwriting member;

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

951 (VII) The management of the underwriting member after the
952 acquisition will be competent and trustworthy and will possess
953 sufficient managerial experience so as to make the proposed
954 operation of the underwriting member not hazardous to the
955 insurance-buying public;

956 (VIII) The management of the underwriting member after the
957 acquisition will not include any person who has directly or
958 indirectly through ownership, control, reinsurance transactions,
959 or other insurance or business relations unlawfully manipulated
960 the assets, accounts, finances, or books of any insurer or
961 underwriting member or otherwise acted in bad faith with respect
962 thereto;

963 (IX) The acquisition is not likely to be hazardous or
964 prejudicial to the underwriting member's policyholders or the
965 public; and

966 (X) The effect of the acquisition of control would not
967 substantially lessen competition in insurance in this state or



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968 would not tend to create a monopoly therein.

969 h. No vote by the stockholder of record, or by any other
970 person, of any security acquired in contravention of the
971 provisions of this subparagraph is valid. Any acquisition of any
972 security contrary to the provisions of this subparagraph is
973 void. Upon the petition of the underwriting member or
974 controlling company, the circuit court for the county in which
975 the principal office of such underwriting member is located may,
976 without limiting the generality of its authority, order the
977 issuance or entry of an injunction or other order to enforce the
978 provisions of this subparagraph. There shall be a private right
979 of action in favor of the underwriting member or controlling
980 company to enforce the provisions of this subparagraph. No
981 demand upon the office that it perform its functions shall be
982 required as a prerequisite to any suit by the underwriting
983 member or controlling company against any other person, and in
984 no case shall the office be deemed a necessary party to any
985 action by such underwriting member or controlling company to
986 enforce the provisions of this subparagraph. Any person who
987 makes or proposes an acquisition requiring the filing of a
988 statement pursuant to this subparagraph, or who files such a
989 statement, shall be deemed to have thereby designated the Chief
990 Financial Officer as such person's agent for service of process
991 under this subparagraph and shall thereby be deemed to have
992 submitted himself or herself to the administrative jurisdiction
993 of the office and to the jurisdiction of the circuit court.

994 i. Any approval by the office under this subparagraph does
995 not constitute a recommendation by the office for an
996 acquisition, tender offer, or exchange offer. It is unlawful for



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997 a person to represent that the office's approval constitutes a
998 recommendation. A person who violates the provisions of this
999 sub-subparagraph is guilty of a felony of the third degree,
1000 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1001 The statute-of-limitations period for the prosecution of an
1002 offense committed under this sub-subparagraph is 5 years.

1003 j. Upon notification to the office by the underwriting
1004 member or a controlling company that any person or any
1005 affiliated person of such person has acquired 5 percent or more
1006 of the outstanding voting securities of the underwriting member
1007 or controlling company without complying with the provisions of
1008 this subparagraph, the office shall order that the person and
1009 any affiliated person of such person cease acquisition of any
1010 further securities of the underwriting member or controlling
1011 company; however, the person or any affiliated person of such
1012 person may request a proceeding, which proceeding shall be
1013 convened within 7 days after the rendering of the order for the
1014 sole purpose of determining whether the person, individually or
1015 in connection with any affiliated person of such person, has
1016 acquired 5 percent or more of the outstanding voting securities
1017 of an underwriting member or controlling company. Upon the
1018 failure of the person or affiliated person to request a hearing
1019 within 7 days, or upon a determination at a hearing convened
1020 pursuant to this sub-subparagraph that the person or affiliated
1021 person has acquired voting securities of an underwriting member
1022 or controlling company in violation of this subparagraph, the
1023 office may order the person and affiliated person to divest
1024 themselves of any voting securities so acquired.

1025 k.(I) The office shall, if necessary to protect the public



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1026 interest, suspend or revoke the certificate of authority of any
1027 underwriting member or controlling company:

1028 (A) The control of which is acquired in violation of this
1029 subparagraph;

1030 (B) That is controlled, directly or indirectly, by any
1031 person or any affiliated person of such person who, in violation
1032 of this subparagraph, has obtained control of an underwriting
1033 member or controlling company; or

1034 (C) That is controlled, directly or indirectly, by any
1035 person who, directly or indirectly, controls any other person
1036 who, in violation of this subparagraph, acquires control of an
1037 underwriting member or controlling company.

1038 (II) If any underwriting member is subject to suspension or
1039 revocation pursuant to sub-sub-subparagraph (I), the
1040 underwriting member shall be deemed to be in such condition, or
1041 to be using or to have been subject to such methods or practices
1042 in the conduct of its business, as to render its further
1043 transaction of insurance presently or prospectively hazardous to
1044 its policyholders, creditors, or stockholders or to the public.

1045 1.(I) For the purpose of this sub-sub-subparagraph, the
1046 term "affiliated person" of another person means:

1047 (A) The spouse of such other person;

1048 (B) The parents of such other person and their lineal
1049 descendants and the parents of such other person's spouse and
1050 their lineal descendants;

1051 (C) Any person who directly or indirectly owns or controls,
1052 or holds with power to vote, 5 percent or more of the
1053 outstanding voting securities of such other person;

1054 (D) Any person 5 percent or more of the outstanding voting



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1055 securities of which are directly or indirectly owned or
1056 controlled, or held with power to vote, by such other person;

1057 (E) Any person or group of persons who directly or
1058 indirectly control, are controlled by, or are under common
1059 control with such other person; or any officer, director,
1060 partner, copartner, or employee of such other person;

1061 (F) If such other person is an investment company, any
1062 investment adviser of such company or any member of an advisory
1063 board of such company;

1064 (G) If such other person is an unincorporated investment
1065 company not having a board of directors, the depositor of such
1066 company; or

1067 (H) Any person who has entered into an agreement, written
1068 or unwritten, to act in concert with such other person in
1069 acquiring or limiting the disposition of securities of an
1070 underwriting member or controlling company.

1071 (II) For the purposes of this section, the term
1072 "controlling company" means any corporation, trust, or
1073 association owning, directly or indirectly, 25 percent or more
1074 of the voting securities of one or more underwriting members.

1075 m. The commission may adopt, amend, or repeal rules that
1076 are necessary to implement the provisions of this subparagraph,
1077 pursuant to chapter 120.

1078 44. Background information.—The information as to the
1079 background and identity of each person about whom information is
1080 required to be furnished pursuant to sub-subparagraph 43.a.

1081 shall include, but shall not be limited to:

1082 a. Such person's occupations, positions of employment, and
1083 offices held during the past 10 years.



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1084 b. The principal business and address of any business,
1085 corporation, or other organization in which each such office was
1086 held or in which such occupation or position of employment was
1087 carried on.

1088 c. Whether, at any time during such 10-year period, such
1089 person was convicted of any crime other than a traffic
1090 violation.

1091 d. Whether, during such 10-year period, such person has
1092 been the subject of any proceeding for the revocation of any
1093 license and, if so, the nature of such proceeding and the
1094 disposition thereof.

1095 e. Whether, during such 10-year period, such person has
1096 been the subject of any proceeding under the federal Bankruptcy
1097 Act or whether, during such 10-year period, any corporation,
1098 partnership, firm, trust, or association in which such person
1099 was a director, officer, trustee, partner, or other official has
1100 been subject to any such proceeding, either during the time in
1101 which such person was a director, officer, trustee, partner, or
1102 other official, or within 12 months thereafter.

1103 f. Whether, during such 10-year period, such person has
1104 been enjoined, either temporarily or permanently, by a court of
1105 competent jurisdiction from violating any federal or state law
1106 regulating the business of insurance, securities, or banking, or
1107 from carrying out any particular practice or practices in the
1108 course of the business of insurance, securities, or banking,
1109 together with details of any such event.

1110 45. Security fund.—All underwriting members shall be
1111 members of the security fund of any exchange.

1112 46. Underwriting member defined.—Whenever the term



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1113 "underwriting member" is used in this subsection, it shall be
1114 construed to mean "underwriting syndicate."

1115 47. Offsets.—Any action, requirement, or constraint imposed
1116 by the office shall reduce or offset similar actions,
1117 requirements, or constraints of any exchange.

1118 48. Restriction on member ownership.—

1119 a. Investments existing prior to July 2, 1987.—The
1120 investment in any member by brokers, agents, and intermediaries
1121 transacting business on the exchange, and the investment in any
1122 such broker, agent, or intermediary by any member, directly or
1123 indirectly, shall in each case be limited in the aggregate to
1124 less than 20 percent of the total investment in such member,
1125 broker, agent, or intermediary, as the case may be. After
1126 December 31, 1987, the aggregate percent of the total investment
1127 in such member by any broker, agent, or intermediary and the
1128 aggregate percent of the total investment in any such broker,
1129 agent, or intermediary by any member, directly or indirectly,
1130 shall not exceed 15 percent. After June 30, 1988, such aggregate
1131 percent shall not exceed 10 percent and after December 31, 1988,
1132 such aggregate percent shall not exceed 5 percent.

1133 b. Investments arising on or after July 2, 1987.—The
1134 investment in any underwriting member by brokers, agents, or
1135 intermediaries transacting business on the exchange, and the
1136 investment in any such broker, agent, or intermediary by any
1137 underwriting member, directly or indirectly, shall in each case
1138 be limited in the aggregate to less than 5 percent of the total
1139 investment in such underwriting member, broker, agent, or
1140 intermediary.

1141 49. "Underwriting manager" defined.—"Underwriting manager"



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1142 as used in this subparagraph includes any person, partnership,
1143 corporation, or organization providing any of the following
1144 services to underwriting members of the exchange:

1145 a. Office management and allied services, including
1146 correspondence and secretarial services.

1147 b. Accounting services, including bookkeeping and financial
1148 report preparation.

1149 c. Investment and banking consultations and services.

1150 d. Underwriting functions and services including the
1151 acceptance, rejection, placement, and marketing of risk.

1152 50. Prohibition of underwriting manager investment.—Any
1153 direct or indirect investment in any underwriting manager by a
1154 broker member or any affiliated person of a broker member or any
1155 direct or indirect investment in a broker member by an
1156 underwriting manager or any affiliated person of an underwriting
1157 manager is prohibited. "Affiliated person" for purposes of this
1158 subparagraph is defined in subparagraph 43.

1159 51. An underwriting member may not accept reinsurance on an
1160 assumed basis from an affiliate or a controlling company, nor
1161 may a broker member or management company place reinsurance from
1162 an affiliate or controlling company of theirs with an
1163 underwriting member. "Affiliate and controlling company" for
1164 purposes of this subparagraph is defined in subparagraph 43.

1165 52. Premium defined.—"Premium" is the consideration for
1166 insurance, by whatever name called. Any "assessment" or any
1167 "membership," "policy," "survey," "inspection," "service" fee or
1168 charge or similar fee or charge in consideration for an
1169 insurance contract is deemed part of the premium.

1170 53. Rules.—The commission shall adopt rules necessary for



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1171 or as an aid to the effectuation of any provision of this
1172 section.

1173 Section 15. Subsection (6) of section 634.121, Florida
1174 Statutes, is amended to read:

1175 634.121 Forms, required procedures, provisions; delivery
1176 and definitions.-

1177 (6) (a) Each service agreement, which includes a copy of the
1178 application form, must be mailed, delivered, or otherwise
1179 provided electronically transmitted to the agreement holder as
1180 provided in s. 627.421. As used in s. 627.421, the term:

1181 1. "Insurance policies and endorsements," "policy and
1182 endorsement," "policy," or "policy form and endorsement form"
1183 includes a motor vehicle service agreement and related
1184 endorsement forms.

1185 2. "Insured" includes a motor vehicle service agreement
1186 holder.

1187 3. "Insurer" includes a motor vehicle service agreement
1188 company.

1189 (b) Section 627.421(4) applies if the motor vehicle service
1190 agreement company elects to post motor vehicle service
1191 agreements on its Internet website in lieu of mailing or
1192 delivery to agreement holders within 45 days after the date of
1193 purchase. Electronic transmission of a service agreement
1194 constitutes delivery to the agreement holder. The electronic
1195 transmission must notify the agreement holder of his or her
1196 right to receive the service agreement via United States mail
1197 rather than electronic transmission. If the agreement holder
1198 communicates to the service agreement company electronically or
1199 in writing that he or she does not agree to receipt by



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1200 ~~electronic transmission, a paper copy of the service agreement~~
1201 ~~shall be provided to the agreement holder.~~

1202 Section 16. Section 641.3107, Florida Statutes, is amended
1203 to read:

1204 641.3107 Delivery of contract and certain documents;
1205 definitions.-

1206 (1) Unless delivered upon execution or issuance, A health
1207 maintenance contract, certificate of coverage, endorsements and
1208 riders, or member handbook must shall be mailed, or delivered,
1209 or otherwise provided to the subscriber or, in the case of a
1210 group health maintenance contract, to the employer or other
1211 person who will hold the contract on behalf of the subscriber
1212 group, as provided in s. 627.421.

1213 (2) As used in s. 627.421, the term:

1214 (a) "Insurance policies and endorsements," "policy and
1215 endorsement," "policy," or "policy form and endorsement form"
1216 includes the health maintenance contract, endorsement and
1217 riders, certificate of coverage, or member handbook.

1218 (b) "Insured" includes a subscriber or, in the case of a
1219 group health maintenance contract, to the employer or other
1220 person who will hold the contract on behalf of the subscriber
1221 group.

1222 (c) "Insurer" includes a health maintenance organization.

1223 (3) Section 627.421(4) applies if the health maintenance
1224 organization elects to post health maintenance contracts on its
1225 Internet website in lieu of mailing or delivery to subscribers
1226 or the person who will hold the contract on behalf of a
1227 subscriber group within 10 working days from approval of the
1228 enrollment form by the health maintenance organization or by the



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1229 ~~effective date of coverage, whichever occurs first. However, if~~
1230 ~~the employer or other person who will hold the contract on~~
1231 ~~behalf of the subscriber group requires retroactive enrollment~~
1232 ~~of a subscriber, the organization shall deliver the contract,~~
1233 ~~certificate, or member handbook to the subscriber within 10 days~~
1234 ~~after receiving notice from the employer of the retroactive~~
1235 ~~enrollment.~~ This section does not apply to the delivery of those
1236 contracts specified in s. 641.31(13).

1237 Section 17. This act shall take effect upon becoming a law.
1238

1239 ===== T I T L E A M E N D M E N T =====

1240 And the title is amended as follows:

1241 Delete everything before the enacting clause
1242 and insert:

1243 A bill to be entitled
1244 An act relating to insurance; amending s. 625.151,
1245 F.S.; providing that certain securities valuation
1246 limitations do not apply to certain stock of certain
1247 foreign insurers' subsidiary corporations or related
1248 entities; amending s. 625.325, F.S.; providing that
1249 certain provisions relating to insurer investments in
1250 subsidiaries and related corporations do not apply to
1251 foreign insurers under certain circumstances; amending
1252 s. 626.221, F.S.; providing an exception from an
1253 examination requirement for an all-lines adjuster
1254 license applicant with a specified designation;
1255 amending s. 626.914, F.S.; revising the definition of
1256 the term "diligent effort" to decrease the dwelling
1257 replacement cost threshold of a residential structure



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1258 to which a different diligent effort requirement under
1259 the Surplus Lines Law applies; repealing s.
1260 626.918(2)(a), F.S., relating to a certain condition
1261 before an unauthorized insurer may be or become an
1262 eligible surplus lines insurer; amending s. 626.932,
1263 F.S.; reducing the tax on surplus lines insurance;
1264 deleting a limitation on the tax rate for certain
1265 surplus lines policies; amending s. 626.9651, F.S.;
1266 revising federal standards applicable to Department of
1267 Financial Services and Financial Services Commission
1268 rules governing the use of consumer nonpublic personal
1269 financial and health information; amending s. 627.416,
1270 F.S.; authorizing insurers to issue policies that are
1271 not executed by certain authorized persons; amending
1272 s. 627.43141, F.S.; specifying that a written notice
1273 of a change in policy terms must summarize the change;
1274 amending s. 627.7015, F.S.; authorizing a third party,
1275 as assignee of the policy benefits, to request
1276 mediation for disputed property insurance claims;
1277 providing that insurers are not required to
1278 participate in such mediations; making technical
1279 changes; amending s. 627.728, F.S.; adding certain
1280 proofs of mailing that an insurer may use to provide
1281 certain notices relating to cancellation and
1282 nonrenewals of policies to certain insureds; amending
1283 s. 628.4615, F.S.; revising the definition of the term
1284 "specialty insurer" to include viatical settlement
1285 providers; providing that a person may rebut a
1286 presumption of control by filing a specified



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1287 disclaimer with the Office of Insurance Regulation;
1288 providing an alternative to a form prescribed by the
1289 commission; providing construction; conforming cross-
1290 references; amending s. 628.8015, F.S.; deleting a
1291 condition that certain filings and documents relating
1292 to insurer own-risk and solvency assessments and
1293 corporate governance annual disclosures must be
1294 obtained from the office to be inadmissible in
1295 evidence in private civil actions; amending s.
1296 629.401, F.S.; revising unearned premium reserve
1297 requirements for insurance exchanges regulated by the
1298 office; defining the term "net written premiums";
1299 amending s. 634.121, F.S.; revising requirements and
1300 procedures for the delivery of motor vehicle service
1301 agreements and certain forms by motor vehicle service
1302 agreement companies to agreement holders; defining
1303 terms; specifying requirements if a motor vehicle
1304 service agreement company elects to post service
1305 agreements on its website in lieu of mailing or
1306 delivering to agreement holders; amending s. 641.3107,
1307 F.S.; revising requirements and procedures for the
1308 delivery of health maintenance contracts and certain
1309 documents by health maintenance organizations to
1310 subscribers; defining terms; specifying requirements
1311 if a health maintenance organization elects to post
1312 health maintenance contracts on its website in lieu of
1313 mailing or delivering to subscribers or certain
1314 persons; providing an effective date.