

By the Committees on Judiciary; and Banking and Insurance; and
Senator Brandes

590-03473-18

2018784c2

1 A bill to be entitled
2 An act relating to insurance; amending s. 625.151,
3 F.S.; providing that certain securities valuation
4 limitations do not apply to certain stock of certain
5 foreign insurers' subsidiary corporations or related
6 entities; amending s. 625.325, F.S.; providing that
7 certain provisions relating to insurer investments in
8 subsidiaries and related corporations do not apply to
9 foreign insurers under certain circumstances; amending
10 s. 626.221, F.S.; revising professional designations
11 that exempt all-lines adjuster license applicants from
12 an examination requirement; repealing s.
13 626.918(2)(a), F.S., relating to a certain condition
14 before an unauthorized insurer may be or become an
15 eligible surplus lines insurer; amending s. 626.932,
16 F.S.; reducing the tax on surplus lines insurance;
17 deleting a limitation on the tax rate for certain
18 surplus lines policies; amending s. 626.9651, F.S.;
19 revising federal standards applicable to Department of
20 Financial Services and Financial Services Commission
21 rules governing the use of consumer nonpublic personal
22 financial and health information; amending s. 627.416,
23 F.S.; authorizing insurers to issue policies that are
24 not executed by certain authorized persons; amending
25 s. 627.43141, F.S.; specifying that a written notice
26 of a change in policy terms must summarize the change;
27 amending s. 627.7015, F.S.; authorizing a third party,
28 as assignee of the policy benefits, to request
29 mediation for disputed property insurance claims;

590-03473-18

2018784c2

30 providing that insurers are not required to
31 participate in such mediations; making technical
32 changes; amending s. 627.728, F.S.; adding certain
33 proofs of mailing that an insurer may use to provide
34 certain notices relating to cancellation and
35 nonrenewals of policies to certain insureds; amending
36 s. 627.756, F.S.; providing that certain attorney fee
37 provisions apply to suits brought by contractors
38 against surety insurers under payment or performance
39 bonds for building or construction contracts;
40 providing that contractors are deemed to be insureds
41 or beneficiaries for the purposes of such provisions;
42 providing applicability; amending s. 628.4615, F.S.;
43 revising the definition of the term "specialty
44 insurer" to include viatical settlement providers;
45 providing that a person may rebut a presumption of
46 control by filing a specified disclaimer with the
47 Office of Insurance Regulation; providing an
48 alternative to a form prescribed by the commission;
49 providing construction; conforming cross-references;
50 amending s. 628.8015, F.S.; deleting a condition that
51 certain filings and documents relating to insurer own-
52 risk and solvency assessments and corporate governance
53 annual disclosures must be obtained from the office to
54 be inadmissible in evidence in private civil actions;
55 amending s. 629.401, F.S.; revising unearned premium
56 reserve requirements for insurance exchanges regulated
57 by the office; defining the term "net written
58 premiums"; amending s. 634.121, F.S.; revising

590-03473-18

2018784c2

59 requirements and procedures for the delivery of motor
60 vehicle service agreements and certain forms by motor
61 vehicle service agreement companies to agreement
62 holders; defining terms; specifying requirements if a
63 motor vehicle service agreement company elects to post
64 service agreements on its website in lieu of mailing
65 or delivering to agreement holders; amending s.
66 641.3107, F.S.; revising requirements and procedures
67 for the delivery of health maintenance contracts and
68 certain documents by health maintenance organizations
69 to subscribers; defining terms; specifying
70 requirements if a health maintenance organization
71 elects to post health maintenance contracts on its
72 website in lieu of mailing or delivering to
73 subscribers or certain persons; providing an effective
74 date.

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. Paragraph (c) is added to subsection (3) of
79 section 625.151, Florida Statutes, to read:

80 625.151 Valuation of other securities.—

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

86 (c) This subsection does not apply to stock of a subsidiary
87 corporation or related entities of a foreign insurer which is

590-03473-18

2018784c2

88 permissible under the laws of its state of domicile, if the
89 state of domicile is a member of the National Association of
90 Insurance Commissioners.

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

93 625.325 Investments in subsidiaries and related
94 corporations.—

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

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

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

103 1. Permitted under the laws of the foreign insurer's state
104 of domicile.

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

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

111 Section 3. Paragraph (j) of subsection (2) of section
112 626.221, Florida Statutes, is amended to read:

113 626.221 Examination requirement; exemptions.—

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

116 (j) An applicant for license as an all-lines adjuster who

590-03473-18

2018784c2

117 has the designation of Accredited Claims Adjuster (ACA) from a
118 regionally accredited postsecondary institution in this state,
119 Associate in Claims (AIC) from the Insurance Institute of
120 America, Professional Claims Adjuster (PCA) from the
121 Professional Career Institute, Professional Property Insurance
122 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
123 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
124 (CCA) from AE21 Incorporated, Claims Adjuster Certified
125 Professional (CACP) from WebCE, Inc., ~~or~~ Universal Claims
126 Certification (UCC) from Claims and Litigation Management
127 Alliance (CLM), or any similar designation from a similar entity
128 whose curriculum has been approved by the department and which
129 includes comprehensive analysis of basic property and casualty
130 lines of insurance and testing at least equal to that of
131 standard department testing for the all-lines adjuster license.
132 The department shall adopt rules establishing standards for the
133 approval of curriculum.

134 Section 4. Paragraph (a) of subsection (2) of section
135 626.918, Florida Statutes, is repealed.

136 Section 5. Subsections (1) and (3) of section 626.932,
137 Florida Statutes, are amended to read:

138 626.932 Surplus lines tax.—

139 (1) The premiums charged for surplus lines coverages are
140 subject to a premium receipts tax of 4.936 ~~5~~ percent of all
141 gross premiums charged for such insurance. The surplus lines
142 agent shall collect from the insured the amount of the tax at
143 the time of the delivery of the cover note, certificate of
144 insurance, policy, or other initial confirmation of insurance,
145 in addition to the full amount of the gross premium charged by

590-03473-18

2018784c2

146 the insurer for the insurance. The surplus lines agent is
147 prohibited from absorbing such tax or, as an inducement for
148 insurance or for any other reason, rebating all or any part of
149 such tax or of his or her commission.

150 (3) If a surplus lines policy covers risks or exposures
151 only partially in this state and the state is the home state as
152 defined in the federal Nonadmitted and Reinsurance Reform Act of
153 2010 (NRRA), the tax payable must ~~shall~~ be computed on the gross
154 premium. ~~The tax must not exceed the tax rate where the risk or~~
155 ~~exposure is located.~~

156 Section 6. Section 626.9651, Florida Statutes, is amended
157 to read:

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

590-03473-18

2018784c2

175 compliance with, the consumer privacy protection rules adopted
176 by the United States Department of Health and Human Services, in
177 conformance with the Health Insurance Portability and
178 Affordability Act, that health insurer or health maintenance
179 organization is in compliance with this section.

180 Section 7. Subsection (1) of section 627.416, Florida
181 Statutes, is amended, and subsection (4) is added to that
182 section, to read:

183 627.416 Execution of policies.—

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

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

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

194 627.43141 Notice of change in policy terms.—

195 (2) A renewal policy may contain a change in policy terms.
196 If such change occurs, the insurer shall give the named insured
197 advance written notice summarizing ~~of~~ the change, which may be
198 enclosed along with the written notice of renewal premium
199 required under ss. 627.4133 and 627.728 or sent separately
200 within the timeframe required under the Florida Insurance Code
201 for the provision of a notice of nonrenewal to the named insured
202 for that line of insurance. The insurer must also provide a
203 sample copy of the notice to the named insured's insurance agent

590-03473-18

2018784c2

204 before or at the same time that notice is provided to the named
205 insured. Such notice must ~~shall~~ be entitled "Notice of Change in
206 Policy Terms."

207 Section 9. Subsections (1), (3), (6), and (9) of section
208 627.7015, Florida Statutes, are amended to read:

209 627.7015 Alternative procedure for resolution of disputed
210 property insurance claims.-

211 (1) This section sets forth a nonadversarial alternative
212 dispute resolution procedure for a mediated claim resolution
213 conference prompted by the need for effective, fair, and timely
214 handling of property insurance claims. There is a particular
215 need for an informal, nonthreatening forum for helping parties
216 who elect this procedure to resolve their claims disputes
217 because most homeowner and commercial residential insurance
218 policies obligate policyholders to participate in a potentially
219 expensive and time-consuming adversarial appraisal process
220 before litigation. The procedure set forth in this section is
221 designed to bring the parties together for a mediated claims
222 settlement conference without any of the trappings or drawbacks
223 of an adversarial process. Before resorting to these procedures,
224 policyholders and insurers are encouraged to resolve claims as
225 quickly and fairly as possible. This section is available with
226 respect to claims under personal lines and commercial
227 residential policies before commencing the appraisal process, or
228 before commencing litigation. Mediation may be requested only by
229 the policyholder, as a first-party claimant; a third party, as
230 assignee of the policy benefits;~~7~~ or the insurer. However, an
231 insurer is not required to participate in any mediation
232 requested by a third party assignee of policy benefits. If

590-03473-18

2018784c2

233 requested by the policyholder, participation by legal counsel is
234 permitted. Mediation under this section is also available to
235 litigants referred to the department by a county court or
236 circuit court. This section does not apply to commercial
237 coverages, to private passenger motor vehicle insurance
238 coverages, or to disputes relating to liability coverages in
239 policies of property insurance.

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

259 (6) Mediation under this section is nonbinding; however, if
260 a written settlement is reached, the policyholder ~~insured~~ has 3
261 business days within which the policyholder ~~insured~~ may rescind

590-03473-18

2018784c2

262 the settlement unless the policyholder ~~insured~~ has cashed or
263 deposited any check or draft disbursed to the policyholder
264 ~~insured~~ for the disputed matters as a result of the conference.
265 If a settlement agreement is reached and is not rescinded, it is
266 ~~shall be~~ binding and acts ~~act~~ as a release of all specific
267 claims that were presented in that mediation conference.

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

271 (a) With respect to which the insurer has a reasonable
272 basis to suspect fraud;

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

275 (c) With respect to which the insurer has a reasonable
276 basis to believe that the policyholder has intentionally made a
277 material misrepresentation of fact which is relevant to the
278 claim, and the entire request for payment of a loss has been
279 denied on the basis of the material misrepresentation;

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

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

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

287 627.728 Cancellations; nonrenewals.—

288 (5) United States postal proof of mailing, ~~or~~ certified or
289 registered mailing, or other mailing using the Intelligent Mail
290 barcode or other similar tracking method used or approved by the

590-03473-18

2018784c2

291 United States Postal Service of notice of cancellation, of
292 intention not to renew, or of reasons for cancellation, or of
293 the intention of the insurer to issue a policy by an insurer
294 under the same ownership or management, to the first-named
295 insured at the address shown in the policy is ~~shall be~~
296 sufficient proof of notice.

297 Section 11. Subsection (1) of section 627.756, Florida
298 Statutes, is amended to read:

299 627.756 Bonds for construction contracts; attorney fees in
300 case of suit.—

301 (1) Section 627.428 applies to suits brought by owners,
302 contractors, subcontractors, laborers, and materialmen against a
303 surety insurer under payment or performance bonds written by the
304 insurer under the laws of this state to indemnify against
305 pecuniary loss by breach of a building or construction contract.
306 Owners, contractors, subcontractors, laborers, and materialmen
307 are ~~shall be~~ deemed to be insureds or beneficiaries for the
308 purposes of this section.

309 Section 12. The amendment made by this act to s. 627.756,
310 Florida Statutes, applies only to payment or performance bonds
311 issued on or after October 1, 2018.

312 Section 13. Subsections (1) and (7) of section 628.4615,
313 Florida Statutes, are amended, present subsections (11) through
314 (14) of that section are redesignated as subsections (12)
315 through (15), respectively, and a new subsection (11) is added
316 to that section, to read:

317 628.4615 Specialty insurers; acquisition of controlling
318 stock, ownership interest, assets, or control; merger or
319 consolidation.—

590-03473-18

2018784c2

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

323 (a) A motor vehicle service agreement company authorized to
324 issue motor vehicle service agreements as those terms are
325 defined in s. 634.011;

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

328 (c) A service warranty association authorized to issue
329 "service warranties" as those terms are defined in s.
330 634.401(13) and (14);

331 (d) A prepaid limited health service organization
332 authorized to issue prepaid limited health service contracts, as
333 those terms are defined in chapter 636;

334 (e) An authorized health maintenance organization operating
335 pursuant to s. 641.21;

336 (f) An authorized prepaid health clinic operating pursuant
337 to s. 641.405;

338 (g) A legal expense insurance corporation authorized to
339 engage in a legal expense insurance business pursuant to s.
340 642.021;

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

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

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

348 (k) A corporation authorized to accept donor annuity

590-03473-18

2018784c2

349 agreements pursuant to s. 627.481; or

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

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

355 (a) Willfully violates this section;

356 (b) In violation of an order of the office issued pursuant
357 to subsection (12) ~~(11)~~, fails to divest himself or herself of
358 any stock or ownership interest obtained in violation of this
359 section or fails to divest himself or herself of any direct or
360 indirect control of such stock or ownership interest, within 25
361 days after such order; or

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

367 (11) A person may rebut a presumption of control by filing
368 a disclaimer of control with the office on a form prescribed by
369 the commission. The disclaimer must fully disclose all material
370 relationships and bases for affiliation between the person and
371 the specialty insurer as well as the basis for disclaiming the
372 affiliation. In lieu of such form, a person or acquiring party
373 may file with the office a copy of a Schedule 13G filed with the
374 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
375 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
376 of 1934, as amended. After a disclaimer has been filed, the
377 specialty insurer is relieved of any duty to register or report

590-03473-18

2018784c2

378 under this section which may arise out of the specialty
379 insurer's relationship with the person unless the office
380 disallows the disclaimer.

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

383 628.8015 Own-risk and solvency assessment; corporate
384 governance annual disclosure.—

385 (4) CONFIDENTIALITY.—The required filings and related
386 documents submitted pursuant to subsections (2) and (3) are
387 privileged such that they may not be produced in response to a
388 subpoena or other discovery directed to the office, and any such
389 filings and related documents, ~~if obtained from the office,~~ are
390 not admissible in evidence in any private civil action. However,
391 the department or office may use these filings and related
392 documents in the furtherance of any regulatory or legal action
393 brought against an insurer as part of the official duties of the
394 department or office. A waiver of any applicable claim of
395 privilege in these filings and related documents may not occur
396 because of a disclosure to the office under this section,
397 because of any other provision of the Insurance Code, or because
398 of sharing under s. 624.4212. The office or a person receiving
399 these filings and related documents, while acting under the
400 authority of the office, or with whom such filings and related
401 documents are shared pursuant to s. 624.4212, is not permitted
402 or required to testify in any private civil action concerning
403 any such filings or related documents.

404 Section 15. Paragraph (b) of subsection (6) of section
405 629.401, Florida Statutes, is amended to read:

406 629.401 Insurance exchange.—

590-03473-18

2018784c2

407 (6)

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

411 1. General examination powers.—The office shall examine the
412 affairs, transactions, accounts, records, and assets of any
413 security fund, exchange, members, and associate brokers as often
414 as it deems advisable. The examination may be conducted by the
415 accredited examiners of the office at the offices of the entity
416 or person being examined. The office shall examine in like
417 manner each prospective member or associate broker applying for
418 membership in an exchange.

419 2. Office approval and applications of underwriting
420 members.—No underwriting member shall commence operation without
421 the approval of the office. Before commencing operation, an
422 underwriting member shall provide a written application
423 containing:

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

425 b. Name, residence address, business background, and
426 qualifications of each person associated or to be associated in
427 the formation or financing of the underwriting member.

428 c. Full disclosure of the terms of all understandings and
429 agreements existing or proposed among persons so associated
430 relative to the underwriting member, or the formation or
431 financing thereof, accompanied by a copy of each such agreement
432 or understanding.

433 d. Full disclosure of the terms of all understandings and
434 agreements existing or proposed for management or exclusive
435 agency contracts.

590-03473-18

2018784c2

436 3. Investigation of underwriting member applications.—In
437 connection with any proposal to establish an underwriting
438 member, the office shall make an investigation of:

439 a. The character, reputation, financial standing, and
440 motives of the organizers, incorporators, or subscribers
441 organizing the proposed underwriting member.

442 b. The character, financial responsibility, insurance
443 experience, and business qualifications of its proposed
444 officers.

445 c. The character, financial responsibility, business
446 experience, and standing of the proposed stockholders and
447 directors, or owners.

448 4. Notice of management changes.—An underwriting member
449 shall promptly give the office written notice of any change
450 among the directors or principal officers of the underwriting
451 member within 30 days after such change. The office shall
452 investigate the new directors or principal officers of the
453 underwriting member. The office's investigation shall include an
454 investigation of the character, financial responsibility,
455 insurance experience, and business qualifications of any new
456 directors or principal officers. As a result of the
457 investigation, the office may require the underwriting member to
458 replace any new directors or principal officers.

459 5. Alternate financial statement.—In lieu of any financial
460 examination, the office may accept an audited financial
461 statement.

462 6. Correction and reconstruction of records.—If the office
463 finds any accounts or records to be inadequate, or inadequately
464 kept or posted, it may employ experts to reconstruct, rewrite,

590-03473-18

2018784c2

465 post, or balance them at the expense of the person or entity
466 being examined if such person or entity has failed to maintain,
467 complete, or correct such records or accounts after the office
468 has given him or her or it notice and reasonable opportunity to
469 do so.

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

474 8. Filing of annual statement.—Each underwriting member
475 shall file with the office a full and true statement of its
476 financial condition, transactions, and affairs. The statement
477 shall be filed on or before March 1 of each year, or within such
478 extension of time as the office for good cause grants, and shall
479 be for the preceding calendar year. The statement shall contain
480 information generally included in insurer financial statements
481 prepared in accordance with generally accepted insurance
482 accounting principles and practices and in a form generally
483 utilized by insurers for financial statements, sworn to by at
484 least two executive officers of the underwriting member. The
485 form of the financial statements shall be the approved form of
486 the National Association of Insurance Commissioners or its
487 successor organization. The commission may by rule require each
488 insurer to submit any part of the information contained in the
489 financial statement in a computer-readable form compatible with
490 the office's electronic data processing system. In addition to
491 information furnished in connection with its annual statement,
492 an underwriting member must furnish to the office as soon as
493 reasonably possible such information about its transactions or

590-03473-18

2018784c2

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

497 9. Record maintenance.—Each underwriting member shall have
498 and maintain its principal place of business in this state and
499 shall keep therein complete records of its assets, transactions,
500 and affairs in accordance with such methods and systems as are
501 customary for or suitable to the kind or kinds of insurance
502 transacted.

503 10. Examination of agents.—If the department has reason to
504 believe that any agent, as defined in s. 626.015 or s. 626.914,
505 has violated or is violating any provision of the insurance law,
506 or upon receipt of a written complaint signed by any interested
507 person indicating that any such violation may exist, the
508 department shall conduct such examination as it deems necessary
509 of the accounts, records, documents, and transactions pertaining
510 to or affecting the insurance affairs of such agent.

511 11. Written reports of office.—The office or its examiner
512 shall make a full and true written report of any examination.
513 The report shall contain only information obtained from
514 examination of the records, accounts, files, and documents of or
515 relative to the person or entity examined or from testimony of
516 individuals under oath, together with relevant conclusions and
517 recommendations of the examiner based thereon. The office shall
518 furnish a copy of the report to the person or entity examined
519 not less than 30 days prior to filing the report in its office.
520 If such person or entity so requests in writing within such 30-
521 day period, the office shall grant a hearing with respect to the
522 report and shall not file the report until after the hearing and

590-03473-18

2018784c2

523 after such modifications have been made therein as the office
524 deems proper.

525 12. Admissibility of reports.—The report of an examination
526 when filed shall be admissible in evidence in any action or
527 proceeding brought by the office against the person or entity
528 examined, or against his or her or its officers, employees, or
529 agents. The office or its examiners may at any time testify and
530 offer other proper evidence as to information secured or matters
531 discovered during the course of an examination, whether or not a
532 written report of the examination has been either made,
533 furnished, or filed in the office.

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

538 14. Consideration of examination reports by entity
539 examined.—After the examination report of an underwriting member
540 has been filed, an affidavit shall be filed with the office, not
541 more than 30 days after the report has been filed, on a form
542 furnished by the office and signed by the person or a
543 representative of any entity examined, stating that the report
544 has been read and that the recommendations made in the report
545 will be considered within a reasonable time.

546 15. Examination costs.—Each person or entity examined by
547 the office shall pay to the office the expenses incurred in such
548 examination.

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

590-03473-18

2018784c2

552 subparagraph 15.

553 17. Powers of examiners.—Any examiner appointed by the
554 office, as to the subject of any examination, investigation, or
555 hearing being conducted by him or her, may administer oaths,
556 examine and cross-examine witnesses, and receive oral and
557 documentary evidence, and shall have the power to subpoena
558 witnesses, compel their attendance and testimony, and require by
559 subpoena the production of books, papers, records, files,
560 correspondence, documents, or other evidence which the examiner
561 deems relevant to the inquiry. If any person refuses to comply
562 with any such subpoena or to testify as to any matter concerning
563 which he or she may be lawfully interrogated, the Circuit Court
564 of Leon County or the circuit court of the county wherein such
565 examination, investigation, or hearing is being conducted, or of
566 the county wherein such person resides, on the office's
567 application may issue an order requiring such person to comply
568 with the subpoena and to testify; and any failure to obey such
569 an order of the court may be punished by the court as a contempt
570 thereof. Subpoenas shall be served, and proof of such service
571 made, in the same manner as if issued by a circuit court.
572 Witness fees and mileage, if claimed, shall be allowed the same
573 as for testimony in a circuit court.

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

578 19. Self-incrimination.—

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

590-03473-18

2018784c2

581 contracts, documents, or other evidence in connection with any
582 examination, hearing, or investigation being conducted by the
583 office or its examiner, on the ground that the testimony or
584 evidence required of the person may tend to incriminate him or
585 her or subject him or her to a penalty or forfeiture, and the
586 person notwithstanding is directed to give such testimony or
587 produce such evidence, he or she shall, if so directed by the
588 office and the Department of Legal Affairs, nonetheless comply
589 with such direction; but the person shall not thereafter be
590 prosecuted or subjected to any penalty or forfeiture for or on
591 account of any transaction, matter, or thing concerning which he
592 or she may have so testified or produced evidence, and no
593 testimony so given or evidence so produced shall be received
594 against him or her upon any criminal action, investigation, or
595 proceeding; except that no such person so testifying shall be
596 exempt from prosecution or punishment for any perjury committed
597 by him or her in such testimony, and the testimony or evidence
598 so given or produced shall be admissible against him or her upon
599 any criminal action, investigation, or proceeding concerning
600 such perjury, nor shall he or she be exempt from the refusal,
601 suspension, or revocation of any license, permission, or
602 authority conferred, or to be conferred, pursuant to the
603 insurance law.

604 b. Any such individual may execute, acknowledge, and file
605 with the office a statement expressly waiving such immunity or
606 privilege in respect to any transaction, matter, or thing
607 specified in such statement, and thereupon the testimony of such
608 individual or such evidence in relation to such transaction,
609 matter, or thing may be received or produced before any judge or

590-03473-18

2018784c2

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

614 20. Penalty for failure to testify.—Any person who refuses
615 or fails, without lawful cause, to testify relative to the
616 affairs of any member, associate broker, or other person when
617 subpoenaed and requested by the office to so testify, as
618 provided in subparagraph 17., shall, in addition to the penalty
619 provided in subparagraph 17., be guilty of a misdemeanor of the
620 second degree, punishable as provided in s. 775.082 or s.
621 775.083.

622 21. Name selection.—No underwriting member shall be formed
623 or authorized to transact insurance in this state under a name
624 which is the same as that of any authorized insurer or is so
625 nearly similar thereto as to cause or tend to cause confusion or
626 under a name which would tend to mislead as to the type of
627 organization of the insurer. Before incorporating under or using
628 any name, the underwriting syndicate or proposed underwriting
629 syndicate shall submit its name or proposed name to the office
630 for the approval of the office.

631 22. Capitalization.—An underwriting member approved on or
632 after July 2, 1987, shall provide an initial paid-in capital and
633 surplus of \$3 million and thereafter shall maintain a minimum
634 policyholder surplus of \$2 million in order to be permitted to
635 write insurance. Underwriting members approved prior to July 2,
636 1987, shall maintain a minimum policyholder surplus of \$1
637 million. After June 29, 1988, underwriting members approved
638 prior to July 2, 1987, must maintain a minimum policyholder

590-03473-18

2018784c2

639 surplus of \$1.5 million to write insurance. After June 29, 1989,
640 underwriting members approved prior to July 2, 1987, must
641 maintain a minimum policyholder surplus of \$1.75 million to
642 write insurance. After December 30, 1989, all underwriting
643 members, regardless of the date they were approved, must
644 maintain a minimum policyholder surplus of \$2 million to write
645 insurance. Except for that portion of the paid-in capital and
646 surplus which shall be maintained in a security fund of an
647 exchange, the paid-in capital and surplus shall be invested by
648 an underwriting member in a manner consistent with ss. 625.301-
649 625.340. The portion of the paid-in capital and surplus in any
650 security fund of an exchange shall be invested in a manner
651 limited to investments for life insurance companies under the
652 Florida insurance laws.

653 23. Limitations on coverage written.—

654 a. Limit of risk.—No underwriting member shall expose
655 itself to any loss on any one risk in an amount exceeding 10
656 percent of its surplus to policyholders. Any risk or portion of
657 any risk which shall have been reinsured in an assuming
658 reinsurer authorized or approved to do such business in this
659 state shall be deducted in determining the limitation of risk
660 prescribed in this section.

661 b. Restrictions on premiums written.—If the office has
662 reason to believe that the underwriting member's ratio of actual
663 or projected annual gross written premiums to policyholder
664 surplus exceeds 8 to 1 or the underwriting member's ratio of
665 actual or projected annual net premiums to policyholder surplus
666 exceeds 4 to 1, the office may establish maximum gross or net
667 annual premiums to be written by the underwriting member

590-03473-18

2018784c2

668 consistent with maintaining the ratios specified in this sub-
669 subparagraph.

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

674 (II) For purposes of this sub-subparagraph, the term "gross
675 written premiums" means direct premiums written and reinsurance
676 assumed.

677 c. Surplus as to policyholders.—For the purpose of
678 determining the limitation on coverage written, surplus as to
679 policyholders shall be deemed to include any voluntary reserves,
680 or any part thereof, which are not required by or pursuant to
681 law and shall be determined from the last sworn statement of
682 such underwriting member with the office, or by the last report
683 or examination filed by the office, whichever is more recent at
684 the time of assumption of such risk.

685 24. Unearned premium reserves.—An underwriting member must
686 at all times maintain an unearned premium reserve equal to 50
687 percent of the net written premiums of the subscribers on
688 policies having 1 year or less to run, and pro rata on those for
689 longer periods, ~~All unearned premium reserves for business~~
690 ~~written on the exchange shall be calculated on a monthly or more~~
691 ~~frequent basis or on such other basis as determined by the~~
692 ~~office;~~ except that all premiums on any marine or transportation
693 insurance trip risk shall be deemed unearned until the trip is
694 terminated. For the purpose of this subparagraph, the term "net
695 written premiums" means the premium payments made by subscribers
696 plus the premiums due from subscribers, after deducting the

590-03473-18

2018784c2

697 amounts specifically provided in the subscribers' agreements for
698 expenses, including reinsurance costs and fees paid to the
699 attorney in fact, provided that the power of attorney agreement
700 contains an explicit provision requiring the attorney in fact to
701 refund any unearned subscribers fees on a pro-rata basis for
702 cancelled policies. If there is no such provision, the unearned
703 premium reserves must be calculated without any adjustment for
704 fees paid to the attorney in fact. If the unearned premium
705 reserves at any time do not amount to \$100,000, there must be
706 maintained on deposit at the exchange at all times additional
707 funds in cash or eligible securities, which, together with the
708 unearned premium reserves, equal \$100,000. In calculating the
709 foregoing reserves, the amount of the attorney's bond, as filed
710 with the office and as required by s. 629.121, must be included
711 in such reserves. If at any time the unearned premium reserves
712 are less than the foregoing requirements, the subscribers or the
713 attorney in fact shall advance funds to make up the deficiency.
714 Such advances must be repaid only out of the surplus of the
715 exchange and only after receiving written approval from the
716 office.

717 25. Loss reserves.—All underwriting members of an exchange
718 shall maintain loss reserves, including a reserve for incurred
719 but not reported claims. The reserves shall be subject to review
720 by the office, and, if loss experience shows that an
721 underwriting member's loss reserves are inadequate, the office
722 shall require the underwriting member to maintain loss reserves
723 in such additional amount as is needed to make them adequate.

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

590-03473-18

2018784c2

726 to owners except out of that part of its available and
727 accumulated surplus funds which is derived from realized net
728 operating profits on its business and realized capital gains. In
729 any one year such payments to owners shall not exceed 30 percent
730 of such surplus as of December 31 of the immediately preceding
731 year, unless otherwise approved by the office. No distribution
732 of profits shall be made that would render an underwriting
733 member either impaired or insolvent.

734 27. Stock dividends.—A stock dividend may be paid by an
735 underwriting member out of any available surplus funds in excess
736 of the aggregate amount of surplus advanced to the underwriting
737 member under subparagraph 29.

738 28. Dividends from earned surplus.—A dividend otherwise
739 lawful may be payable out of an underwriting member's earned
740 surplus even though the total surplus of the underwriting member
741 is then less than the aggregate of its past contributed surplus
742 resulting from issuance of its capital stock at a price in
743 excess of the par value thereof.

744 29. Borrowing of money by underwriting members.—

745 a. An underwriting member may borrow money to defray the
746 expenses of its organization, provide it with surplus funds, or
747 for any purpose of its business, upon a written agreement that
748 such money is required to be repaid only out of the underwriting
749 member's surplus in excess of that stipulated in such agreement.
750 The agreement may provide for interest not exceeding 15 percent
751 simple interest per annum. The interest shall or shall not
752 constitute a liability of the underwriting member as to its
753 funds other than such excess of surplus, as stipulated in the
754 agreement. No commission or promotion expense shall be paid in

590-03473-18

2018784c2

755 connection with any such loan. The use of any surplus note and
756 any repayments thereof shall be subject to the approval of the
757 office.

758 b. Money so borrowed, together with any interest thereon if
759 so stipulated in the agreement, shall not form a part of the
760 underwriting member's legal liabilities except as to its surplus
761 in excess of the amount thereof stipulated in the agreement, nor
762 be the basis of any setoff; but until repayment, financial
763 statements filed or published by an underwriting member shall
764 show as a footnote thereto the amount thereof then unpaid,
765 together with any interest thereon accrued but unpaid.

766 30. Liquidation, rehabilitation, and restrictions.—The
767 office, upon a showing that a member or associate broker of an
768 exchange has met one or more of the grounds contained in part I
769 of chapter 631, may restrict sales by type of risk, policy or
770 contract limits, premium levels, or policy or contract
771 provisions; increase surplus or capital requirements of
772 underwriting members; issue cease and desist orders; suspend or
773 restrict a member's or associate broker's right to transact
774 business; place an underwriting member under conservatorship or
775 rehabilitation; or seek an order of liquidation as authorized by
776 part I of chapter 631.

777 31. Prohibited conduct.—The following acts by a member,
778 associate broker, or affiliated person shall constitute
779 prohibited conduct:

780 a. Fraud.

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

590-03473-18

2018784c2

784 application to become a member or associate broker.

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

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

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

791 f. Misstatements made under oath or upon an application for
792 membership on an exchange.

793 g. Failure to testify or produce documents when requested
794 by the office.

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

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

799 j. Violation of the constitution and bylaws of the
800 exchange.

801 32. Penalties for participating in prohibited conduct.—

802 a. The office may order the suspension of further
803 transaction of business on the exchange of any member or
804 associate broker found to have engaged in prohibited conduct. In
805 addition, any member or associate broker found to have engaged
806 in prohibited conduct may be subject to reprimand, censure,
807 and/or a fine not exceeding \$25,000 imposed by the office.

808 b. Any member which has an affiliated person who is found
809 to have engaged in prohibited conduct shall be subject to
810 involuntary withdrawal or in addition thereto may be subject to
811 suspension, reprimand, censure, and/or a fine not exceeding
812 \$25,000.

590-03473-18

2018784c2

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

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

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

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

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

831 38. Changes in ownership or assets.—In the event of a major
832 change in the ownership or a major change in the assets of an
833 underwriting member, the underwriting member shall report such
834 change in writing to the office within 30 days of the effective
835 date thereof. The report shall set forth the details of the
836 change. Any change in ownership or assets of more than 5 percent
837 shall be considered a major change.

838 39. Retaliation.—

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

590-03473-18

2018784c2

842 other material obligations, prohibitions, or restrictions are or
843 would be imposed upon an exchange or upon the agents or
844 representatives of such exchange which are in excess of such
845 taxes, licenses, and other fees, in the aggregate, or which are
846 in excess of such fines, penalties, deposit requirements, or
847 other obligations, prohibitions, or restrictions directly
848 imposed upon similar exchanges or upon the agents or
849 representatives of such exchanges of such other state or country
850 under the statutes of this state, so long as such laws of such
851 other state or country continue in force or are so applied, the
852 same taxes, licenses, and other fees, in the aggregate, or
853 fines, penalties, deposit requirements, or other material
854 obligations, prohibitions, or restrictions of whatever kind
855 shall be imposed by the office upon the exchanges, or upon the
856 agents or representatives of such exchanges, of such other state
857 or country doing business or seeking to do business in this
858 state.

859 b. Any tax, license, or other obligation imposed by any
860 city, county, or other political subdivision or agency of a
861 state, jurisdiction, or foreign country on an exchange, or on
862 the agents or representatives on an exchange, shall be deemed to
863 be imposed by such state, jurisdiction, or foreign country
864 within the meaning of sub-subparagraph a.

865 40. Agents.—

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

590-03473-18

2018784c2

871 s. 626.917 shall be written through a broker member who is a
872 surplus lines agent as defined in s. 626.914. The activities of
873 each broker member or associate broker with regard to an
874 exchange shall be subject to all applicable provisions of the
875 insurance laws of this state, and all such activities shall
876 constitute transactions under his or her license as an insurance
877 agent for purposes of the Florida insurance law.

878 b. Premium payments and other requirements.—If an
879 underwriting member has assumed the risk as to a surplus lines
880 coverage and if the premium therefor has been received by the
881 surplus lines agent who placed such insurance, then in all
882 questions thereafter arising under the coverage as between the
883 underwriting member and the insured, the underwriting member
884 shall be deemed to have received the premium due to it for such
885 coverage; and the underwriting member shall be liable to the
886 insured as to losses covered by such insurance, and for unearned
887 premiums which may become payable to the insured upon
888 cancellation of such insurance, whether or not in fact the
889 surplus lines agent is indebted to the underwriting member with
890 respect to such insurance or for any other cause.

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

892 a. Any insurance policy, rider, or endorsement issued by an
893 underwriting member and otherwise valid which contains any
894 condition or provision not in compliance with the requirements
895 of this section shall not be thereby rendered invalid, except as
896 provided in s. 627.415, but shall be construed and applied in
897 accordance with such conditions and provisions as would have
898 applied had such policy, rider, or endorsement been in full
899 compliance with this section. In the event an underwriting

590-03473-18

2018784c2

900 member issues or delivers any policy for an amount which exceeds
901 any limitations otherwise provided in this section, the
902 underwriting member shall be liable to the insured or his or her
903 beneficiary for the full amount stated in the policy in addition
904 to any other penalties that may be imposed.

905 b. Any insurance contract delivered or issued for delivery
906 in this state governing a subject or subjects of insurance
907 resident, located, or to be performed in this state which,
908 pursuant to the provisions of this section, the underwriting
909 member may not lawfully insure under such a contract shall be
910 cancelable at any time by the underwriting member, any provision
911 of the contract to the contrary notwithstanding; and the
912 underwriting member shall promptly cancel the contract in
913 accordance with the request of the office therefor. No such
914 illegality or cancellation shall be deemed to relieve the
915 underwriting syndicate of any liability incurred by it under the
916 contract while in force or to prohibit the underwriting
917 syndicate from retaining the pro rata earned premium thereon.
918 This provision does not relieve the underwriting syndicate from
919 any penalty otherwise incurred by the underwriting syndicate.

920 42. Satisfaction of judgments.—

921 a. Every judgment or decree for the recovery of money
922 heretofore or hereafter entered in any court of competent
923 jurisdiction against any underwriting member shall be fully
924 satisfied within 60 days from and after the entry thereof or, in
925 the case of an appeal from such judgment or decree, within 60
926 days from and after the affirmance of the judgment or decree by
927 the appellate court.

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

590-03473-18

2018784c2

929 under sub-subparagraph a., and proof of such failure to satisfy
930 is made by filing with the office a certified transcript of the
931 docket of the judgment or the decree together with a certificate
932 by the clerk of the court wherein the judgment or decree remains
933 unsatisfied, in whole or in part, after the time provided in
934 sub-subparagraph a., the office shall forthwith prohibit the
935 underwriting member from transacting business. The office shall
936 not permit such underwriting member to write any new business
937 until the judgment or decree is wholly paid and satisfied and
938 proof thereof is filed with the office under the official
939 certificate of the clerk of the court wherein the judgment was
940 recovered, showing that the judgment or decree is satisfied of
941 record, and until the expenses and fees incurred in the case are
942 also paid by the underwriting syndicate.

943 43. Tender and exchange offers.—No person shall conclude a
944 tender offer or an exchange offer or otherwise acquire 5 percent
945 or more of the outstanding voting securities of an underwriting
946 member or controlling company or purchase 5 percent or more of
947 the ownership of an underwriting member or controlling company
948 unless such person has filed with, and obtained the approval of,
949 the office and sent to such underwriting member a statement
950 setting forth:

951 a. The identity of, and background information on, each
952 person by whom, or on whose behalf, the acquisition is to be
953 made; and, if the acquisition is to be made by or on behalf of a
954 corporation, association, or trust, the identity of and
955 background information on each director, officer, trustee, or
956 other natural person performing duties similar to those of a
957 director, officer, or trustee for the corporation, association,

590-03473-18

2018784c2

958 or trust.

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

961 c. Any plans or proposals which such person may have to
962 liquidate such member, to sell its assets, or to merge or
963 consolidate it.

964 d. The percentage of ownership which such person proposes
965 to acquire and the terms of the offer or exchange, as the case
966 may be.

967 e. Information as to any contracts, arrangements, or
968 understandings with any party with respect to any securities of
969 such member or controlling company, including, but not limited
970 to, information relating to the transfer of any securities,
971 option arrangements, or puts or calls or the giving or
972 withholding of proxies, naming the party with whom such
973 contract, arrangements, or understandings have been entered and
974 giving the details thereof.

975 f. The office may disapprove any acquisition subject to the
976 provisions of this subparagraph by any person or any affiliated
977 person of such person who:

978 (I) Willfully violates this subparagraph;

979 (II) In violation of an order of the office issued pursuant
980 to sub-subparagraph j., fails to divest himself or herself of
981 any stock obtained in violation of this subparagraph, or fails
982 to divest himself or herself of any direct or indirect control
983 of such stock, within 25 days after such order; or

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

590-03473-18

2018784c2

987 indirect control of such stock, without complying with this
988 subparagraph.

989 g. The person or persons filing the statement required by
990 this subparagraph have the burden of proof. The office shall
991 approve any such acquisition if it finds, on the basis of the
992 record made during any proceeding or on the basis of the filed
993 statement if no proceeding is conducted, that:

994 (I) Upon completion of the acquisition, the underwriting
995 member will be able to satisfy the requirements for the approval
996 to write the line or lines of insurance for which it is
997 presently approved;

998 (II) The financial condition of the acquiring person or
999 persons will not jeopardize the financial stability of the
1000 underwriting member or prejudice the interests of its
1001 policyholders or the public;

1002 (III) Any plan or proposal which the acquiring person has,
1003 or acquiring persons have, made:

1004 (A) To liquidate the insurer, sell its assets, or merge or
1005 consolidate it with any person, or to make any other major
1006 change in its business or corporate structure or management; or

1007 (B) To liquidate any controlling company, sell its assets,
1008 or merge or consolidate it with any person, or to make any major
1009 change in its business or corporate structure or management
1010 which would have an effect upon the underwriting member

1011
1012 is fair and free of prejudice to the policyholders of the
1013 underwriting member or to the public;

1014 (IV) The competence, experience, and integrity of those
1015 persons who will control directly or indirectly the operation of

590-03473-18

2018784c2

1016 the underwriting member indicate that the acquisition is in the
1017 best interest of the policyholders of the underwriting member
1018 and in the public interest;

1019 (V) The natural persons for whom background information is
1020 required to be furnished pursuant to this subparagraph have such
1021 backgrounds as to indicate that it is in the best interests of
1022 the policyholders of the underwriting member, and in the public
1023 interest, to permit such persons to exercise control over such
1024 underwriting member;

1025 (VI) The officers and directors to be employed after the
1026 acquisition have sufficient insurance experience and ability to
1027 assure reasonable promise of successful operation;

1028 (VII) The management of the underwriting member after the
1029 acquisition will be competent and trustworthy and will possess
1030 sufficient managerial experience so as to make the proposed
1031 operation of the underwriting member not hazardous to the
1032 insurance-buying public;

1033 (VIII) The management of the underwriting member after the
1034 acquisition will not include any person who has directly or
1035 indirectly through ownership, control, reinsurance transactions,
1036 or other insurance or business relations unlawfully manipulated
1037 the assets, accounts, finances, or books of any insurer or
1038 underwriting member or otherwise acted in bad faith with respect
1039 thereto;

1040 (IX) The acquisition is not likely to be hazardous or
1041 prejudicial to the underwriting member's policyholders or the
1042 public; and

1043 (X) The effect of the acquisition of control would not
1044 substantially lessen competition in insurance in this state or

590-03473-18

2018784c2

1045 would not tend to create a monopoly therein.

1046 h. No vote by the stockholder of record, or by any other
1047 person, of any security acquired in contravention of the
1048 provisions of this subparagraph is valid. Any acquisition of any
1049 security contrary to the provisions of this subparagraph is
1050 void. Upon the petition of the underwriting member or
1051 controlling company, the circuit court for the county in which
1052 the principal office of such underwriting member is located may,
1053 without limiting the generality of its authority, order the
1054 issuance or entry of an injunction or other order to enforce the
1055 provisions of this subparagraph. There shall be a private right
1056 of action in favor of the underwriting member or controlling
1057 company to enforce the provisions of this subparagraph. No
1058 demand upon the office that it perform its functions shall be
1059 required as a prerequisite to any suit by the underwriting
1060 member or controlling company against any other person, and in
1061 no case shall the office be deemed a necessary party to any
1062 action by such underwriting member or controlling company to
1063 enforce the provisions of this subparagraph. Any person who
1064 makes or proposes an acquisition requiring the filing of a
1065 statement pursuant to this subparagraph, or who files such a
1066 statement, shall be deemed to have thereby designated the Chief
1067 Financial Officer as such person's agent for service of process
1068 under this subparagraph and shall thereby be deemed to have
1069 submitted himself or herself to the administrative jurisdiction
1070 of the office and to the jurisdiction of the circuit court.

1071 i. Any approval by the office under this subparagraph does
1072 not constitute a recommendation by the office for an
1073 acquisition, tender offer, or exchange offer. It is unlawful for

590-03473-18

2018784c2

1074 a person to represent that the office's approval constitutes a
1075 recommendation. A person who violates the provisions of this
1076 sub-subparagraph is guilty of a felony of the third degree,
1077 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1078 The statute-of-limitations period for the prosecution of an
1079 offense committed under this sub-subparagraph is 5 years.

1080 j. Upon notification to the office by the underwriting
1081 member or a controlling company that any person or any
1082 affiliated person of such person has acquired 5 percent or more
1083 of the outstanding voting securities of the underwriting member
1084 or controlling company without complying with the provisions of
1085 this subparagraph, the office shall order that the person and
1086 any affiliated person of such person cease acquisition of any
1087 further securities of the underwriting member or controlling
1088 company; however, the person or any affiliated person of such
1089 person may request a proceeding, which proceeding shall be
1090 convened within 7 days after the rendering of the order for the
1091 sole purpose of determining whether the person, individually or
1092 in connection with any affiliated person of such person, has
1093 acquired 5 percent or more of the outstanding voting securities
1094 of an underwriting member or controlling company. Upon the
1095 failure of the person or affiliated person to request a hearing
1096 within 7 days, or upon a determination at a hearing convened
1097 pursuant to this sub-subparagraph that the person or affiliated
1098 person has acquired voting securities of an underwriting member
1099 or controlling company in violation of this subparagraph, the
1100 office may order the person and affiliated person to divest
1101 themselves of any voting securities so acquired.

1102 k.(I) The office shall, if necessary to protect the public

590-03473-18

2018784c2

1103 interest, suspend or revoke the certificate of authority of any
1104 underwriting member or controlling company:

1105 (A) The control of which is acquired in violation of this
1106 subparagraph;

1107 (B) That is controlled, directly or indirectly, by any
1108 person or any affiliated person of such person who, in violation
1109 of this subparagraph, has obtained control of an underwriting
1110 member or controlling company; or

1111 (C) That is controlled, directly or indirectly, by any
1112 person who, directly or indirectly, controls any other person
1113 who, in violation of this subparagraph, acquires control of an
1114 underwriting member or controlling company.

1115 (II) If any underwriting member is subject to suspension or
1116 revocation pursuant to sub-sub-subparagraph (I), the
1117 underwriting member shall be deemed to be in such condition, or
1118 to be using or to have been subject to such methods or practices
1119 in the conduct of its business, as to render its further
1120 transaction of insurance presently or prospectively hazardous to
1121 its policyholders, creditors, or stockholders or to the public.

1122 1.(I) For the purpose of this sub-sub-subparagraph, the
1123 term "affiliated person" of another person means:

1124 (A) The spouse of such other person;

1125 (B) The parents of such other person and their lineal
1126 descendants and the parents of such other person's spouse and
1127 their lineal descendants;

1128 (C) Any person who directly or indirectly owns or controls,
1129 or holds with power to vote, 5 percent or more of the
1130 outstanding voting securities of such other person;

1131 (D) Any person 5 percent or more of the outstanding voting

590-03473-18

2018784c2

1132 securities of which are directly or indirectly owned or
1133 controlled, or held with power to vote, by such other person;

1134 (E) Any person or group of persons who directly or
1135 indirectly control, are controlled by, or are under common
1136 control with such other person; or any officer, director,
1137 partner, copartner, or employee of such other person;

1138 (F) If such other person is an investment company, any
1139 investment adviser of such company or any member of an advisory
1140 board of such company;

1141 (G) If such other person is an unincorporated investment
1142 company not having a board of directors, the depositor of such
1143 company; or

1144 (H) Any person who has entered into an agreement, written
1145 or unwritten, to act in concert with such other person in
1146 acquiring or limiting the disposition of securities of an
1147 underwriting member or controlling company.

1148 (II) For the purposes of this section, the term
1149 "controlling company" means any corporation, trust, or
1150 association owning, directly or indirectly, 25 percent or more
1151 of the voting securities of one or more underwriting members.

1152 m. The commission may adopt, amend, or repeal rules that
1153 are necessary to implement the provisions of this subparagraph,
1154 pursuant to chapter 120.

1155 44. Background information.—The information as to the
1156 background and identity of each person about whom information is
1157 required to be furnished pursuant to sub-subparagraph 43.a.
1158 shall include, but shall not be limited to:

1159 a. Such person's occupations, positions of employment, and
1160 offices held during the past 10 years.

590-03473-18

2018784c2

1161 b. The principal business and address of any business,
1162 corporation, or other organization in which each such office was
1163 held or in which such occupation or position of employment was
1164 carried on.

1165 c. Whether, at any time during such 10-year period, such
1166 person was convicted of any crime other than a traffic
1167 violation.

1168 d. Whether, during such 10-year period, such person has
1169 been the subject of any proceeding for the revocation of any
1170 license and, if so, the nature of such proceeding and the
1171 disposition thereof.

1172 e. Whether, during such 10-year period, such person has
1173 been the subject of any proceeding under the federal Bankruptcy
1174 Act or whether, during such 10-year period, any corporation,
1175 partnership, firm, trust, or association in which such person
1176 was a director, officer, trustee, partner, or other official has
1177 been subject to any such proceeding, either during the time in
1178 which such person was a director, officer, trustee, partner, or
1179 other official, or within 12 months thereafter.

1180 f. Whether, during such 10-year period, such person has
1181 been enjoined, either temporarily or permanently, by a court of
1182 competent jurisdiction from violating any federal or state law
1183 regulating the business of insurance, securities, or banking, or
1184 from carrying out any particular practice or practices in the
1185 course of the business of insurance, securities, or banking,
1186 together with details of any such event.

1187 45. Security fund.—All underwriting members shall be
1188 members of the security fund of any exchange.

1189 46. Underwriting member defined.—Whenever the term

590-03473-18

2018784c2

1190 "underwriting member" is used in this subsection, it shall be
1191 construed to mean "underwriting syndicate."

1192 47. Offsets.—Any action, requirement, or constraint imposed
1193 by the office shall reduce or offset similar actions,
1194 requirements, or constraints of any exchange.

1195 48. Restriction on member ownership.—

1196 a. Investments existing prior to July 2, 1987.—The
1197 investment in any member by brokers, agents, and intermediaries
1198 transacting business on the exchange, and the investment in any
1199 such broker, agent, or intermediary by any member, directly or
1200 indirectly, shall in each case be limited in the aggregate to
1201 less than 20 percent of the total investment in such member,
1202 broker, agent, or intermediary, as the case may be. After
1203 December 31, 1987, the aggregate percent of the total investment
1204 in such member by any broker, agent, or intermediary and the
1205 aggregate percent of the total investment in any such broker,
1206 agent, or intermediary by any member, directly or indirectly,
1207 shall not exceed 15 percent. After June 30, 1988, such aggregate
1208 percent shall not exceed 10 percent and after December 31, 1988,
1209 such aggregate percent shall not exceed 5 percent.

1210 b. Investments arising on or after July 2, 1987.—The
1211 investment in any underwriting member by brokers, agents, or
1212 intermediaries transacting business on the exchange, and the
1213 investment in any such broker, agent, or intermediary by any
1214 underwriting member, directly or indirectly, shall in each case
1215 be limited in the aggregate to less than 5 percent of the total
1216 investment in such underwriting member, broker, agent, or
1217 intermediary.

1218 49. "Underwriting manager" defined.—"Underwriting manager"

590-03473-18

2018784c2

1219 as used in this subparagraph includes any person, partnership,
1220 corporation, or organization providing any of the following
1221 services to underwriting members of the exchange:

1222 a. Office management and allied services, including
1223 correspondence and secretarial services.

1224 b. Accounting services, including bookkeeping and financial
1225 report preparation.

1226 c. Investment and banking consultations and services.

1227 d. Underwriting functions and services including the
1228 acceptance, rejection, placement, and marketing of risk.

1229 50. Prohibition of underwriting manager investment.—Any
1230 direct or indirect investment in any underwriting manager by a
1231 broker member or any affiliated person of a broker member or any
1232 direct or indirect investment in a broker member by an
1233 underwriting manager or any affiliated person of an underwriting
1234 manager is prohibited. "Affiliated person" for purposes of this
1235 subparagraph is defined in subparagraph 43.

1236 51. An underwriting member may not accept reinsurance on an
1237 assumed basis from an affiliate or a controlling company, nor
1238 may a broker member or management company place reinsurance from
1239 an affiliate or controlling company of theirs with an
1240 underwriting member. "Affiliate and controlling company" for
1241 purposes of this subparagraph is defined in subparagraph 43.

1242 52. Premium defined.—"Premium" is the consideration for
1243 insurance, by whatever name called. Any "assessment" or any
1244 "membership," "policy," "survey," "inspection," "service" fee or
1245 charge or similar fee or charge in consideration for an
1246 insurance contract is deemed part of the premium.

1247 53. Rules.—The commission shall adopt rules necessary for

590-03473-18

2018784c2

1248 or as an aid to the effectuation of any provision of this
1249 section.

1250 Section 16. Subsection (6) of section 634.121, Florida
1251 Statutes, is amended to read:

1252 634.121 Forms, required procedures, provisions; delivery
1253 and definitions.—

1254 (6) (a) Each service agreement, which includes a copy of the
1255 application form, must be mailed, delivered, or otherwise
1256 provided electronically ~~transmitted~~ to the agreement holder as
1257 provided in s. 627.421. As used in s. 627.421, the term:

1258 1. "Insurance policies and endorsements," "policy and
1259 endorsement," "policy," or "policy form and endorsement form"
1260 includes a motor vehicle service agreement and related
1261 endorsement forms.

1262 2. "Insured" includes a motor vehicle service agreement
1263 holder.

1264 3. "Insurer" includes a motor vehicle service agreement
1265 company.

1266 (b) Section 627.421(4) applies if the motor vehicle service
1267 agreement company elects to post motor vehicle service
1268 agreements on its Internet website in lieu of mailing or
1269 delivery to agreement holders within 45 days after the date of
1270 purchase. Electronic transmission of a service agreement
1271 constitutes delivery to the agreement holder. The electronic
1272 transmission must notify the agreement holder of his or her
1273 right to receive the service agreement via United States mail
1274 rather than electronic transmission. If the agreement holder
1275 communicates to the service agreement company electronically or
1276 in writing that he or she does not agree to receipt by

590-03473-18

2018784c2

1277 ~~electronic transmission, a paper copy of the service agreement~~
1278 ~~shall be provided to the agreement holder.~~

1279 Section 17. Section 641.3107, Florida Statutes, is amended
1280 to read:

1281 641.3107 Delivery of contract and certain documents;
1282 definitions.—

1283 (1) Unless delivered upon execution or issuance, A health
1284 maintenance contract, certificate of coverage, endorsements and
1285 riders, or member handbook must shall be mailed, ~~or~~ delivered,
1286 or otherwise provided to the subscriber or, in the case of a
1287 group health maintenance contract, to the employer or other
1288 person who will hold the contract on behalf of the subscriber
1289 group, as provided in s. 627.421.

1290 (2) As used in s. 627.421, the term:

1291 (a) "Insurance policies and endorsements," "policy and
1292 endorsement," "policy," or "policy form and endorsement form"
1293 includes the health maintenance contract, endorsement and
1294 riders, certificate of coverage, or member handbook.

1295 (b) "Insured" includes a subscriber or, in the case of a
1296 group health maintenance contract, to the employer or other
1297 person who will hold the contract on behalf of the subscriber
1298 group.

1299 (c) "Insurer" includes a health maintenance organization.

1300 (3) Section 627.421(4) applies if the health maintenance
1301 organization elects to post health maintenance contracts on its
1302 Internet website in lieu of mailing or delivery to subscribers
1303 or the person who will hold the contract on behalf of a
1304 subscriber group within 10 working days from approval of the
1305 enrollment form by the health maintenance organization or by the

590-03473-18

2018784c2

1306 ~~effective date of coverage, whichever occurs first. However, if~~
1307 ~~the employer or other person who will hold the contract on~~
1308 ~~behalf of the subscriber group requires retroactive enrollment~~
1309 ~~of a subscriber, the organization shall deliver the contract,~~
1310 ~~certificate, or member handbook to the subscriber within 10 days~~
1311 ~~after receiving notice from the employer of the retroactive~~
1312 ~~enrollment.~~ This section does not apply to the delivery of those
1313 contracts specified in s. 641.31(13).

1314 Section 18. This act shall take effect upon becoming a law.