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2 An act relating to the Department of Financial  
3 Services; creating s. 17.0416, F.S.;  
4 authorizing the Chief Financial Officer to  
5 provide certain services on a fee basis under  
6 certain circumstances; requiring the Department  
7 of Financial Services to deposit fees collected  
8 into the General Revenue Fund; authorizing the  
9 department to recover expenses by a budget  
10 amendment; authorizing the department to adopt  
11 rules; amending s. 17.16, F.S.; providing that  
12 the office of the Chief Financial Officer may  
13 have an official seal; amending s. 17.57, F.S.;  
14 authorizing the Chief Financial Officer to use  
15 reverse repurchase agreements in investment  
16 transactions; amending s. 17.59, F.S.; revising  
17 collateral safekeeping requirements; amending  
18 s. 17.61, F.S.; authorizing entities created  
19 under the State Constitution to invest funds;  
20 amending s. 20.121, F.S.; providing that the  
21 Chief Financial Officer may be referred to as  
22 the "Treasurer"; providing that the Department  
23 of Financial Services, rather than the Office  
24 of Insurance Regulation, is responsible for  
25 regulation of insurance adjusters; providing  
26 that the Director of the Office of Insurance  
27 Regulation may be known as the Commissioner of  
28 Insurance Regulation; providing that the  
29 Director of the Office of Financial Regulation  
30 may be known as the Commissioner of Financial  
31 Regulation; amending s. 110.1227, F.S.;

1 providing that the Director of the Office of  
2 Insurance Regulation, rather than the Chief  
3 Financial Officer, shall appoint an actuary to  
4 the Florida Employee Long-Term-Care Plan Board  
5 of Directors; amending s. 112.215, F.S.;  
6 redefining the term "employee" to include any  
7 state university board of trustees; providing  
8 for the Government Employees' Deferred  
9 Compensation Plan to be funded indirectly from  
10 fees charged by investment providers to plan  
11 participants; replacing the term "plan  
12 provider" with the term "investment option  
13 provider"; amending s. 215.95, F.S.; revising  
14 the membership of the Florida Financial  
15 Management Information Board; amending s.  
16 215.96, F.S.; revising the membership of the  
17 coordinating council to the Florida Financial  
18 Management Information Board; extending the  
19 date of future repeal of the law requiring the  
20 board to facilitate the integration of certain  
21 administrative and financial management systems  
22 and establishing the Enterprise Resource  
23 Planning Integration Task Force; amending s.  
24 287.064, F.S.; authorizing the financing of a  
25 guaranteed energy performance savings contract  
26 pursuant to a master equipment financing  
27 agreement; providing certain terms and  
28 restrictions; amending s. 408.05, F.S.;  
29 providing that the Director of the Office of  
30 Insurance Regulation, rather than the Chief  
31 Financial Officer, shall appoint an employee to

1 the State Comprehensive Health Information  
2 System Advisory Council; amending s. 501.212,  
3 F.S.; specifying persons, causes of action, or  
4 activities that are exempt from part II of  
5 chapter 501, F.S., the Deceptive and Unfair  
6 Trade Practice Act; amending s. 516.35, F.S.;  
7 correcting a reference to the agency that  
8 licenses the sale of credit insurance; amending  
9 s. 624.4622, F.S.; providing that a local  
10 government self-insurance fund must initially  
11 be organized as a commercial self-insurance  
12 fund or a group self-insurance fund and, for a  
13 specified period, must comply with the  
14 requirements for such a fund; providing that a  
15 local government self-insurance fund comply  
16 with specified provisions relating to financial  
17 statements; amending ss. 624.313, 624.317,  
18 624.501, 626.016, 626.112, 626.161, 626.171,  
19 626.181, 626.191, 626.211, 626.221, 626.231,  
20 626.241, 626.251, 626.261, 626.266, 626.271,  
21 626.281, 626.2817, 626.291, 626.301, 626.371,  
22 626.381, 626.431, 626.461, 626.471, 626.521,  
23 626.541, 626.551, 626.611, 626.621, 626.631,  
24 626.641, 626.661, 626.681, 626.691, 626.692,  
25 626.8582, 626.8584, 626.859, 626.863, 626.865,  
26 626.866, 626.867, 626.869, 626.8695, 626.8696,  
27 626.8697, 626.8698, 626.870, 626.871, 626.872,  
28 626.873, 626.8732, 626.8734, 626.8736,  
29 626.8738, 626.874, 626.878, F.S.; transferring  
30 and renumbering s. 627.7012, F.S., as s.  
31 626.879, F.S., and amending such section;

1 making conforming changes to authorize the  
2 Department of Financial Services, rather than  
3 the Office of Insurance Regulation, to regulate  
4 insurance adjusters; amending s. 626.9543,  
5 F.S.; specifying that the Department of  
6 Financial Services, rather than the former  
7 Department of Insurance, administers the  
8 Holocaust Victims Insurance Act; amending s.  
9 626.989, F.S.; correcting references to the  
10 Bureau of Workers' Compensation Insurance Fraud  
11 with regard to the required annual report of  
12 the Department of Financial Services related to  
13 workers' compensation fraud; amending s.  
14 627.0628, F.S.; providing that the Director of  
15 the Office of Insurance, rather than the Chief  
16 Financial Officer, shall appoint an employee of  
17 the office who is an actuary to the Florida  
18 Commission on Hurricane Loss Projection  
19 Methodology; amending s. 627.6699, F.S.;  
20 providing that the Director of the Office of  
21 Insurance Regulation, rather than the Chief  
22 Financial Officer, shall be a member of the  
23 board of the Small Employer Health Reinsurance  
24 Program; providing that the transfer of the  
25 regulation of adjusters from the Office of  
26 Insurance Regulation to the Department of  
27 Financial Services does not affect any  
28 administrative or judicial action prior to or  
29 pending on the effective date of the act;  
30 providing that any action approved or  
31 authorized by the Financial Services Commission

1 or the Office of Insurance Regulation continues  
2 to be effective until the Department of  
3 Financial Services otherwise prescribes;  
4 providing that the rules of the Financial  
5 Services Commission related to adjusters shall  
6 become rules of the Department of Financial  
7 Services; amending s. 626.99245, F.S.;  
8 providing that the regulation of certain  
9 viatical settlement agreements and providers is  
10 within the exclusive jurisdiction of the Office  
11 of Insurance Regulation under part X of ch.  
12 626; amending s. 494.0025, F.S.; prohibiting  
13 the use of the name or logo of a financial  
14 institution or its affiliates or subsidiaries  
15 under certain circumstances without written  
16 consent; amending s. 516.07, F.S.; providing  
17 that the use of the name or logo of a financial  
18 institution or its affiliates or subsidiaries  
19 under certain circumstances without written  
20 consent is grounds for denial of license or for  
21 disciplinary action; amending s. 520.995, F.S.;  
22 providing that the use of the name or logo of a  
23 financial institution or its affiliates or  
24 subsidiaries under certain circumstances  
25 without written consent is grounds for  
26 disciplinary action; amending s. 626.9541,  
27 F.S.; providing that the deceptive use of a  
28 name is an unfair method of competition and an  
29 unfair or deceptive act or practice; amending  
30 s. 655.005, F.S.; revising certain definitions  
31 relating to financial institutions to include

1 the term "international branch"; amending s.  
2 655.0322, F.S.; revising the definition of the  
3 term "financial institution" to include an  
4 international branch; amending s. 655.0385,  
5 F.S.; clarifying requirements for notification  
6 of the appointment of an executive director or  
7 equivalent by state financial institutions;  
8 requiring a nonrefundable fee to accompany  
9 notification; amending s. 655.045, F.S.;  
10 providing an exemption from audit requirements;  
11 amending s. 655.059, F.S.; providing for the  
12 inspection and examination of financial  
13 institution records and books pursuant to  
14 subpoena; providing for reimbursement of  
15 reasonable costs and fees for compliance;  
16 providing for setting the reimbursement amount  
17 when charges are contested; amending s.  
18 655.921, F.S.; prohibiting certain out-of-state  
19 financial institutions from locating branch  
20 offices in the state in order to qualify for  
21 certain exempt transactions; deleting  
22 provisions relating to authorization of offices  
23 in the state; amending s. 655.922, F.S.;  
24 clarifying provisions authorizing financial  
25 institutions under another state's financial  
26 codes to transact business in this state;  
27 expanding the names or titles under which only  
28 a financial institution may transact business;  
29 prohibiting the use of the name or logo of a  
30 financial institution or its affiliates or  
31 subsidiaries under certain circumstances

1 without written consent; requiring the  
2 Financial Services Commission to adopt rules;  
3 amending s. 655.94, F.S.; deleting a  
4 prohibition against certain notary publics  
5 being involved in opening safety deposit boxes  
6 for nonpayment of rent; requiring use of  
7 certified mail instead of registered mail;  
8 amending. s. 658.16, F.S.; providing criteria  
9 for a bank or trust company chartered as a  
10 limited liability company to be considered  
11 "incorporated" under the financial institutions  
12 codes; providing definitions; amending s.  
13 658.23, F.S.; correcting terminology; deleting  
14 a requirement for a current copy of the bylaws  
15 of a bank or trust company to be on file with  
16 the Office of Financial Regulation; amending s.  
17 658.26, F.S.; providing for state banks to  
18 relocate offices upon approval; providing that  
19 certain financial institutions may establish or  
20 relocate an office upon written notification;  
21 providing requirements for notification and a  
22 fee; requiring an application for relocation of  
23 a main office outside the state; exempting  
24 applications from publication in the Florida  
25 Administrative Weekly; modifying requirements  
26 for applications for branch offices by a bank  
27 ineligible for branch notification; deleting a  
28 requirement that such applications be published  
29 in the Florida Administrative Weekly and be  
30 subject to ch. 120, F.S.; requiring a  
31 relocation application to be filed with the

1 Office of Financial Regulation; providing for a  
2 filing fee, investigations, and restrictions  
3 relating to such applications; amending s.  
4 658.33, F.S.; adding to the list of persons who  
5 must meet certain qualification levels;  
6 providing for a waiver of qualification  
7 requirements; amending s. 658.37, F.S.;  
8 prohibiting an imminently insolvent bank from  
9 paying dividends; amending s. 658.48, F.S.;  
10 specifying limitations on making loans and  
11 extending credit by a bank declared to be  
12 imminently insolvent; amending s. 658.67, F.S.;  
13 providing multiple dates for the assessment of  
14 the value of property acquisition as security;  
15 amending s. 658.73, F.S.; delineating which  
16 entities or individuals must pay a fee for a  
17 certificate of good standing; amending s.  
18 663.16, F.S.; revising definitions to include  
19 the term "branch" and to reduce the percentage  
20 of voting stock necessary for consideration as  
21 control; amending s. 663.304, F.S.; deleting a  
22 requirement for reservation of a proposed  
23 corporate name with the Department of State;  
24 amending s. 665.034, F.S.; revising a  
25 percentage designating control of an  
26 association; amending s. 674.406, F.S.;  
27 reducing the time that banks must retain  
28 receipts of items; reducing the time within  
29 which one must report unauthorized signatures;  
30 providing a time limitation within which to  
31 assert claims against a bank for an



1 |           unauthorized endorsement; repealing s. 658.68,  
2 |           F.S., relating to liquidity requirements for a  
3 |           state bank; amending s. 627.4133, F.S.;  
4 |           providing for an effective date of certain  
5 |           policy cancellations by insureds; amending s.  
6 |           717.101, F.S.; providing definitions; amending  
7 |           ss. 717.106, 717.107, 717.109, and 717.116,  
8 |           F.S.; revising criteria for presuming as  
9 |           unclaimed certain bank deposits and funds in  
10 |          financial organizations, funds owing under life  
11 |          insurance policies, funds held by business  
12 |          associations, and property held in a  
13 |          safe-deposit box or other safekeeping  
14 |          repository, respectively; amending s. 717.117,  
15 |          F.S.; revising reporting requirements for  
16 |          unclaimed property; presuming certain accounts  
17 |          as unclaimed under certain circumstances;  
18 |          providing that certain intangible property is  
19 |          exempt from being reported as unclaimed  
20 |          property under certain conditions; amending s.  
21 |          717.118, F.S.; providing requirements for  
22 |          notification of apparent owners of unclaimed  
23 |          property; amending s. 717.119, F.S.; revising  
24 |          requirements for delivery of certain unclaimed  
25 |          property; providing penalties for late  
26 |          deliveries; amending s. 717.1201, F.S.;  
27 |          revising certain holder payment and repayment  
28 |          requirements; amending s. 717.122, F.S.;  
29 |          revising certain public sale requirements;  
30 |          authorizing the Department of Financial  
31 |          Services to deduct certain auction fees, costs,

1 and expenses; prohibiting actions or  
2 proceedings against the department for certain  
3 decisions relating to auctions of unclaimed  
4 property; specifying that certain sales of  
5 unclaimed property are not subject to the sales  
6 tax; amending s. 717.123, F.S.; increasing a  
7 maximum amount of funds the department may  
8 retain from certain funds received; amending s.  
9 717.124, F.S.; providing additional  
10 requirements for filing unclaimed property  
11 claims; providing for the return or withdrawal  
12 of certain claims under certain circumstances;  
13 specifying a time period for department  
14 determination of claims; authorizing the  
15 department to deny claims under certain  
16 circumstances; specifying an exclusive remedy  
17 for subsequent claimants; revising requirements  
18 for a power of attorney; requiring direct  
19 delivery of safe-deposit boxes under certain  
20 circumstances; revising payment of fees and  
21 costs requirements; creating s. 717.12403,  
22 F.S.; providing presumptions for certain  
23 unclaimed demand, savings, or checking accounts  
24 in financial institutions with more than one  
25 beneficiary; creating s. 717.12404, F.S.;  
26 providing requirements for claims for property  
27 reported in the name of an active or dissolved  
28 corporation for which the last annual report is  
29 unavailable; creating s. 717.12405, F.S.;  
30 providing requirements; for claims by estates;  
31 amending s. 717.1241, F.S.; revising

1 requirements for remittance of property subject  
2 to conflicting claims; amending s. 717.1242,  
3 F.S.; clarifying legislative intent relating to  
4 filing certain claims; creating s. 717.1244,  
5 F.S.; providing criteria for department  
6 determinations of claims; amending s. 717.126,  
7 F.S.; providing a criterion for proof of  
8 entitlement; specifying venue in certain  
9 unclaimed property actions; creating s.  
10 717.1261, F.S.; requiring a death certificate  
11 in claiming entitlement to certain unclaimed  
12 property; creating s. 717.1262, F.S.; requiring  
13 certain court documents in claiming entitlement  
14 to certain unclaimed property; amending s.  
15 717.1301, F.S.; revising certain fee and  
16 expense requirements for investigations or  
17 examinations; providing for interest on such  
18 amounts under certain circumstances; amending  
19 s. 717.1315, F.S.; clarifying a record  
20 retention requirement for owner  
21 representatives; amending s. 717.132, F.S.;  
22 specifying criteria for certain corrective  
23 actions; creating s. 717.1322, F.S.; specifying  
24 grounds for certain disciplinary actions;  
25 providing for certain disciplinary actions;  
26 providing penalties; authorizing the department  
27 to adopt rules with regard to disciplinary  
28 guidelines; creating s. 717.1331, F.S.;  
29 providing for department actions against  
30 certain lienholders under certain  
31 circumstances; creating s. 717.1333, F.S.;

1 providing for admitting certain documents into  
2 evidence in certain actions; amending s.  
3 717.134, F.S.; authorizing the department to  
4 impose and collect penalties for failing to  
5 report certain information; authorizing the  
6 department waive such penalties under certain  
7 circumstances; creating s. 717.1341, F.S.;  
8 prohibiting receipt of unentitled unclaimed  
9 property; providing for liability for such  
10 property under certain circumstances;  
11 authorizing the department to maintain certain  
12 civil or administrative actions; providing for  
13 fines, costs, and attorney fees; prohibiting  
14 filing claims for unentitled unclaimed  
15 property; providing criminal penalties;  
16 amending s. 717.135, F.S.; revising  
17 requirements for agreements to recover certain  
18 property; providing an agreement form; creating  
19 s. 717.1351, F.S.; providing requirements for  
20 acquisition of unclaimed property by certain  
21 persons; providing certain contract  
22 requirements; providing a contract form;  
23 creating s. 717.1400, F.S.; requiring certain  
24 licensed persons to register with the  
25 department for certain purposes; providing  
26 registration requirements; providing for denial  
27 of registration under certain circumstances;  
28 providing registration limitations; amending s.  
29 212.02, F.S.; revising a definition to conform;  
30 amending ss. 322.142 and 395.3025, F.S.;  
31 providing for disclosure of certain

1 confidential information to the department  
2 under certain circumstances; amending s.  
3 723.103, F.S.; authorizing the court, under  
4 specified conditions, to extend the right of  
5 succession to surviving heirs when the decedent's  
6 lineage cannot be fully documented because it  
7 includes a Holocaust victim; limiting the  
8 application of statutes of limitation under  
9 certain circumstances; defining the term  
10 "Holocaust victim"; creating s. 627.4554, F.S.;  
11 providing a purpose; providing application;  
12 providing definitions; specifying duties of  
13 insurers and insurance agents relating to  
14 making annuity investment recommendations to  
15 senior consumers; providing requirements;  
16 limiting responsibility of insurers or  
17 insurance agents under certain circumstances;  
18 requiring a system of compliance and  
19 supervision; providing for enforcement by the  
20 Office of Insurance Regulation and the  
21 Department of Financial Services; authorizing  
22 the office and the department to issue orders  
23 to mitigate certain responsibilities of  
24 insurers or insurance agents; providing for  
25 reduction or elimination of certain penalties  
26 under certain circumstances; providing  
27 recordkeeping requirements; providing an  
28 exemption from application for variable  
29 annuities; amending s. 20.121, F.S.; requiring  
30 the Division of Consumer Services of the  
31 Department of Financial Services to designate

1 an employee as primary contact for consumers on  
2 issues involving sinkholes; authorizing the  
3 department to issue an order of conditional  
4 release from a stop-work order if an employer  
5 complies with coverage requirements and a  
6 penalty payment agreement; amending s. 501.137,  
7 F.S.; requiring an insurer to reinstate, under  
8 certain circumstances, an insurance policy that  
9 is cancelled due to failure of the lender to  
10 pay a premium for which sufficient escrow funds  
11 are on deposit; requiring that the lender  
12 reimburse the property owner for any penalties  
13 or fees paid for purposes of reinstating the  
14 policy; requiring the lender to pay the  
15 increased cost of insurance premiums for a  
16 specified period of time under certain  
17 conditions; amending s. 624.610, F.S.; revising  
18 the requirements of a trust fund for a single  
19 assuming insurer; amending s. 625.081, F.S.;  
20 providing an exception for credit disability  
21 insurance from a health insurance active life  
22 reserve requirement; amending s. 625.121, F.S.;  
23 providing for valuation of life insurance  
24 policies; amending s. 626.321, F.S.; limiting  
25 the types of business that may be transacted by  
26 personal lines agents; creating s. 626.9743,  
27 F.S., relating to claim settlement practices  
28 for motor vehicle insurance; prescribing  
29 standards to be followed by insurers; creating  
30 s. 626.9744, F.S., relating to claim settlement  
31 practices for homeowners' insurance;

1           prescribing standards to be followed by  
2           insurers; amending s. 627.311, F.S.; allowing  
3           the automobile insurance joint underwriting  
4           plan to require additional proof from insureds  
5           regarding cancellation of coverage; allowing  
6           additional time for the investigation of claims  
7           against the plan; providing for expiration of  
8           the provision; amending s. 627.4091, F.S.;  
9           providing additional disclosure requirements  
10          with respect to a refusal to insure; amending  
11          s. 627.4133, F.S.; requiring property insurers  
12          to reinstate a canceled policy as required by  
13          s. 501.137, F.S.; restricting the use of  
14          certain claims as a cause for cancellation or  
15          nonrenewal; amending s. 627.476, F.S.;  
16          authorizing the use of certain mortality tables  
17          for purposes of the Standard Nonforfeiture Law  
18          for Life Insurance; creating s. 627.7077, F.S.;  
19          providing for a feasibility study for a  
20          proposed Florida Sinkhole Insurance Facility;  
21          amending s. 627.838, F.S.; deleting a filing  
22          fee; amending s. 627.848, F.S.; specifying  
23          provisions for cancellation of insurance  
24          contracts; amending s. 627.849, F.S., to  
25          conform to the elimination of a filing fee;  
26          providing for a study and report by the Florida  
27          State University College of Business on  
28          personal lines property and casualty insurance;  
29          repealing s. 625.131, F.S., relating to credit  
30          life and disability policies; providing for  
31

1 construction of the act; providing effective  
2 dates.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 17.0416, Florida Statutes, is  
7 created to read:

8 17.0416 Authority to provide services on a fee  
9 basis.--

10 (1) The Chief Financial Officer, through the  
11 Department of Financial Services, may provide accounting and  
12 payroll services on a fee basis under contractual agreement  
13 with eligible entities, including, but not limited to, state  
14 universities, community colleges, units of local government,  
15 constitutional officers, and any other person or entity having  
16 received any property, funds, or moneys from the state. All  
17 funds collected by the department under these contracts shall  
18 be deposited into the General Revenue Fund.

19 (2) The Department of Financial Services may adopt  
20 rules necessary to administer this section.

21 Section 2. Section 17.16, Florida Statutes, is amended  
22 to read:

23 17.16 Seal.--~~The seal of office of the Chief Financial~~  
24 Officer shall have an official seal by which its proceedings  
25 are authenticated ~~be the same as the seal heretofore used for~~  
26 ~~that purpose.~~

27 Section 3. Subsection (2) of section 17.57, Florida  
28 Statutes, is amended to read:

29 17.57 Deposits and investments of state money.--

30 (2) The Chief Financial Officer shall make funds  
31 available to meet the disbursement needs of the state. Funds



1 | which are not needed for this purpose shall be placed in  
2 | qualified public depositories that will pay rates established  
3 | by the Chief Financial Officer at levels not less than the  
4 | prevailing rate for United States Treasury securities with a  
5 | corresponding maturity. In the event money is available for  
6 | interest-bearing time deposits or savings accounts as provided  
7 | herein and qualified public depositories are unwilling to  
8 | accept such money and pay thereon the rates established above,  
9 | then such money which qualified public depositories are  
10 | unwilling to accept shall be invested in:

11 |         (a) Direct United States Treasury obligations.

12 |         (b) Obligations of the Federal Farm Credit Banks.

13 |         (c) Obligations of the Federal Home Loan Bank and its  
14 | district banks.

15 |         (d) Obligations of the Federal Home Loan Mortgage  
16 | Corporation, including participation certificates.

17 |         (e) Obligations guaranteed by the Government National  
18 | Mortgage Association.

19 |         (f) Obligations of the Federal National Mortgage  
20 | Association.

21 |         (g) Commercial paper of prime quality of the highest  
22 | letter and numerical rating as provided for by at least one  
23 | nationally recognized rating service.

24 |         (h) Time drafts or bills of exchange drawn on and  
25 | accepted by a commercial bank, otherwise known as "bankers  
26 | acceptances," which are accepted by a member bank of the  
27 | Federal Reserve System having total deposits of not less than  
28 | \$400 million or which are accepted by a commercial bank which  
29 | is not a member of the Federal Reserve System with deposits of  
30 | not less than \$400 million and which is licensed by a state  
31 | government or the Federal Government, and whose senior debt

1 | issues are rated in one of the two highest rating categories  
2 | by a nationally recognized rating service and which are held  
3 | in custody by a domestic bank which is a member of the Federal  
4 | Reserve System.

5 |       (i) Corporate obligations or corporate master notes of  
6 | any corporation within the United States, if the long-term  
7 | obligations of such corporation are rated by at least two  
8 | nationally recognized rating services in any one of the four  
9 | highest classifications. However, if such obligations are  
10 | rated by only one nationally recognized rating service, then  
11 | the obligations shall be rated in any one of the two highest  
12 | classifications.

13 |       (j) Obligations of the Student Loan Marketing  
14 | Association.

15 |       (k) Obligations of the Resolution Funding Corporation.

16 |       (l) Asset-backed or mortgage-backed securities of the  
17 | highest credit quality.

18 |       (m) Any obligations not previously listed which are  
19 | guaranteed as to principal and interest by the full faith and  
20 | credit of the United States Government or are obligations of  
21 | United States agencies or instrumentalities which are rated in  
22 | the highest category by a nationally recognized rating  
23 | service.

24 |       (n) Commingled no-load investment funds or no-load  
25 | mutual funds in which all securities held by the funds are  
26 | authorized in this subsection.

27 |       (o) Money market mutual funds as defined and regulated  
28 | by the Securities and Exchange Commission.

29 |       (p) Obligations of state and local governments rated  
30 | in any of the four highest classifications by at least two  
31 | nationally recognized rating services. However, if such

1 obligations are rated by only one nationally recognized rating  
2 service, then the obligations shall be rated in any one of the  
3 two highest classifications.

4 (q) Derivatives of investment instruments authorized  
5 in paragraphs (a)-(m).

6 (r) Covered put and call options on investment  
7 instruments authorized in this subsection for the purpose of  
8 hedging transactions by investment managers to mitigate risk  
9 or to facilitate portfolio management.

10 (s) Negotiable certificates of deposit issued by  
11 financial institutions whose long-term debt is rated in one of  
12 the three highest categories by at least two nationally  
13 recognized rating services, the investment in which shall not  
14 be prohibited by any provision of chapter 280.

15 (t) Foreign bonds denominated in United States dollars  
16 and registered with the Securities and Exchange Commission for  
17 sale in the United States, if the long-term obligations of  
18 such issuers are rated by at least two nationally recognized  
19 rating services in any one of the four highest  
20 classifications. However, if such obligations are rated by  
21 only one nationally recognized rating service, the obligations  
22 shall be rated in any one of the two highest classifications.

23 (u) Convertible debt obligations of any corporation  
24 domiciled within the United States, if the convertible debt  
25 issue is rated by at least two nationally recognized rating  
26 services in any one of the four highest classifications.  
27 However, if such obligations are rated by only one nationally  
28 recognized rating service, then the obligations shall be rated  
29 in any one of the two highest classifications.

30 (v) Securities not otherwise described in this  
31 subsection. However, not more than 3 percent of the funds

1 under the control of the Chief Financial Officer shall be  
2 invested in securities described in this paragraph.

3  
4 These investments may be in varying maturities and may be in  
5 book-entry form. Investments made pursuant to this subsection  
6 may be under repurchase agreement or reverse repurchase  
7 agreement. The Chief Financial Officer may hire registered  
8 investment advisers and other consultants to assist in  
9 investment management and to pay fees directly from investment  
10 earnings. Investment securities, proprietary investment  
11 services related to contracts, performance evaluation  
12 services, investment-related equipment or software used  
13 directly to assist investment trading or investment accounting  
14 operations including bond calculators, telerates, Bloombergs,  
15 special program calculators, intercom systems, and software  
16 used in accounting, communications, and trading, and advisory  
17 and consulting contracts made under this section are exempt  
18 from the provisions of chapter 287.

19 Section 4. Section 17.59, Florida Statutes, is amended  
20 to read:

21 17.59 Safekeeping services.--

22 (1) The Chief Financial Officer shall administer a  
23 collateral management service for all ~~may accept for~~  
24 ~~safekeeping purposes, deposits of cash, securities, and other~~  
25 ~~documents or articles of value from any state agencies agency~~  
26 as defined in s. 216.011, or any county, city, or political  
27 subdivision thereof, or other public authority that requires  
28 by statute, rule, or contract the deposit or pledge of  
29 collateral.

1           (2) Eligible collateral listed in s. 17.57 may be  
2 deposited or pledged using the following collateral  
3 arrangements as approved by the Chief Financial Officer:  
4           (a) Collateral deposited and held by a custodian of  
5 the Chief Financial Officer.  
6           (b) Collateral pledged to the Chief Financial Officer.  
7           (c) Securities and articles of value deposited and  
8 held by the Chief Financial Officer.  
9           (d) Cash deposited in the Treasury Cash Deposit Trust  
10 Fund and the Public Deposit Security Trust Fund.  
11           (e) Cash deposited with the Chief Financial Officer as  
12 escrow agent.  
13           (3) The Chief Financial Officer may adopt rules for  
14 the proper management and maintenance of the collateral  
15 management service.  
16           (4)(2) The Chief Financial Officer may, in his or her  
17 discretion, establish a fee for processing, servicing, and  
18 safekeeping deposits and other documents or articles of value  
19 maintained by held in the Chief Financial Officer Officer's  
20 vaults as requested by the various entities according to a  
21 service-level agreement or as provided for by law. Such fee  
22 shall be equivalent to the fee charged by financial  
23 institutions for processing, servicing, and safekeeping the  
24 same types of deposits and other documents or articles of  
25 value.  
26           (5)(3) The Chief Financial Officer shall collect in  
27 advance, and persons so served shall pay to the Chief  
28 Financial Officer in advance, the miscellaneous charges as  
29 described in a service-level agreement. follows:  
30           (a) For copies of documents or records on file with  
31 the Chief Financial Officer, per page.....\$.50.

1           ~~(b) For each certificate of the Chief Financial~~  
2 ~~Officer, certified or under the Chief Financial Officer's~~  
3 ~~seal, authenticating any document or other instrument...\$5.00.~~

4           ~~(6)(4)~~ All fees collected for the services described  
5 in this section shall be deposited in the Treasury  
6 Administrative and Investment Trust Fund.

7           Section 5. Subsection (1) of section 17.61, Florida  
8 Statutes, is amended to read:

9           17.61 Chief Financial Officer; powers and duties in  
10 the investment of certain funds.--

11           (1) The Chief Financial Officer shall invest all  
12 general revenue funds and all the trust funds and all agency  
13 funds of each state agency, and of the judicial branch, as  
14 defined in s. 216.011, and may, upon request, invest funds of  
15 any ~~statutorily created~~ board, association, or entity created  
16 by the State Constitution or by law, except for the funds  
17 required to be invested pursuant to ss. 215.44-215.53, by the  
18 procedure and in the authorized securities prescribed in s.  
19 17.57; for this purpose, the Chief Financial Officer may open  
20 and maintain one or more demand and safekeeping accounts in  
21 any bank or savings association for the investment and  
22 reinvestment and the purchase, sale, and exchange of funds and  
23 securities in the accounts. Funds in such accounts used solely  
24 for investments and reinvestments shall be considered  
25 investment funds and not funds on deposit, and such funds  
26 shall be exempt from the provisions of chapter 280. In  
27 addition, the securities or investments purchased or held  
28 under the provisions of this section and s. 17.57 may be  
29 loaned to securities dealers and banks and may be registered  
30 by the Chief Financial Officer in the name of a third-party  
31 nominee in order to facilitate such loans, provided the loan

1 is collateralized by cash or United States government  
2 securities having a market value of at least 100 percent of  
3 the market value of the securities loaned. The Chief Financial  
4 Officer shall keep a separate account, designated by name and  
5 number, of each fund. Individual transactions and totals of  
6 all investments, or the share belonging to each fund, shall be  
7 recorded in the accounts.

8 Section 6. Subsection (1) and paragraph (a) of  
9 subsection (3) of section 20.121, Florida Statutes, are  
10 amended to read:

11 20.121 Department of Financial Services.--There is  
12 created a Department of Financial Services.

13 (1) DEPARTMENT HEAD.--The head of the Department of  
14 Financial Services is the Chief Financial Officer who may also  
15 be known as the Treasurer.

16 (3) FINANCIAL SERVICES COMMISSION.--Effective January  
17 7, 2003, there is created within the Department of Financial  
18 Services the Financial Services Commission, composed of the  
19 Governor, the Attorney General, the Chief Financial Officer,  
20 and the Commissioner of Agriculture, which shall for purposes  
21 of this section be referred to as the commission. Commission  
22 members shall serve as agency head of the Financial Services  
23 Commission. The commission shall be a separate budget entity  
24 and shall be exempt from the provisions of s. 20.052.  
25 Commission action shall be by majority vote consisting of at  
26 least three affirmative votes. The commission shall not be  
27 subject to control, supervision, or direction by the  
28 Department of Financial Services in any manner, including  
29 purchasing, transactions involving real or personal property,  
30 personnel, or budgetary matters.

31

1 (a) Structure.--The major structural unit of the  
2 commission is the office. Each office shall be headed by a  
3 director. The following offices are established:

4 1. The Office of Insurance Regulation, which shall be  
5 responsible for all activities concerning insurers and other  
6 risk bearing entities, including licensing, rates, policy  
7 forms, market conduct, claims, ~~adjusters~~, issuance of  
8 certificates of authority, solvency, viatical settlements,  
9 premium financing, and administrative supervision, as provided  
10 under the insurance code or chapter 636. The head of the  
11 Office of Insurance Regulation is the Director of the Office  
12 of Insurance Regulation, who may also be known as the  
13 Commissioner of Insurance Regulation.

14 2. The Office of Financial Regulation, which shall be  
15 responsible for all activities of the Financial Services  
16 Commission relating to the regulation of banks, credit unions,  
17 other financial institutions, finance companies, and the  
18 securities industry. The head of the office is the Director  
19 of the Office of Financial Regulation, who may also be known  
20 as the Commissioner of Financial Regulation. The Office of  
21 Financial Regulation shall include a Bureau of Financial  
22 Investigations, which shall function as a criminal justice  
23 agency for purposes of ss. 943.045-943.08 and shall have a  
24 separate budget. The bureau may conduct investigations within  
25 or outside this state as the bureau deems necessary to aid in  
26 the enforcement of this section. If, during an investigation,  
27 the office has reason to believe that any criminal law of this  
28 state has or may have been violated, the office shall refer  
29 any records tending to show such violation to state or federal  
30 law enforcement or prosecutorial agencies and shall provide  
31 investigative assistance to those agencies as required.



1           Section 7. Subsection (6) of section 110.1227, Florida  
2 Statutes, is amended to read:

3           110.1227 Florida Employee Long-Term-Care Plan Act.--

4           (6) A Florida Employee Long-Term-Care Plan Board of  
5 Directors is created, composed of nine members who shall serve  
6 2-year terms, to be appointed after May 1, 1999, as follows:

7           (a) The secretary of the Department of Elderly Affairs  
8 shall appoint a member who is a plan participant.

9           (b) The Director of the Office of Insurance Regulation  
10 ~~Chief Financial Officer~~ shall appoint an actuary.

11           (c) The Attorney General shall appoint an attorney  
12 licensed to practice law in this state.

13           (d) The Governor shall appoint three members from a  
14 broad cross-section of the residents of this state.

15           (e) The Department of Management Services shall  
16 appoint a member.

17           (f) The President of the Senate shall appoint a member  
18 of the Senate.

19           (g) The Speaker of the House of Representatives shall  
20 appoint a member of the House of Representatives.

21           Section 8. Subsection (2) of section 112.215, Florida  
22 Statutes, as amended by section 8 of chapter 2003-399, Laws of  
23 Florida, is amended, paragraph (e) is added to subsection (4)  
24 of that section and subsection (11) of that section is  
25 amended, to read:

26           112.215 Government employees; deferred compensation  
27 program.--

28           (2) For the purposes of this section, the term  
29 "employee" means any person, whether appointed, elected, or  
30 under contract, providing services for the state; any state  
31 agency or county or other political subdivision of the state;

1 any municipality; any state university board of trustees; or  
2 any constitutional county officer under s. 1(d), Art. VIII of  
3 the State Constitution for which compensation or statutory  
4 fees are paid.

5 (4)

6 (e) The administrative costs of the deferred  
7 compensation plan must be wholly or partially self-funded.  
8 Fees for such self-funding of the plan shall be paid by  
9 investment providers and may be recouped from their respective  
10 plan participants. Such fees shall be deposited in the  
11 Deferred Compensation Trust Fund.

12 (11) With respect to any funds held pursuant to a  
13 deferred compensation plan, any investment option plan  
14 provider that which is a bank or savings association and that  
15 ~~which~~ provides time deposit accounts and certificates of  
16 deposit as an investment product to the plan participants may,  
17 with the approval of the State Board of Administration for  
18 providers in the state plan, or with the approval of the  
19 appropriate official or body designated under subsection (5)  
20 for a plan of a county, municipality, other political  
21 subdivision, or constitutional county officer, be exempt from  
22 the provisions of chapter 280 requiring it to be a qualified  
23 public depository, provided:

24 (a) The bank or savings association shall, to the  
25 extent that the time deposit accounts or certificates of  
26 deposit are not insured by the Federal Deposit Insurance  
27 Corporation, deposit or issue collateral with the Chief  
28 Financial Officer for all state funds held by it under a  
29 deferred compensation plan, or with such other appropriate  
30 official for all public funds held by it under a deferred  
31 compensation plan of a county, municipality, other political

1 subdivision, or constitutional county officer, in an amount  
2 which equals at least 150 percent of all uninsured deferred  
3 compensation funds then held.

4 (b) Said collateral shall be of the kind permitted by  
5 s. 280.13 and shall be pledged in the manner provided for by  
6 the applicable provisions of chapter 280.

7  
8 The Chief Financial Officer shall have all the applicable  
9 powers provided in ss. 280.04, 280.05, and 280.08 relating to  
10 the sale or other disposition of the pledged collateral.

11 Section 9. Subsection (1) of section 215.95, Florida  
12 Statutes, is amended to read:

13 215.95 Financial Management Information Board.--

14 (1) There is created, as part of the Administration  
15 Commission, the Financial Management Information Board. The  
16 board shall be composed of the Governor, the Chief Financial  
17 Officer, the Commissioner of Agriculture, and the Attorney  
18 General. The Governor shall be chair of the board. The  
19 Governor or the Chief Financial Officer may call a meeting of  
20 the board at any time the need arises.

21 Section 10. Subsections (2) and (4) of section 215.96,  
22 Florida Statutes, are amended to read:

23 215.96 Coordinating council and design and  
24 coordination staff.--

25 (2) The coordinating council shall consist of the  
26 Chief Financial Officer; the Commissioner of Agriculture; the  
27 secretary of the Department of Management Services; the  
28 Attorney General; and the Director of Planning and Budgeting,  
29 Executive Office of the Governor, or their designees. The  
30 Chief Financial Officer, or his or her designee, shall be  
31 chair of the coordinating council, and the design and

1 coordination staff shall provide administrative and clerical  
2 support to the council and the board. The design and  
3 coordination staff shall maintain the minutes of each meeting  
4 and shall make such minutes available to any interested  
5 person. The Auditor General, the State Courts Administrator,  
6 an executive officer of the Florida Association of State  
7 Agency Administrative Services Directors, and an executive  
8 officer of the Florida Association of State Budget Officers,  
9 or their designees, shall serve without voting rights as ex  
10 officio members on the coordinating council. The chair may  
11 call meetings of the coordinating council as often as  
12 necessary to transact business; however, the coordinating  
13 council shall meet at least once a year. Action of the  
14 coordinating council shall be by motion, duly made, seconded  
15 and passed by a majority of the coordinating council voting in  
16 the affirmative for approval of items that are to be  
17 recommended for approval to the Financial Management  
18 Information Board.

19 (4) The Financial Management Information Board,  
20 through the coordinating council, shall provide the necessary  
21 planning, implementation, and integration policies,  
22 coordination procedures, and reporting processes to facilitate  
23 the successful and efficient integration of the central  
24 administrative and financial management information systems,  
25 including the Florida Accounting Information Resource system  
26 (FLAIR), Cash Management System (CMS), and FLAIR/CMS  
27 replacement project, the payroll system in the Department of  
28 Financial Services, the Legislative Appropriations  
29 System/Planning and Budgeting Subsystem (LAS/PBS), the State  
30 Purchasing System (SPURS) and MyFlorida Marketplace project,  
31 the Cooperative Personnel Employment Subsystem (COPES) and the

1 PeopleFirst Outsourcing project, and the State Unified Tax  
2 system (SUNTAX).

3 (a) To fulfill this role, the coordinating council  
4 shall establish an Enterprise Resource Planning Integration  
5 Task Force, which shall consist of the coordinating council  
6 members plus the Chief Information Officer in the State  
7 Technology Office and the Executive Director or designee in  
8 the Department of Revenue, who shall serve with voting rights  
9 on the task force. The nonvoting ex officio members of the  
10 coordinating council shall be nonvoting members of the task  
11 force.

12 (b) The task force shall be established by August 1,  
13 2003, and shall remain in existence until the integration  
14 goals have been achieved among the FLAIR/CMS Replacement  
15 project, SPURS and MyFlorida Marketplace project, COPES and  
16 PeopleFirst project, payroll system, LAS/PBS, and SUNTAX  
17 system, or until June 30, 2005, whichever is later. The task  
18 force shall hold its initial meeting no later than September  
19 1, 2003, and shall meet at the call of the chair or at least  
20 once every 60 days. In its initial meeting, task force members  
21 shall:

22 1. Adopt a task force charter that identifies major  
23 objectives, activities, milestones and deliverables,  
24 significant assumptions, and constraints on the task force  
25 functions and major stakeholder groups interested in the  
26 outcome of the task force.

27 2. Consider and adopt processes by which information  
28 will be collected and business process and technical  
29 integration issues will be raised for analysis and  
30 recommendation by the task force.

31

1           3. Elect a member to serve as vice chair. Any vacancy  
2 in the vice chair position shall be filled by similar election  
3 within 30 days after the date the vacancy is effective.

4           (c) The coordinating council shall provide  
5 administrative and technical support to the task force as is  
6 reasonably necessary for the task force to effectively and  
7 timely carry out its duties and responsibilities. The cost of  
8 providing such support may be paid from funds appropriated for  
9 the operation of the council or the FLAIR/CMS Replacement  
10 project. The task force also may contract for services to  
11 obtain specific expertise to analyze, facilitate, and  
12 formulate recommendations to address process and technical  
13 integration problems that need to be resolved.

14           (d) Using information and input from project teams and  
15 stakeholders responsible for the FLAIR/CMS Replacement  
16 project, SPURS and MyFlorida Marketplace project, COPES and  
17 PeopleFirst project, payroll system, LAS/PBS, and SUNTAX  
18 system, the responsibilities of the task force shall include,  
19 but not be limited to:

20           1. Identifying and documenting central administrative  
21 and financial management policies, procedures, and processes  
22 that need to be integrated and recommending steps for  
23 implementation.

24           2. Collecting information from the subsystem owners  
25 and project teams and developing and publishing a consolidated  
26 list of enterprise resource planning functional and technical  
27 integration requirements.

28           3. Publishing integration plans and timelines based on  
29 information collected from task force members.

30           4. Forming committees, workgroups, and teams as  
31 provided in subsection (3).

1           5. Developing recommendations for the Financial  
2 Management Information Board which clearly describe any  
3 business or technical problems that need to be addressed, the  
4 options for resolving the problem, and the recommended  
5 actions.

6           6. Developing and implementing plans for reporting  
7 status of integration efforts.

8           (e) The task force shall provide recommendations to  
9 the Financial Management Information Board for review and  
10 approval regarding the technical, procedural, policy, and  
11 process requirements and changes that are needed to  
12 successfully integrate, implement, and realize the benefits of  
13 the enterprise resource planning initiatives associated with  
14 the FLAIR/CMS Replacement project, SPURS and MyFlorida  
15 Marketplace project, COPEs and PeopleFirst project, payroll  
16 system, LAS/PBS, and SUNTAX system. The first of these reports  
17 should be provided no later than October 3, 2003.

18           (f) The task force shall monitor, review, and evaluate  
19 the progress of the FLAIR/CMS Replacement project, SPURS and  
20 MyFlorida Marketplace project, COPEs and PeopleFirst project,  
21 payroll system, LAS/PBS, and SUNTAX system, in implementing  
22 the process and technical integration requirements and changes  
23 approved by the Financial Management Information Board and in  
24 achieving the necessary integration among the central  
25 administrative and financial management information systems  
26 represented on the task force. The task force shall prepare  
27 and submit quarterly reports to the Executive Office of the  
28 Governor, the chairs of the Senate Appropriations Committee  
29 and the House Appropriations Committee, and the Financial  
30 Management Information Board. Each quarterly report shall  
31 identify and describe the technical, procedural, policy, and

1 process requirements and changes proposed and adopted by the  
2 board and shall describe the status of the implementation of  
3 these integration efforts, identify any problems, issues, or  
4 risks that require executive-level action, and report actual  
5 costs related to the Enterprise Resource Planning Integration  
6 Task Force.

7 (g) By January 15, 2004, and annually thereafter,  
8 until it is disbanded, the Enterprise Resource Planning  
9 Integration Task Force shall report to the Financial  
10 Management Information Board, the Speaker of the House of  
11 Representatives, and the President of the Senate the results  
12 of the task force's monitoring, review, and evaluation of  
13 enterprise resource planning integration activities and  
14 requirements, and any recommendations for statutory changes to  
15 be considered by the Legislature.

16 (h) This subsection expires July 1, 2008 ~~July 1, 2004~~.

17 Section 11. Subsection (10) is added to section  
18 287.064, Florida Statutes, to read:

19 287.064 Consolidated financing of deferred-payment  
20 purchases.--

21 (10) Costs incurred pursuant to a guaranteed energy  
22 performance savings contract, including the cost of energy  
23 conservation measures, each as defined in s. 489.145, may be  
24 financed pursuant to a master equipment financing agreement;  
25 however, the costs of training, operation, and maintenance may  
26 not be financed. The period of time for repayment of the funds  
27 drawn pursuant to the master equipment financing agreement  
28 under this subsection may exceed 5 years but may not exceed 10  
29 years.

30 Section 12. Paragraph (a) of subsection (8) of section  
31 408.05, Florida Statutes, is amended to read:



1           408.05 State Center for Health Statistics.--

2           (8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM  
3 ADVISORY COUNCIL.--

4           (a) There is established in the agency the State  
5 Comprehensive Health Information System Advisory Council to  
6 assist the center in reviewing the comprehensive health  
7 information system and to recommend improvements for such  
8 system. The council shall consist of the following members:

9           1. An employee of the Executive Office of the  
10 Governor, to be appointed by the Governor.

11           2. An employee of the Office of Insurance Regulation  
12 ~~Department of Financial Services~~, to be appointed by the  
13 director of the office ~~Chief Financial Officer~~.

14           3. An employee of the Department of Education, to be  
15 appointed by the Commissioner of Education.

16           4. Ten persons, to be appointed by the Secretary of  
17 Health Care Administration, representing other state and local  
18 agencies, state universities, the Florida Association of  
19 Business/Health Coalitions, local health councils,  
20 professional health-care-related associations, consumers, and  
21 purchasers.

22           Section 13. Subsection (4) of section 501.212, Florida  
23 Statutes, is amended and subsection (7) is added to that  
24 section, to read:

25           501.212 Application.--This part does not apply to:

26           (4) Any person or activity regulated under laws  
27 administered by:

28           (a) The Department of Financial Services or the Office  
29 of Insurance Regulation of the Financial Services Commission;

30 ~~or~~

31

1           (b) Banks and savings and loan associations regulated  
2 by the Office of Financial Regulation of the Financial  
3 Services Commission; ~~or~~  
4           (c) Banks or savings and loan associations regulated  
5 by federal agencies; ~~or~~  
6           (d) Any person or activity regulated under the laws  
7 administered by the former Department of Insurance which are  
8 now administered by the Department of Financial Services.  
9           (7)(a) Causes of action pertaining to commercial real  
10 property located in this state if the parties to the action  
11 executed a written lease or contract that expressly provides  
12 for the process of resolution of any dispute and the award of  
13 damages, attorney's fees, and costs, if any; or  
14           (b) Causes of action concerning failure to maintain  
15 real property if the Florida Statutes:  
16           1. Require the owner to comply with applicable  
17 building, housing, and health codes;  
18           2. Require the owner to maintain buildings and  
19 improvements in common areas in a good state of repair and  
20 maintenance and maintain the common areas in a good state of  
21 appearance, safety, and cleanliness; and  
22           3. Provide a cause of action for failure to maintain  
23 the real property and provide legal or equitable remedies,  
24 including the award of attorney's fees.  
25  
26 However, this subsection does not affect any action or remedy  
27 concerning residential tenancies covered under part II of  
28 chapter 83, nor does it prohibit the enforcing authority from  
29 maintaining exclusive jurisdiction to bring any cause of  
30 action authorized under part II of chapter 501.  
31

1           Section 14. Subsection (1) of section 516.35, Florida  
2 Statutes, is amended to read:

3           516.35 Credit insurance must comply with credit  
4 insurance act.--

5           (1) Tangible property offered as security may be  
6 reasonably insured against loss for a reasonable term,  
7 considering the circumstances of the loan. If such insurance  
8 is sold at standard rates through a person duly licensed by  
9 the Department of Financial Services ~~Office of Insurance~~  
10 ~~Regulation of the Financial Services Commission~~ and if the  
11 policy is payable to the borrower or any member of her or his  
12 family, it shall not be deemed to be a collateral sale,  
13 purchase, or agreement even though a customary mortgagee  
14 clause is attached or the licensee is a coassured.

15           Section 15. Subsection (2) of section 624.313, Florida  
16 Statutes, is amended to read:

17           624.313 Publications.--

18           (2)~~(a)~~ The department may prepare and have printed and  
19 published in pamphlet or book form the following:

20           (a)1- As needed, questions and answers for the use of  
21 persons applying for an examination for licensing as agents  
22 for property, casualty, surety, health, and miscellaneous  
23 insurers.

24           (b)2- As needed, questions and answers for the use of  
25 persons applying for an examination for licensing as agents  
26 for life and health insurers.

27           ~~(c)(b) The office may prepare and have printed and~~  
28 ~~published in pamphlet or book form,~~ As needed, questions and  
29 answers for the use of persons applying for an examination for  
30 licensing as adjusters.

31

1           Section 16. Subsection (1) and paragraph (a) of  
2 subsection (2) of section 624.317, Florida Statutes, are  
3 amended to read:

4           624.317 Investigation of agents, adjusters,  
5 administrators, service companies, and others.--If it has  
6 reason to believe that any person has violated or is violating  
7 any provision of this code, or upon the written complaint  
8 signed by any interested person indicating that any such  
9 violation may exist:

10           (1) The department shall conduct such investigation as  
11 it deems necessary of the accounts, records, documents, and  
12 transactions pertaining to or affecting the insurance affairs  
13 of any general agent, surplus line agent, adjuster, managing  
14 general agent, insurance agent, customer representative,  
15 service representative, or other person subject to its  
16 jurisdiction, subject to the requirements of s. 626.601.

17           (2) The office shall conduct such investigation as it  
18 deems necessary of the accounts, records, documents, and  
19 transactions pertaining to or affecting the insurance affairs  
20 of any:

21           (a) ~~Adjuster~~, Administrator, service company, or other  
22 person subject to its jurisdiction.

23           Section 17. Subsections (3) and (4) are added to  
24 section 624.4622, Florida Statutes, to read:

25           624.4622 Local government self-insurance funds.--

26           (3) Notwithstanding subsection (2), a local government  
27 self-insurance fund created under this section after October  
28 1, 2004, shall initially be subject to the requirements of a  
29 commercial fund under s. 624.4621 and, for the first 5 years  
30 of its existence, shall be subject to all the requirements  
31

1 applied to commercial self-insurance funds or to group  
2 self-insurance funds, respectively.

3 (4)(a) A local government self-insurance fund formed  
4 after January 1, 2005, shall, for its first 5 fiscal years,  
5 file with the office full and true statements of its financial  
6 condition, transactions, and affairs. An annual statement  
7 covering the preceding fiscal year shall be filed within 60  
8 days after the end of the fund's fiscal year and quarterly  
9 statements shall be filed within 45 days after each such date.  
10 The office may, for good cause, grant an extension of time for  
11 filing an annual or quarterly statement. The statements shall  
12 contain information generally included in insurers' financial  
13 statements prepared in accordance with generally accepted  
14 insurance accounting principles and practices and in a form  
15 generally used by insurers for financial statements, sworn to  
16 by at least two executive officers of the self-insurance fund.  
17 The form for financial statements shall be the form currently  
18 approved by the National Association of Insurance  
19 Commissioners for use by property and casualty insurers.

20 (b) Each annual statement shall contain a statement of  
21 opinion on loss and loss adjustment expense reserves made by a  
22 member of the American Academy of Actuaries. Workpapers in  
23 support of the statement of opinion must be provided to the  
24 office upon request.

25 Section 18. Paragraph (d) of subsection (12) of  
26 section 624.501, Florida Statutes, is amended to read:

27 624.501 Filing, license, appointment, and  
28 miscellaneous fees.--The department, commission, or office, as  
29 appropriate, shall collect in advance, and persons so served  
30 shall pay to it in advance, fees, licenses, and miscellaneous  
31 charges as follows:

1           (12) Adjusters:

2           (d) Fee to cover actual cost of credit report, when  
3 such report must be secured by department ~~office~~.

4           Section 19. Subsections (1) and (2) of section  
5 626.016, Florida Statutes, are amended to read:

6           626.016 Powers and duties of department, commission,  
7 and office.--

8           (1) The powers and duties of the Chief Financial  
9 Officer and the department specified in this part apply only  
10 with respect to insurance agents, managing general agents,  
11 insurance adjusters, reinsurance intermediaries, viatical  
12 settlement brokers, customer representatives, service  
13 representatives, and agencies.

14           (2) The powers and duties of the commission and office  
15 specified in this part apply only with respect to ~~insurance~~  
16 ~~adjusters~~, service companies, administrators, and viatical  
17 settlement providers and contracts.

18           Section 20. Paragraph (a) of subsection (1) of section  
19 626.112, Florida Statutes, is amended to read:

20           626.112 License and appointment required; agents,  
21 customer representatives, adjusters, insurance agencies,  
22 service representatives, managing general agents.--

23           (1)(a) No person may be, act as, or advertise or hold  
24 himself or herself out to be an insurance agent, insurance  
25 adjuster, or customer representative unless he or she is  
26 currently licensed by the department and appointed by an  
27 appropriate appointing entity or person ~~one or more insurers~~.  
28 ~~No person may be, act as, or advertise or hold himself or~~  
29 ~~herself out to be an insurance adjuster unless he or she is~~  
30 ~~currently licensed by the office and appointed by one or more~~  
31 ~~insurers.~~

1           Section 21. Section 626.161, Florida Statutes, is  
2 amended to read:

3           626.161 Licensing forms.--The department shall  
4 prescribe and furnish all printed forms required in connection  
5 with the application for issuance of and termination of all  
6 licenses and appointments, ~~except that, with respect to~~  
7 ~~adjusters, the commission shall prescribe and the office shall~~  
8 ~~furnish such forms.~~

9           Section 22. Subsection (1), paragraph (f) of  
10 subsection (2), and subsection (5) of section 626.171, Florida  
11 Statutes, are amended to read:

12           626.171 Application for license.--

13           (1) The department ~~or office~~ shall not issue a license  
14 as agent, customer representative, adjuster, insurance agency,  
15 service representative, managing general agent, or reinsurance  
16 intermediary to any person except upon written application  
17 therefor filed with it, qualification therefor, and payment in  
18 advance of all applicable fees. Any such application shall be  
19 made under the oath of the applicant and be signed by the  
20 applicant. Beginning November 1, 2002, the department shall  
21 accept the uniform application for nonresident agent  
22 licensing. The department may adopt revised versions of the  
23 uniform application by rule.

24           (2) In the application, the applicant shall set forth:

25           (f) Such other or additional information as the  
26 department ~~or office~~ may deem proper to enable it to determine  
27 the character, experience, ability, and other qualifications  
28 of the applicant to hold himself or herself out to the public  
29 as an insurance representative.

30           (5) An application for a license as an agent, customer  
31 representative, adjuster, insurance agency, service

1 representative, managing general agent, or reinsurance  
2 intermediary must be accompanied by a set of the individual  
3 applicant's fingerprints, or, if the applicant is not an  
4 individual, by a set of the fingerprints of the sole  
5 proprietor, majority owner, partners, officers, and directors,  
6 on a form adopted by rule of the department ~~or commission~~ and  
7 accompanied by the fingerprint processing fee set forth in s.  
8 624.501. Fingerprints shall be used to investigate the  
9 applicant's qualifications pursuant to s. 626.201. The  
10 fingerprints shall be taken by a law enforcement agency or  
11 other department-approved entity.

12 Section 23. Section 626.181, Florida Statutes, is  
13 amended to read:

14 626.181 Number of applications for licensure  
15 required.--After a license as agent, customer representative,  
16 or adjuster has been issued to an individual, the same  
17 individual shall not be required to take another examination  
18 for a similar license, regardless, in the case of an agent, of  
19 the number of insurers to be represented by him or her as  
20 agent, unless:

21 (1) Specifically ordered by the department ~~or office~~  
22 to complete a new application for license; or

23 (2) During any period of 48 months since the filing of  
24 the original license application, such individual was not  
25 appointed as an agent, customer representative, or adjuster,  
26 unless the failure to be so appointed was due to military  
27 service, in which event the period within which a new  
28 application is not required may, in the discretion of the  
29 department ~~or office~~, be extended to 12 months following the  
30 date of discharge from military service if the military  
31 service does not exceed 3 years, but in no event to extend



1 under this clause for a period of more than 6 years from the  
2 date of filing of the original application for license.

3 Section 24. Section 626.191, Florida Statutes, is  
4 amended to read:

5 626.191 Repeated applications.--The failure of an  
6 applicant to secure a license upon an application shall not  
7 preclude him or her from applying again as many times as  
8 desired, but the department ~~or office~~ shall not give  
9 consideration to or accept any further application by the same  
10 individual for a similar license dated or filed within 30 days  
11 subsequent to the date the department ~~or office~~ denied the  
12 last application, except as provided in s. 626.281.

13 Section 25. Section 626.211, Florida Statutes, is  
14 amended to read:

15 626.211 Approval, disapproval of application.--

16 (1) If upon the basis of a completed application for  
17 license and such further inquiry or investigation as the  
18 department ~~or office~~ may make concerning an applicant the  
19 department ~~or office~~ is satisfied that, subject to any  
20 examination required to be taken and passed by the applicant  
21 for a license, the applicant is qualified for the license  
22 applied for and that all pertinent fees have been paid, it  
23 shall approve the application. The department ~~or office~~ shall  
24 not deny, delay, or withhold approval of an application due to  
25 the fact that it has not received a criminal history report  
26 based on the applicant's fingerprints.

27 (2) Upon approval of an applicant for license as  
28 agent, customer representative, or adjuster who is subject to  
29 written examination, the department ~~or office~~ shall notify the  
30 applicant when and where he or she may take the required  
31 examination.

1           (3) Upon approval of an applicant for license who is  
2 not subject to examination, the department ~~or office~~ shall  
3 promptly issue the license.

4           (4) If upon the basis of the completed application and  
5 such further inquiry or investigation the department ~~or office~~  
6 deems the applicant to be lacking in any one or more of the  
7 required qualifications for the license applied for, the  
8 department ~~or office~~ shall disapprove the application and  
9 notify the applicant, stating the grounds of disapproval.

10           Section 26. Subsection (1) and paragraphs (a), (c),  
11 (d), (f), (g), and (l) of subsection (2) of section 626.221,  
12 Florida Statutes, are amended to read:

13           626.221 Examination requirement; exemptions.--

14           (1) The department ~~or office~~ shall not issue any  
15 license as agent, customer representative, or adjuster to any  
16 individual who has not qualified for, taken, and passed to the  
17 satisfaction of the department ~~or office~~ a written examination  
18 of the scope prescribed in s. 626.241.

19           (2) However, no such examination shall be necessary in  
20 any of the following cases:

21           (a) An applicant for renewal of appointment as an  
22 agent, customer representative, or adjuster, unless the  
23 department ~~or office~~ determines that an examination is  
24 necessary to establish the competence or trustworthiness of  
25 such applicant.

26           (c) In the discretion of the department ~~or office~~, an  
27 applicant for reinstatement of license or appointment as an  
28 agent, customer representative, or adjuster whose license has  
29 been suspended within 2 years prior to the date of application  
30 or written request for reinstatement.

31

1           (d) An applicant who, within 2 years prior to  
2 application for license and appointment as an agent, customer  
3 representative, or adjuster, was a full-time salaried employee  
4 of the department ~~or office~~ and had continuously been such an  
5 employee with responsible insurance duties for not less than 2  
6 years and who had been a licensee within 2 years prior to  
7 employment by the department ~~or office~~ with the same class of  
8 license as that being applied for.

9           (f) A person who has been licensed and appointed as a  
10 public adjuster or independent adjuster, or licensed and  
11 appointed either as an agent or company adjuster as to all  
12 property, casualty, and surety insurances, may be licensed and  
13 appointed as a company adjuster as to any of such insurances,  
14 or as an independent adjuster or public adjuster, without  
15 additional written examination if an application for  
16 appointment is filed with the department ~~office~~ within 48  
17 months following the date of cancellation or expiration of the  
18 prior appointment.

19           (g) A person who has been licensed as an adjuster for  
20 motor vehicle, property and casualty, workers' compensation,  
21 and health insurance may be licensed as such an adjuster  
22 without additional written examination if his or her  
23 application for appointment is filed with the department  
24 ~~office~~ within 48 months after cancellation or expiration of  
25 the prior license.

26           (l) An applicant for license as an adjuster who has  
27 the designation of Accredited Claims Adjuster (ACA) from a  
28 regionally accredited postsecondary institution in this state,  
29 or the designation of Professional Claims Adjuster (PCA) from  
30 the Professional Career Institute, whose curriculum has been  
31 approved by the department ~~office~~ and whose curriculum

1 includes comprehensive analysis of basic property and casualty  
2 lines of insurance and testing at least equal to that of  
3 standard department ~~office~~ testing for the all-lines adjuster  
4 license. The department ~~commission~~ shall adopt rules  
5 establishing standards for the approval of curriculum.

6 Section 27. Section 626.231, Florida Statutes, is  
7 amended to read:

8 626.231 Eligibility for examination.--No person shall  
9 be permitted to take an examination for license until his or  
10 her application for the license has been approved and the  
11 required fees have been received by the department ~~or office~~  
12 or a person designated by the department ~~or office~~ to  
13 administer the examination.

14 Section 28. Subsection (1) of section 626.241, Florida  
15 Statutes, is amended to read:

16 626.241 Scope of examination.--

17 (1) Each examination for a license as agent, customer  
18 representative, or adjuster shall be of such scope as is  
19 deemed by the department ~~or office~~ to be reasonably necessary  
20 to test the applicant's ability and competence and knowledge  
21 of the kinds of insurance and transactions to be handled under  
22 the license applied for, of the duties and responsibilities of  
23 such a licensee, and of the pertinent provisions of the laws  
24 of this state.

25 Section 29. Subsections (1) and (3) of section  
26 626.251, Florida Statutes, are amended to read:

27 626.251 Time and place of examination; notice.--

28 (1) The department ~~or office~~ or a person designated by  
29 the department ~~or office~~ shall mail written notice of the time  
30 and place of the examination to each applicant for license  
31 required to take an examination who will be eligible to take

1 the examination as of the examination date. The notice shall  
2 be so mailed, postage prepaid, and addressed to the applicant  
3 at his or her address shown on the application for license or  
4 at such other address as requested by the applicant in writing  
5 filed with the department ~~or office~~ prior to the mailing of  
6 the notice. Notice shall be deemed given when so mailed.

7 (3) The department ~~or office~~ shall make an examination  
8 available to the applicant, to be taken as soon as reasonably  
9 possible after the applicant is eligible therefor. Any  
10 examination required under this part shall be available in  
11 this state at a designated examination center.

12 Section 30. Subsections (1), (2), and (3) of section  
13 626.261, Florida Statutes, are amended to read:

14 626.261 Conduct of examination.--

15 (1) The applicant for license shall appear in person  
16 and personally take the examination for license at the time  
17 and place specified by the department ~~or office~~ or by a person  
18 designated by the department ~~or office~~.

19 (2) The examination shall be conducted by an employee  
20 of the department ~~or office~~ or a person designated by the  
21 department ~~or office~~ for that purpose.

22 (3) The questions propounded shall be as prepared by  
23 the department ~~or office~~, or by a person designated by the  
24 department ~~or office~~ for that purpose, consistent with the  
25 applicable provisions of this code.

26 Section 31. Section 626.266, Florida Statutes, is  
27 amended to read:

28 626.266 Printing of examinations or related materials  
29 to preserve examination security.--A contract let for the  
30 development, administration, or grading of examinations or  
31 related materials by the department ~~or office~~ pursuant to the

1 various agent, customer representative, or adjuster licensing  
2 and examination provisions of this code may include the  
3 printing or furnishing of these examinations or related  
4 materials in order to preserve security. Any such contract  
5 shall be let as a contract for a contractual service pursuant  
6 to s. 287.057.

7 Section 32. Subsection (1) of section 626.271, Florida  
8 Statutes, is amended to read:

9 626.271 Examination fee; determination, refund.--

10 (1) Prior to being permitted to take an examination,  
11 each applicant who is subject to examination shall pay to the  
12 department ~~or office~~ or a person designated by the department  
13 ~~or office~~ an examination fee. A separate and additional  
14 examination fee shall be payable for each separate class of  
15 license applied for, notwithstanding that all such  
16 examinations are taken on the same date and at the same place.

17 Section 33. Section 626.281, Florida Statutes, is  
18 amended to read:

19 626.281 Reexamination.--

20 (1) Any applicant for license who has either:

21 (a) Taken an examination and failed to make a passing  
22 grade, or

23 (b) Failed to appear for the examination or to take or  
24 complete the examination at the time and place specified in  
25 the notice of the department ~~or office~~,

26  
27 may take additional examinations, after filing with the  
28 department ~~or office~~ an application for reexamination together  
29 with applicable fees. The failure of an applicant to pass an  
30 examination or the failure to appear for the examination or to  
31

1 take or complete the examination does not preclude the  
2 applicant from taking subsequent examinations.

3 (2) The department ~~or office~~ may require any  
4 individual whose license as an agent, customer representative,  
5 or adjuster has expired or has been suspended to pass an  
6 examination prior to reinstating or relicensing the individual  
7 as to any class of license. The examination fee shall be paid  
8 as to each examination.

9 Section 34. Section 626.2817, Florida Statutes, is  
10 amended to read:

11 626.2817 Regulation of course providers, instructors,  
12 school officials, and monitor groups involved in prelicensure  
13 education for insurance agents and other licensees.--

14 (1) Any course provider, instructor, school official,  
15 or monitor group must be approved by and registered with the  
16 department ~~or office~~ before offering prelicensure education  
17 courses for insurance agents and other licensees.

18 (2) The department ~~or commission~~ shall adopt rules  
19 establishing standards for the approval, registration,  
20 discipline, or removal from registration of course providers,  
21 instructors, school officials, and monitor groups. The  
22 standards must be designed to ensure that such persons have  
23 the knowledge, competence, and integrity to fulfill the  
24 educational objectives of the prelicensure requirements of  
25 this chapter and chapter 648 and to assure that insurance  
26 agents and licensees are competent to engage in the activities  
27 authorized under the license.

28 (3) The department ~~or commission~~ shall adopt rules to  
29 establish a process for determining compliance with the  
30 prelicensure requirements of this chapter and chapter 648. The  
31

1 department ~~or commission~~ shall adopt rules prescribing the  
2 forms necessary to administer the prelicensure requirements.

3 Section 35. Section 626.291, Florida Statutes, is  
4 amended to read:

5 626.291 Denial, issuance of license.--

6 (1) Within 30 days after the applicant has completed  
7 any examination required under s. 626.221, the department ~~or~~  
8 ~~office~~ or its designee shall provide a score report; and, if  
9 it finds that the applicant has received a passing grade, the  
10 department ~~or office~~ shall within such period notify the  
11 applicant and issue and transmit the license to which such  
12 examination related. If it finds that the applicant did not  
13 make a passing grade on the examination for a particular  
14 license, the department ~~or office~~ or its designee shall within  
15 this period provide notice to the applicant to that effect and  
16 of its denial of the license.

17 (2) As to an applicant for a license for which no  
18 examination is required, the department ~~or office~~ shall  
19 promptly issue the license applied for as soon as it has  
20 approved the application.

21 (3) The department ~~or office~~ shall not deny, delay, or  
22 withhold issuance of a license due to the fact that it has not  
23 received a criminal history report based on the applicant's  
24 fingerprints.

25 Section 36. Section 626.301, Florida Statutes, is  
26 amended to read:

27 626.301 Form and contents of licenses, in  
28 general.--Each license issued by the department ~~or office~~  
29 shall be in such form as the department ~~or commission~~ may  
30 designate and contain the licensee's name, lines of authority  
31 the licensee is authorized to transact, the licensee's



1 | personal identification number, the date of issuance, and any  
2 | other information the department ~~or commission~~ deems necessary  
3 | to fully identify the licensee and the authority being  
4 | granted. The department ~~or commission~~ may by rule require  
5 | photographs of applicants as a part of the licensing process.

6 |       Section 37. Subsection (2) of section 626.371, Florida  
7 | Statutes, is amended to read:

8 |           626.371 Payment of fees, taxes for appointment period  
9 | without appointment.--

10 |       (2) If, upon application and qualification for an  
11 | initial or renewal appointment and such investigation as the  
12 | department ~~or office~~ may make, it appears to the department ~~or~~  
13 | ~~office~~ that an individual who was formerly licensed or is  
14 | currently licensed but not properly appointed to represent an  
15 | insurer or employer and who has been actively engaged or is  
16 | currently actively engaged as such an appointee, but without  
17 | being appointed as required, the department ~~or office~~ may, if  
18 | it finds that such failure to be appointed was an inadvertent  
19 | error on the part of the insurer or employer so represented,  
20 | nevertheless issue or authorize the issuance of the  
21 | appointment as applied for but subject to the condition that,  
22 | before the appointment is issued, all fees and taxes which  
23 | would have been due had the applicant been so appointed during  
24 | such current and prior periods, with applicable fees pursuant  
25 | to s. 624.501 for such current and prior periods of  
26 | appointment, shall be paid to the department ~~or office~~.

27 |       Section 38. Subsections (2), (3), and (4) of section  
28 | 626.381, Florida Statutes, are amended to read:

29 |           626.381 Renewal, continuation, reinstatement, or  
30 | termination of appointment.--

31 |

1           (2) Each appointing entity shall file with the  
2 department ~~or office~~ the lists, statements, and information as  
3 to appointees whose appointments are being renewed or  
4 terminated, accompanied by payment of the applicable renewal  
5 fees and taxes as prescribed in s. 624.501, by a date set  
6 forth by the department ~~or office~~ following the month during  
7 which the appointments will expire.

8           (3) Renewal of an appointment which is received by the  
9 department ~~or office~~ or person designated by the department to  
10 administer the appointment process prior to the expiration of  
11 an appointment in the licensee's birth month or license issue  
12 date, whichever applies, may be renewed by the department ~~or~~  
13 ~~office~~ without penalty and shall be effective as of the first  
14 day of the month succeeding the month in which the appointment  
15 would have expired.

16           (4) Renewal of an appointment which is received by the  
17 department ~~or office~~ or person designated by the department to  
18 administer the appointment process after the renewal date may  
19 be accepted and effectuated by the department ~~or office~~ in its  
20 discretion if the appointment, late filing, continuation, and  
21 reinstatement fee accompanies the renewal request pursuant to  
22 s. 624.501. Late filing fees shall be paid by the appointing  
23 entity and may not be charged to the appointee.

24           Section 39. Subsection (2) of section 626.431, Florida  
25 Statutes, is amended to read:

26           626.431 Effect of expiration of license and  
27 appointment.--

28           (2) When a licensee's last appointment for a  
29 particular class of insurance has been terminated or not  
30 renewed, the department ~~or office~~ must notify the licensee  
31 that his or her eligibility for appointment as such an

1 | appointee will expire unless he or she is appointed prior to  
2 | expiration of the 48-month period referred to in subsection  
3 | (3).

4 |         Section 40. Section 626.461, Florida Statutes, is  
5 | amended to read:

6 |         626.461 Continuation of appointment of agent or other  
7 | representative.--Subject to renewal or continuation by the  
8 | appointing entity, the appointment of the agent, adjuster,  
9 | service representative, customer representative, or managing  
10 | general agent shall continue in effect until the person's  
11 | license is revoked or otherwise terminated, unless written  
12 | notice of earlier termination of the appointment is filed with  
13 | the department ~~or office~~ or person designated by the  
14 | department to administer the appointment process by either the  
15 | appointing entity or the appointee.

16 |         Section 41. Subsections (2), (3), (4), and (5) of  
17 | section 626.471, Florida Statutes, are amended to read:

18 |         626.471 Termination of appointment.--

19 |         (2) As soon as possible and at all events within 30  
20 | days after terminating the appointment of an appointee, other  
21 | than as to an appointment terminated by the appointing  
22 | entity's failure to continue or renew it, the appointing  
23 | entity shall file written notice thereof with the department  
24 | ~~or office~~, together with a statement that it has given the  
25 | appointee notice thereof as provided in subsection (1) and  
26 | shall file with the department ~~or office~~ the reasons and facts  
27 | involved in such termination as required under s. 626.511.

28 |         (3) Upon termination of the appointment of an  
29 | appointee, whether by failure to renew or continue the  
30 | appointment, the appointing entity shall:

31 |

1 (a) File with the department ~~or office~~ the information  
2 required under s. 626.511.

3 (b) Subject to the exceptions provided under  
4 subsection (1), continue the outstanding contracts transacted  
5 by an agent until the expiration date or anniversary date when  
6 the policy is a continuous policy with no expiration date.  
7 This paragraph shall not be construed to prohibit the  
8 cancellation of such contracts when not otherwise prohibited  
9 by law.

10 (4) An appointee may terminate the appointment at any  
11 time by giving written or electronic notice thereof to the  
12 appointing entity, department ~~or office~~, or person designated  
13 by the department to administer the appointment process. The  
14 department shall immediately terminate the appointment and  
15 notify the appointing entity of such termination. Such  
16 termination shall be subject to the appointee's contract  
17 rights, if any.

18 (5) Upon receiving notice of termination, the  
19 department ~~or office~~ or person designated by the department to  
20 administer the appointment process shall terminate the  
21 appointment.

22 Section 42. Subsections (2), (3), and (5) of section  
23 626.521, Florida Statutes, are amended to read:

24 626.521 Character, credit reports.--

25 (2) If requested by the department ~~or office~~, the  
26 insurer, manager, general agent, general lines agent, or  
27 employer, as the case may be, shall furnish to the department  
28 ~~or office~~ on a form adopted and furnished by the department ~~or~~  
29 ~~commission and furnished by the department or office~~, such  
30 information as it ~~may~~ reasonably requires ~~require~~ relative to  
31 such individual and investigation.

1           (3) As to an applicant for an adjuster's or  
2 reinsurance intermediary's license who is to be self-employed,  
3 the department ~~or office~~ may secure, at the cost of the  
4 applicant, a full detailed credit and character report made by  
5 an established and reputable independent reporting service  
6 relative to the applicant.

7           (5) Information contained in credit or character  
8 reports furnished to or secured by the department ~~or office~~  
9 under this section is confidential and exempt from the  
10 provisions of s. 119.07(1).

11           Section 43. Subsections (1) and (2) of section  
12 626.541, Florida Statutes, are amended to read:

13           626.541 Firm, corporate, and business names; officers;  
14 associates; notice of changes.--

15           (1) Any licensed agent or adjuster doing business  
16 under a firm or corporate name or under any business name  
17 other than his or her own individual name shall, within 30  
18 days after the initial transaction of insurance under such  
19 business name, file with the department ~~or office~~, on forms  
20 adopted and furnished by the department ~~or commission and~~  
21 ~~furnished by the department or office~~, a written statement of  
22 the firm, corporate, or business name being so used, the  
23 address of any office or offices or places of business making  
24 use of such name, and the name and social security number of  
25 each officer and director of the corporation and of each  
26 individual associated in such firm or corporation as to the  
27 insurance transactions thereof or in the use of such business  
28 name.

29           (2) In the event of any change of such name, or of any  
30 of the officers and directors, or of any of such addresses, or  
31 in the personnel so associated, written notice of such change

1 must be filed with the department ~~or office~~ within 30 days by  
2 or on behalf of those licensees terminating any such firm,  
3 corporate, or business name or continuing to operate  
4 thereunder.

5 Section 44. Section 626.551, Florida Statutes, is  
6 amended to read:

7 626.551 Notice of change of address, name.--Every  
8 licensee shall notify the department ~~or office~~ in writing  
9 within 60 days after a change of name, residence address,  
10 principal business street address, or mailing address. Any  
11 licensed agent who has moved his or her residence from this  
12 state shall have his or her license and all appointments  
13 immediately terminated by the department ~~or office~~. Failure to  
14 notify the department ~~or office~~ within the required time  
15 period shall result in a fine not to exceed \$250 for the first  
16 offense and, for subsequent offenses, a fine of not less than  
17 \$500 or suspension or revocation of the license pursuant to s.  
18 626.611 or s. 626.621.

19 Section 45. Section 626.611, Florida Statutes, is  
20 amended to read:

21 626.611 Grounds for compulsory refusal, suspension, or  
22 revocation of agent's, title agency's, adjuster's, customer  
23 representative's, service representative's, or managing  
24 general agent's license or appointment.--The department ~~or~~  
25 ~~office~~ shall deny an application for, suspend, revoke, or  
26 refuse to renew or continue the license or appointment of any  
27 applicant, agent, title agency, adjuster, customer  
28 representative, service representative, or managing general  
29 agent, and it shall suspend or revoke the eligibility to hold  
30 a license or appointment of any such person, if it finds that  
31

1 as to the applicant, licensee, or appointee any one or more of  
2 the following applicable grounds exist:

3 (1) Lack of one or more of the qualifications for the  
4 license or appointment as specified in this code.

5 (2) Material misstatement, misrepresentation, or fraud  
6 in obtaining the license or appointment or in attempting to  
7 obtain the license or appointment.

8 (3) Failure to pass to the satisfaction of the  
9 department ~~or office~~ any examination required under this code.

10 (4) If the license or appointment is willfully used,  
11 or to be used, to circumvent any of the requirements or  
12 prohibitions of this code.

13 (5) Willful misrepresentation of any insurance policy  
14 or annuity contract or willful deception with regard to any  
15 such policy or contract, done either in person or by any form  
16 of dissemination of information or advertising.

17 (6) If, as an adjuster, or agent licensed and  
18 appointed to adjust claims under this code, he or she has  
19 materially misrepresented to an insured or other interested  
20 party the terms and coverage of an insurance contract with  
21 intent and for the purpose of effecting settlement of claim  
22 for loss or damage or benefit under such contract on less  
23 favorable terms than those provided in and contemplated by the  
24 contract.

25 (7) Demonstrated lack of fitness or trustworthiness to  
26 engage in the business of insurance.

27 (8) Demonstrated lack of reasonably adequate knowledge  
28 and technical competence to engage in the transactions  
29 authorized by the license or appointment.

30 (9) Fraudulent or dishonest practices in the conduct  
31 of business under the license or appointment.

1           (10) Misappropriation, conversion, or unlawful  
2 withholding of moneys belonging to insurers or insureds or  
3 beneficiaries or to others and received in conduct of business  
4 under the license or appointment.

5           (11) Unlawfully rebating, attempting to unlawfully  
6 rebate, or unlawfully dividing or offering to divide his or  
7 her commission with another.

8           (12) Having obtained or attempted to obtain, or having  
9 used or using, a license or appointment as agent or customer  
10 representative for the purpose of soliciting or handling  
11 "controlled business" as defined in s. 626.730 with respect to  
12 general lines agents, s. 626.784 with respect to life agents,  
13 and s. 626.830 with respect to health agents.

14           (13) Willful failure to comply with, or willful  
15 violation of, any proper order or rule of the department,  
16 ~~commission, or office~~ or willful violation of any provision of  
17 this code.

18           (14) Having been found guilty of or having pleaded  
19 guilty or nolo contendere to a felony or a crime punishable by  
20 imprisonment of 1 year or more under the law of the United  
21 States of America or of any state thereof or under the law of  
22 any other country which involves moral turpitude, without  
23 regard to whether a judgment of conviction has been entered by  
24 the court having jurisdiction of such cases.

25           (15) Fraudulent or dishonest practice in submitting or  
26 aiding or abetting any person in the submission of an  
27 application for workers' compensation coverage under chapter  
28 440 containing false or misleading information as to employee  
29 payroll or classification for the purpose of avoiding or  
30 reducing the amount of premium due for such coverage.

31



1           (16) Sale of an unregistered security that was  
2 required to be registered, pursuant to chapter 517.

3           Section 46. Section 626.621, Florida Statutes, is  
4 amended to read:

5           626.621 Grounds for discretionary refusal, suspension,  
6 or revocation of agent's, adjuster's, customer  
7 representative's, service representative's, or managing  
8 general agent's license or appointment.--The department ~~or~~  
9 ~~office~~ may, in its discretion, deny an application for,  
10 suspend, revoke, or refuse to renew or continue the license or  
11 appointment of any applicant, agent, adjuster, customer  
12 representative, service representative, or managing general  
13 agent, and it may suspend or revoke the eligibility to hold a  
14 license or appointment of any such person, if it finds that as  
15 to the applicant, licensee, or appointee any one or more of  
16 the following applicable grounds exist under circumstances for  
17 which such denial, suspension, revocation, or refusal is not  
18 mandatory under s. 626.611:

19           (1) Any cause for which issuance of the license or  
20 appointment could have been refused had it then existed and  
21 been known to the department ~~or office~~.

22           (2) Violation of any provision of this code or of any  
23 other law applicable to the business of insurance in the  
24 course of dealing under the license or appointment.

25           (3) Violation of any lawful order or rule of the  
26 department, commission, or office.

27           (4) Failure or refusal, upon demand, to pay over to  
28 any insurer he or she represents or has represented any money  
29 coming into his or her hands belonging to the insurer.

30           (5) Violation of the provision against twisting, as  
31 defined in s. 626.9541(1)(1).

1           (6) In the conduct of business under the license or  
2 appointment, engaging in unfair methods of competition or in  
3 unfair or deceptive acts or practices, as prohibited under  
4 part IX of this chapter, or having otherwise shown himself or  
5 herself to be a source of injury or loss to the public or  
6 detrimental to the public interest.

7           (7) Willful overinsurance of any property or health  
8 insurance risk.

9           (8) Having been found guilty of or having pleaded  
10 guilty or nolo contendere to a felony or a crime punishable by  
11 imprisonment of 1 year or more under the law of the United  
12 States of America or of any state thereof or under the law of  
13 any other country, without regard to whether a judgment of  
14 conviction has been entered by the court having jurisdiction  
15 of such cases.

16           (9) If a life agent, violation of the code of ethics.

17           (10) Cheating on an examination required for licensure  
18 or violating test center or examination procedures published  
19 orally, in writing, or electronically at the test site by  
20 authorized representatives of the examination program  
21 administrator. Communication of test center and examination  
22 procedures must be clearly established and documented.

23           (11) Failure to inform the department ~~or office~~ in  
24 writing within 30 days after pleading guilty or nolo  
25 contendere to, or being convicted or found guilty of, any  
26 felony or a crime punishable by imprisonment of 1 year or more  
27 under the law of the United States or of any state thereof, or  
28 under the law of any other country without regard to whether a  
29 judgment of conviction has been entered by the court having  
30 jurisdiction of the case.

31

1           (12) Knowingly aiding, assisting, procuring, advising,  
2 or abetting any person in the violation of or to violate a  
3 provision of the insurance code or any order or rule of the  
4 department, commission, or office.

5           Section 47. Section 626.631, Florida Statutes, is  
6 amended to read:

7           626.631 Procedure for refusal, suspension, or  
8 revocation of license.--

9           (1) If any licensee is convicted by a court of a  
10 violation of this code or a felony, the licenses and  
11 appointments of such person shall be immediately revoked by  
12 the department ~~or office~~. The licensee may subsequently  
13 request a hearing pursuant to ss. 120.569 and 120.57, and the  
14 department ~~or office~~ shall expedite any such requested  
15 hearing. The sole issue at such hearing shall be whether the  
16 revocation should be rescinded because such person was not in  
17 fact convicted of a violation of this code or a felony.

18           (2) The papers, documents, reports, or evidence of the  
19 department ~~or office~~ relative to a hearing for revocation or  
20 suspension of a license or appointment pursuant to the  
21 provisions of this chapter and chapter 120 are confidential  
22 and exempt from the provisions of s. 119.07(1) until after the  
23 same have been published at the hearing. However, such papers,  
24 documents, reports, or items of evidence are subject to  
25 discovery in a hearing for revocation or suspension of a  
26 license or appointment.

27           Section 48. Subsections (1) and (2) of section  
28 626.641, Florida Statutes, are amended to read:

29           626.641 Duration of suspension or revocation.--

30           (1) The department ~~or office~~ shall, in its order  
31 suspending a license or appointment or in its order suspending

1 | the eligibility of a person to hold or apply for such license  
2 | or appointment, specify the period during which the suspension  
3 | is to be in effect; but such period shall not exceed 2 years.  
4 | The license, appointment, or eligibility shall remain  
5 | suspended during the period so specified, subject, however, to  
6 | any rescission or modification of the order by the department  
7 | ~~or office~~, or modification or reversal thereof by the court,  
8 | prior to expiration of the suspension period. A license,  
9 | appointment, or eligibility which has been suspended shall not  
10 | be reinstated except upon request for such reinstatement; but  
11 | the department ~~or office~~ shall not grant such reinstatement if  
12 | it finds that the circumstance or circumstances for which the  
13 | license, appointment, or eligibility was suspended still exist  
14 | or are likely to recur.

15 |         (2) No person or appointee under any license or  
16 | appointment revoked by the department ~~or office~~, nor any  
17 | person whose eligibility to hold same has been revoked by the  
18 | department ~~or office~~, shall have the right to apply for  
19 | another license or appointment under this code within 2 years  
20 | from the effective date of such revocation or, if judicial  
21 | review of such revocation is sought, within 2 years from the  
22 | date of final court order or decree affirming the revocation.  
23 | The department ~~or office~~ shall not, however, grant a new  
24 | license or appointment or reinstate eligibility to hold such  
25 | license or appointment if it finds that the circumstance or  
26 | circumstances for which the eligibility was revoked or for  
27 | which the previous license or appointment was revoked still  
28 | exist or are likely to recur; if an individual's license as  
29 | agent or customer representative or eligibility to hold same  
30 | has been revoked upon the ground specified in s. 626.611(12),  
31 |

1 the department ~~or office~~ shall refuse to grant or issue any  
2 new license or appointment so applied for.

3 Section 49. Subsection (2) of section 626.661, Florida  
4 Statutes, is amended to read:

5 626.661 Surrender of license.--

6 (2) This section shall not be deemed to require the  
7 surrender to the department ~~or office~~ of any license unless  
8 such surrender has been requested by the department ~~or office~~.

9 Section 50. Subsections (1) and (3) of section  
10 626.681, Florida Statutes, are amended to read:

11 626.681 Administrative fine in lieu of or in addition  
12 to suspension, revocation, or refusal of license, appointment,  
13 or disapproval.--

14 (1) Except as to insurance agencies, if the department  
15 ~~or office~~ finds that one or more grounds exist for the  
16 suspension, revocation, or refusal to issue, renew, or  
17 continue any license or appointment issued under this chapter,  
18 or disapproval of a continuing education course provider,  
19 instructor, school official, or monitor groups, the department  
20 ~~or office~~ may, in its discretion, in lieu of or in addition to  
21 such suspension or revocation, or in lieu of such refusal, or  
22 disapproval, and except on a second offense or when such  
23 suspension, revocation, or refusal is mandatory, impose upon  
24 the licensee, appointee, course provider, instructor, school  
25 official, or monitor group an administrative penalty in an  
26 amount up to \$500 or, if the department ~~or office~~ has found  
27 willful misconduct or willful violation on the part of the  
28 licensee, appointee, course provider, instructor, school  
29 official, or monitor group up to \$3,500. The administrative  
30 penalty may, in the discretion of the department ~~or office~~, be  
31 augmented by an amount equal to any commissions received by or

1 accruing to the credit of the licensee or appointee in  
2 connection with any transaction as to which the grounds for  
3 suspension, revocation, or refusal related.

4 (3) The department ~~or office~~ may allow the licensee,  
5 appointee, or continuing education course provider,  
6 instructor, school official, or monitor group a reasonable  
7 period, not to exceed 30 days, within which to pay to the  
8 department ~~or office~~ the amount of the penalty so imposed. If  
9 the licensee, appointee, course provider, instructor, school  
10 official, or monitor group fails to pay the penalty in its  
11 entirety to the department ~~or office~~ within the period so  
12 allowed, the license, appointments, approval, or status of  
13 that person shall stand suspended or revoked or issuance,  
14 renewal, or continuation shall be refused, as the case may be,  
15 upon expiration of such period.

16 Section 51. Section 626.691, Florida Statutes, is  
17 amended to read:

18 626.691 Probation.--

19 (1) If the department ~~or office~~ finds that one or more  
20 grounds exist for the suspension, revocation, or refusal to  
21 renew or continue any license or appointment issued under this  
22 part, the department ~~or office~~ may, in its discretion, except  
23 when an administrative fine is not permissible under s.  
24 626.681 or when such suspension, revocation, or refusal is  
25 mandatory, in lieu of or in addition to such suspension or  
26 revocation, or in lieu of such refusal, or in connection with  
27 any administrative monetary penalty imposed under s. 626.681,  
28 place the offending licensee or appointee on probation for a  
29 period, not to exceed 2 years, as specified by the department  
30 ~~or office~~ in its order.

31

1           (2) As a condition to such probation or in connection  
2 therewith, the department ~~or office~~ may specify in its order  
3 reasonable terms and conditions to be fulfilled by the  
4 probationer during the probation period. If during the  
5 probation period the department ~~or office~~ has good cause to  
6 believe that the probationer has violated a term or condition,  
7 it shall suspend, revoke, or refuse to issue, renew, or  
8 continue the license or appointment of the probationer, as  
9 upon the original grounds referred to in subsection (1).

10           Section 52. Section 626.692, Florida Statutes, is  
11 amended to read:

12           626.692 Restitution.--If any ground exists for the  
13 suspension, revocation, or refusal of a license or  
14 appointment, the department ~~or office~~ may, in addition to any  
15 other penalty authorized under this chapter, order the  
16 licensee to pay restitution to any person who has been  
17 deprived of money by the licensee's misappropriation,  
18 conversion, or unlawful withholding of moneys belonging to  
19 insurers, insureds, beneficiaries, or others. In no instance  
20 shall the amount of restitution required to be paid under this  
21 section exceed the amount of money misappropriated, converted,  
22 or unlawfully withheld. Nothing in this section limits or  
23 restricts a person's right to seek other remedies as provided  
24 for by law.

25           Section 53. Section 626.8582, Florida Statutes, is  
26 amended to read:

27           626.8582 "Nonresident public adjuster" defined.--A  
28 "nonresident public adjuster" is a person who:

- 29           (1) Is not a resident of this state;  
30           (2) Is a currently licensed public adjuster in his or  
31 her state of residence for the type or kinds of insurance for

1 | which the licensee intends to adjust claims in this state or,  
2 | if a resident of a state that does not license public  
3 | adjusters, has passed the department's ~~office's~~ adjuster  
4 | examination as prescribed in s. 626.8732(1)(b); and

5 |       (3) Is a self-employed public adjuster or associated  
6 | with or employed by a public adjusting firm or other public  
7 | adjuster.

8 |       Section 54. Section 626.8584, Florida Statutes, is  
9 | amended to read:

10 |       626.8584 "Nonresident independent adjuster"  
11 | defined.--A "nonresident independent adjuster" is a person  
12 | who:

13 |       (1) Is not a resident of this state;

14 |       (2) Is a currently licensed independent adjuster in  
15 | his or her state of residence for the type or kinds of  
16 | insurance for which the licensee intends to adjust claims in  
17 | this state or, if a resident of a state that does not license  
18 | independent adjusters, has passed the department's ~~office's~~  
19 | adjuster examination as prescribed in s. 626.8734(1)(b); and

20 |       (3) Is a self-employed independent adjuster or  
21 | associated with or employed by an independent adjusting firm  
22 | or other independent adjuster.

23 |       Section 55. Section 626.859, Florida Statutes, is  
24 | amended to read:

25 |       626.859 "Catastrophe" or "emergency" adjuster  
26 | defined.--A "catastrophe" or "emergency" adjuster is a person  
27 | who is not a licensed adjuster under this part, but who has  
28 | been designated and certified to the department ~~office~~ by  
29 | insurers as qualified to adjust claims, losses, or damages  
30 | under policies or contracts of insurance issued by such  
31 | insurer, and whom the department ~~office~~ may license, in the



1 event of a catastrophe or emergency, for the purposes and  
2 under the conditions which the department ~~office~~ shall fix and  
3 for the period of the emergency as the department ~~office~~ shall  
4 determine, to adjust claims, losses, or damages under the  
5 policies of insurance issued by the insurers.

6 Section 56. Subsection (2) of section 626.863, Florida  
7 Statutes, is amended to read:

8 626.863 Licensed independent adjusters required;  
9 insurers' responsibility.--

10 (2) Before referring any claim or loss, the insurer  
11 shall ascertain from the department ~~office~~ whether the  
12 proposed independent adjuster is currently licensed and  
13 appointed as such. Having once ascertained that a particular  
14 person is so licensed and appointed, the insurer may assume  
15 that he or she will continue to be so licensed and appointed  
16 until the insurer has knowledge, or receives information from  
17 the department ~~office~~, to the contrary.

18 Section 57. Section 626.865, Florida Statutes, is  
19 amended to read:

20 626.865 Public adjuster's qualifications, bond.--

21 (1) The department ~~office~~ shall issue a license to an  
22 applicant for a public adjuster's license upon determining  
23 that the applicant has paid the applicable fees specified in  
24 s. 624.501 and possesses the following qualifications:

25 (a) Is a natural person at least 18 years of age.

26 (b) Is a United States citizen or legal alien who  
27 possesses work authorization from the United States  
28 Immigration and Naturalization Service and a bona fide  
29 resident of this state.

30 (c) Is trustworthy and has such business reputation as  
31 would reasonably assure that the applicant will conduct his or

1 her business as insurance adjuster fairly and in good faith  
2 and without detriment to the public.

3 (d) Has had sufficient experience, training, or  
4 instruction concerning the adjusting of damages or losses  
5 under insurance contracts, other than life and annuity  
6 contracts, is sufficiently informed as to the terms and  
7 effects of the provisions of those types of insurance  
8 contracts, and possesses adequate knowledge of the laws of  
9 this state relating to such contracts as to enable and qualify  
10 him or her to engage in the business of insurance adjuster  
11 fairly and without injury to the public or any member thereof  
12 with whom the applicant may have business as a public  
13 adjuster.

14 (e) Has passed any required written examination.

15 (2) At the time of application for license as a public  
16 adjuster, the applicant shall file with the department ~~office~~  
17 a bond executed and issued by a surety insurer authorized to  
18 transact such business in this state, in the amount of  
19 \$50,000, conditioned for the faithful performance of his or  
20 her duties as a public adjuster under the license applied for.  
21 The bond shall be in favor of the department ~~office~~ and shall  
22 specifically authorize recovery by the department ~~office~~ of  
23 the damages sustained in case the licensee is guilty of fraud  
24 or unfair practices in connection with his or her business as  
25 public adjuster. The aggregate liability of the surety for all  
26 such damages shall in no event exceed the amount of the bond.  
27 Such bond shall not be terminated unless at least 30 days'  
28 written notice is given to the licensee and filed with the  
29 department ~~office~~.

30 Section 58. Section 626.866, Florida Statutes, is  
31 amended to read:

1           626.866 Independent adjuster's qualifications.--The  
2 department ~~office~~ shall issue a license to an applicant for an  
3 independent adjuster's license upon determining that the  
4 applicable license fee specified in s. 624.501 has been paid  
5 and that the applicant possesses the following qualifications:

6           (1) Is a natural person at least 18 years of age.

7           (2) Is a United States citizen or legal alien who  
8 possesses work authorization from the United States  
9 Immigration and Naturalization Service and a bona fide  
10 resident of this state.

11           (3) Is trustworthy and has such business reputation as  
12 would reasonably assure that the applicant will conduct his or  
13 her business as insurance adjuster fairly and in good faith  
14 and without detriment to the public.

15           (4) Has had sufficient experience, training, or  
16 instruction concerning the adjusting of damage or loss under  
17 insurance contracts, other than life and annuity contracts, is  
18 sufficiently informed as to the terms and the effects of the  
19 provisions of such types of contracts, and possesses adequate  
20 knowledge of the insurance laws of this state relating to such  
21 contracts as to enable and qualify him or her to engage in the  
22 business of insurance adjuster fairly and without injury to  
23 the public or any member thereof with whom he or she may have  
24 relations as an insurance adjuster and to adjust all claims in  
25 accordance with the policy or contract and the insurance laws  
26 of this state.

27           (5) Has passed any required written examination.

28           Section 59. Section 626.867, Florida Statutes, is  
29 amended to read:

30           626.867 Company employee adjuster's  
31 qualifications.--The department ~~office~~ shall issue a license

1 to an applicant for a company employee adjuster's license upon  
2 determining that the applicable license fee specified in s.  
3 624.501 has been paid and that the applicant possesses the  
4 following qualifications:

5 (1) Is a natural person at least 18 years of age.

6 (2) Is a United States citizen or legal alien who  
7 possesses work authorization from the United States  
8 Immigration and Naturalization Service and a bona fide  
9 resident of this state.

10 (3) Is trustworthy and has such business reputation as  
11 would reasonably assure that the applicant will conduct his or  
12 her business as insurance adjuster fairly and in good faith  
13 and without detriment to the public.

14 (4) Has had sufficient experience, training, or  
15 instruction concerning the adjusting of damage or loss of  
16 risks described in his or her application, is sufficiently  
17 informed as to the terms and the effects of the provisions of  
18 insurance contracts covering such risks, and possesses  
19 adequate knowledge of the insurance laws of this state  
20 relating to such insurance contracts as to enable and qualify  
21 him or her to engage in such business as insurance adjuster  
22 fairly and without injury to the public or any member thereof  
23 with whom he or she may have relations as an insurance  
24 adjuster and to adjust all claims in accordance with the  
25 policy or contract and the insurance laws of this state.

26 (5) Has passed any required written examination.

27 Section 60. Paragraph (c) of subsection (4) of section  
28 626.869, Florida Statutes, is amended to read:

29 626.869 License, adjusters.--

30 (4)

31

1           (c) The department ~~Financial Services Commission~~ shall  
2 adopt rules necessary to implement and administer the  
3 continuing education requirements of this subsection.

4           Section 61. Subsections (1), (3), (5), (6), and (7) of  
5 section 626.8695, Florida Statutes, are amended to read:

6           626.8695 Primary adjuster.--

7           (1) Each person operating an adjusting firm and each  
8 location of a multiple location adjusting firm must designate  
9 a primary adjuster for each such firm or location and must  
10 file with the department ~~office~~ the name of such primary  
11 adjuster and the address of the firm or location where he or  
12 she is the primary adjuster, on a form approved by the  
13 department ~~commission~~. The designation of the primary adjuster  
14 may be changed at the option of the adjusting firm. Any such  
15 change is effective upon notification to the department  
16 ~~office~~. Notice of change must be sent to the department ~~office~~  
17 within 30 days after such change.

18           (3) The department ~~office~~ may suspend or revoke the  
19 license of the primary adjuster if the adjusting firm employs  
20 any person who has had a license denied or any person whose  
21 license is currently suspended or revoked. However, if a  
22 person has been denied a license for failure to pass a  
23 required examination, he or she may be employed to perform  
24 clerical or administrative functions for which licensure is  
25 not required.

26           (5) The department ~~office~~ may suspend or revoke the  
27 license of any adjuster who is employed by a person whose  
28 license is currently suspended or revoked.

29           (6) An adjusting firm location may not conduct the  
30 business of insurance unless a primary adjuster is designated.  
31 Failure of the person operating the adjusting firm to

1 designate a primary adjuster for the firm, or for each  
2 location, as applicable, on a form prescribed by the  
3 department ~~commission~~ within 30 days after inception of the  
4 firm or change of primary adjuster designation, constitutes  
5 grounds for requiring the adjusting firm to obtain an  
6 adjusting firm license pursuant to s. 626.8696.

7 (7) Any adjusting firm may request, on a form  
8 prescribed by the department ~~commission~~, verification from the  
9 department ~~office~~ of any person's current licensure status.

10 If a request is mailed to the office within 5 working days  
11 after the date an adjuster is hired, and the department ~~office~~  
12 subsequently notifies the adjusting firm that an employee's  
13 license is currently suspended, revoked, or has been denied,  
14 the license of the primary adjuster shall not be revoked or  
15 suspended if the unlicensed person is immediately dismissed  
16 from employment as an adjuster with the firm.

17 Section 62. Paragraph (e) of subsection (1) and  
18 subsection (5) of section 626.8696, Florida Statutes, are  
19 amended to read:

20 626.8696 Application for adjusting firm license.--

21 (1) The application for an adjusting firm license must  
22 include:

23 (e) Any additional information that ~~which~~ the  
24 department ~~requires~~ ~~commission~~ ~~may~~ ~~require~~.

25 (5) An adjusting firm required to be licensed pursuant  
26 to s. 626.8695 must remain so licensed for a period of 3 years  
27 from the date of licensure, unless the license is suspended or  
28 revoked. The department ~~office~~ may suspend or revoke the  
29 adjusting firm's authority to do business for activities  
30 occurring during the time the firm is licensed, regardless of  
31 whether the licensing period has terminated.

1 Section 63. Subsections (1), (2), and (3) of section  
2 626.8697, Florida Statutes, are amended to read:

3 626.8697 Grounds for refusal, suspension, or  
4 revocation of adjusting firm license.--

5 (1) The department ~~office~~ shall deny, suspend, revoke,  
6 or refuse to continue the license of any adjusting firm if it  
7 finds, as to any adjusting firm or as to any majority owner,  
8 partner, manager, director, officer, or other person who  
9 manages or controls the firm, that any of the following  
10 grounds exist:

11 (a) Lack by the firm of one or more of the  
12 qualifications for the license as specified in this code.

13 (b) Material misstatement, misrepresentation, or fraud  
14 in obtaining the license or in attempting to obtain the  
15 license.

16 (2) The department ~~office~~ may, in its discretion,  
17 deny, suspend, revoke, or refuse to continue the license of  
18 any adjusting firm if it finds that any of the following  
19 applicable grounds exist with respect to the firm or any  
20 owner, partner, manager, director, officer, or other person  
21 who is otherwise involved in the operation of the firm:

22 (a) Any cause for which issuance of the license could  
23 have been refused had it then existed and been known to the  
24 department ~~office~~.

25 (b) Violation of any provision of this code or of any  
26 other law applicable to the business of insurance.

27 (c) Violation of any order or rule of the office or  
28 commission.

29 (d) An owner, partner, manager, director, officer, or  
30 other person who manages or controls the firm having been  
31 found guilty of or having pleaded guilty or nolo contendere to

1 a felony or a crime punishable by imprisonment of 1 year or  
2 more under the laws of the United States or of any state or  
3 under the laws of any other country, without regard to whether  
4 adjudication was made or withheld by the court.

5 (e) Failure to inform the department ~~office~~ in writing  
6 within 30 days after a pleading by an owner, partner, manager,  
7 director, officer, or other person managing or controlling the  
8 firm of guilty or nolo contendere to, or being convicted or  
9 found guilty of, any felony or a crime punishable by  
10 imprisonment of 1 year or more under the laws of the United  
11 States or of any state, or under the laws of any other  
12 country, without regard to whether adjudication was made or  
13 withheld by the court.

14 (f) Knowingly aiding, assisting, procuring, advising,  
15 or abetting any person in the violation of or to violate a  
16 provision of the insurance code or any order or rule of the  
17 department, ~~office~~, or commission.

18 (g) Knowingly employing any individual in a managerial  
19 capacity or in a capacity dealing with the public who is under  
20 an order of revocation or suspension issued by the department  
21 ~~office~~.

22 (h) Committing any of the following acts with such a  
23 frequency as to have made the operation of the adjusting firm  
24 hazardous to the insurance-buying public or other persons:

25 1. Misappropriation, conversion, or unlawful or  
26 unreasonable withholding of moneys belonging to insurers or  
27 insureds or beneficiaries or claimants or to others and  
28 received in the conduct of business under the license.

29 2. Misrepresentation or deception with regard to the  
30 business of insurance, dissemination of information, or  
31 advertising.



1           3. Demonstrated lack of fitness or trustworthiness to  
2 engage in the business of insurance adjusting arising out of  
3 activities related to insurance adjusting or the adjusting  
4 firm.

5           (i) Failure to appoint a primary adjuster.

6           (3) In lieu of discretionary refusal, suspension, or  
7 revocation of an adjusting firm's license, the department  
8 ~~office~~ may impose an administrative penalty of up to \$1,000  
9 for each violation or ground provided under this section, not  
10 to exceed an aggregate amount of \$10,000 for all violations or  
11 grounds.

12           Section 64. Section 626.8698, Florida Statutes, is  
13 amended to read:

14           626.8698 Disciplinary guidelines for public  
15 adjusters.--The department ~~office~~ may deny, suspend, or revoke  
16 the license of a public adjuster, and administer a fine not to  
17 exceed \$5,000 per act, for any of the following:

18           (1) Violating any provision of this chapter or a rule  
19 or order of the office or commission;

20           (2) Receiving payment or anything of value as a result  
21 of an unfair or deceptive practice;

22           (3) Receiving or accepting any fee, kickback, or other  
23 thing of value pursuant to any agreement or understanding,  
24 oral or otherwise; entering into a split-fee arrangement with  
25 another person who is not a public adjuster; or being  
26 otherwise paid or accepting payment for services that have not  
27 been performed;

28           (4) Violating s. 316.066 or s. 817.234;

29           (5) Soliciting or otherwise taking advantage of a  
30 person who is vulnerable, emotional, or otherwise upset as the  
31 result of a trauma, accident, or other similar occurrence; or

1           (6) Violating any ethical rule of the department  
2 ~~commission~~.

3           Section 65. Subsections (2) and (3) of section  
4 626.870, Florida Statutes, are amended to read:

5           626.870 Application for license.--

6           (2) The department ~~commission~~ shall so prepare the  
7 form of the application as to elicit and require from the  
8 applicant the information necessary to enable the department  
9 ~~office~~ to determine whether the applicant possesses the  
10 qualifications prerequisite to issuance of the license to the  
11 applicant.

12           (3) The department ~~commission~~ may, in its discretion,  
13 require that the application be supplemented by the  
14 certificate or affidavit of such person or persons as it deems  
15 necessary for its determination of the applicant's residence,  
16 business reputation, and reputation for trustworthiness. The  
17 department ~~commission~~ shall prescribe and ~~the office~~ may  
18 furnish the forms for such certificates and affidavits.

19           Section 66. Section 626.871, Florida Statutes, is  
20 amended to read:

21           626.871 Reappointment after military service.--The  
22 department ~~office~~ may, without requiring a further written  
23 examination, issue an appointment as an adjuster to a formerly  
24 licensed and appointed adjuster of this state who held a  
25 current adjuster's appointment at the time of entering service  
26 in the Armed Forces of the United States, subject to the  
27 following conditions:

28           (1) The period of military service must not have been  
29 in excess of 3 years;

30           (2) The application for the appointment must be filed  
31 with the department ~~office~~ and the applicable fee paid, within

1 12 months following the date of honorable discharge of the  
2 applicant from the military service; and

3 (3) The new appointment will be of the same type and  
4 class as that currently effective at the time the applicant  
5 entered military service; but, if such type and class of  
6 appointment is not being currently issued under this code, the  
7 new appointment shall be of that type and class or classes  
8 most closely resembling those of the former appointment.

9 Section 67. Subsections (1) and (5) of section  
10 626.872, Florida Statutes, are amended to read:

11 626.872 Temporary license.--

12 (1) The department ~~office~~ may, in its discretion,  
13 issue a temporary license as an independent adjuster or as a  
14 company employee adjuster, subject to the following  
15 conditions:

16 (a) The applicant must be an employee of an adjuster  
17 currently licensed by the department ~~office~~, an employee of an  
18 authorized insurer, or an employee of an established adjusting  
19 firm or corporation which is supervised by a currently  
20 licensed independent adjuster.

21 (b) The application must be accompanied by a  
22 certificate of employment and a report as to the applicant's  
23 integrity and moral character on a form prescribed by the  
24 department ~~commission~~ and executed by the employer.

25 (c) The applicant must be a natural person of at least  
26 18 years of age, must be a bona fide resident of this state,  
27 must be trustworthy, and must have such business reputation as  
28 would reasonably assure that the applicant will conduct his or  
29 her business as an adjuster fairly and in good faith and  
30 without detriment to the public.

31

1 (d) The applicant's employer is responsible for the  
2 adjustment acts of any licensee under this section.

3 (e) The applicable license fee specified must be paid  
4 before issuance of the temporary license.

5 (f) The temporary license shall be effective for a  
6 period of 1 year, but subject to earlier termination at the  
7 request of the employer, or if the licensee fails to take an  
8 examination as an independent adjuster or company employee  
9 adjuster within 6 months after issuance of the temporary  
10 license, or if suspended or revoked by the department ~~office~~.

11 (5) The department ~~office~~ shall not issue a temporary  
12 license as an independent adjuster or as a company employee  
13 adjuster to any individual who has ever held such a license in  
14 this state.

15 Section 68. Subsection (1) of section 626.873, Florida  
16 Statutes, is amended to read:

17 626.873 Nonresident company employee adjusters.--

18 (1) The department ~~office~~ shall, upon application  
19 therefor, issue a license to an applicant for a nonresident  
20 adjuster's license upon determining that the applicant has  
21 paid the applicable license fees required under s. 624.501  
22 and:

23 (a) Is a currently licensed insurance adjuster in his  
24 or her home state, if such state requires a license.

25 (b) Is an employee of an insurer, or a wholly owned  
26 subsidiary of an insurer, admitted to do business in this  
27 state.

28 (c) Has filed a certificate or letter of authorization  
29 from the insurance department of his or her home state, if  
30 such state requires an adjuster to be licensed, stating that  
31 he or she holds a current license or authorization to adjust

1 insurance losses. Such certificate or authorization must be  
2 signed by the insurance commissioner, or his or her deputy, of  
3 the adjuster's home state and must reflect whether or not the  
4 adjuster has ever had his or her license or authorization in  
5 the adjuster's home state suspended or revoked and, if such is  
6 the case, the reason for such action.

7 Section 69. Section 626.8732, Florida Statutes, is  
8 amended to read:

9 626.8732 Nonresident public adjuster's qualifications,  
10 bond.--

11 (1) The department ~~office~~ shall, upon application  
12 therefor, issue a license to an applicant for a nonresident  
13 public adjuster's license upon determining that the applicant  
14 has paid the applicable license fees required under s. 624.501  
15 and:

16 (a) Is a natural person at least 18 years of age.

17 (b) Has passed to the satisfaction of the department  
18 ~~office~~ a written Florida public adjuster's examination of the  
19 scope prescribed in s. 626.241(6); however, the requirement  
20 for such an examination does not apply to any of the  
21 following:

22 1. An applicant who is licensed as a resident public  
23 adjuster in his or her state of residence, when that state  
24 requires the passing of a written examination in order to  
25 obtain the license and a reciprocal agreement with the  
26 appropriate official of that state has been entered into by  
27 the department ~~office~~; or

28 2. An applicant who is licensed as a nonresident  
29 public adjuster in a state other than his or her state of  
30 residence when the state of licensure requires the passing of  
31 a written examination in order to obtain the license and a

1 reciprocal agreement with the appropriate official of the  
2 state of licensure has been entered into by the department  
3 ~~office~~.

4 (c) Is self-employed as a public adjuster or  
5 associated with or employed by a public adjusting firm or  
6 other public adjuster. Applicants licensed as nonresident  
7 public adjusters under this section must be appointed as such  
8 in accordance with the provisions of ss. 626.112 and 626.451.  
9 Appointment fees in the amount specified in s. 624.501 must be  
10 paid to the department ~~office~~ in advance. The appointment of a  
11 nonresident public adjuster shall continue in force until  
12 suspended, revoked, or otherwise terminated, but subject to  
13 biennial renewal or continuation by the licensee in accordance  
14 with procedures prescribed in s. 626.381 for licensees in  
15 general.

16 (d) Is trustworthy and has such business reputation as  
17 would reasonably assure that he or she will conduct his or her  
18 business as a nonresident public adjuster fairly and in good  
19 faith and without detriment to the public.

20 (e) Has had sufficient experience, training, or  
21 instruction concerning the adjusting of damages or losses  
22 under insurance contracts, other than life and annuity  
23 contracts; is sufficiently informed as to the terms and  
24 effects of the provisions of those types of insurance  
25 contracts; and possesses adequate knowledge of the laws of  
26 this state relating to such contracts as to enable and qualify  
27 him or her to engage in the business of insurance adjuster  
28 fairly and without injury to the public or any member thereof  
29 with whom he or she may have business as a public adjuster.

30 (2) The applicant shall furnish the following with his  
31 or her application:

1           (a) A complete set of his or her fingerprints. The  
2 applicant's fingerprints must be certified by an authorized  
3 law enforcement officer. The department ~~office~~ may not  
4 authorize an applicant to take the required examination or  
5 issue a nonresident public adjuster's license to the applicant  
6 until the department ~~office~~ has received a report from the  
7 Florida Department of Law Enforcement and the Federal Bureau  
8 of Investigation relative to the existence or nonexistence of  
9 a criminal history report based on the applicant's  
10 fingerprints.

11           (b) If currently licensed as a resident public  
12 adjuster in the applicant's state of residence, a certificate  
13 or letter of authorization from the licensing authority of the  
14 applicant's state of residence, stating that the applicant  
15 holds a current or comparable license to act as a public  
16 adjuster. The certificate or letter of authorization must be  
17 signed by the insurance commissioner or his or her deputy or  
18 the appropriate licensing official and must disclose whether  
19 the adjuster has ever had any license or eligibility to hold  
20 any license declined, denied, suspended, revoked, or placed on  
21 probation or whether an administrative fine or penalty has  
22 been levied against the adjuster and, if so, the reason for  
23 the action.

24           (c) If the applicant's state of residence does not  
25 require licensure as a public adjuster and the applicant has  
26 been licensed as a resident insurance adjuster, agent, broker,  
27 or other insurance representative in his or her state of  
28 residence or any other state within the past 3 years, a  
29 certificate or letter of authorization from the licensing  
30 authority stating that the applicant holds or has held a  
31 license to act as such an insurance adjuster, agent, or other

1 insurance representative. The certificate or letter of  
2 authorization must be signed by the insurance commissioner or  
3 his or her deputy or the appropriate licensing official and  
4 must disclose whether or not the adjuster, agent, or other  
5 insurance representative has ever had any license or  
6 eligibility to hold any license declined, denied, suspended,  
7 revoked, or placed on probation or whether an administrative  
8 fine or penalty has been levied against the adjuster and, if  
9 so, the reason for the action.

10 (3) At the time of application for license as a  
11 nonresident public adjuster, the applicant shall file with the  
12 department ~~office~~ a bond executed and issued by a surety  
13 insurer authorized to transact surety business in this state,  
14 in the amount of \$50,000, conditioned for the faithful  
15 performance of his or her duties as a nonresident public  
16 adjuster under the license applied for. The bond must be in  
17 favor of the department ~~office~~ and must specifically authorize  
18 recovery by the department ~~office~~ of the damages sustained if  
19 the licensee commits fraud or unfair practices in connection  
20 with his or her business as nonresident public adjuster. The  
21 aggregate liability of the surety for all the damages may not  
22 exceed the amount of the bond. The bond may not be terminated  
23 unless at least 30 days' written notice is given to the  
24 licensee and filed with the department ~~office~~.

25 (4) The usual and customary records pertaining to  
26 transactions under the license of a nonresident public  
27 adjuster must be retained for at least 3 years after  
28 completion of the adjustment and must be made available in  
29 this state to the department ~~office~~ upon request. The failure  
30 of a nonresident public adjuster to properly maintain records  
31 and make them available to the department ~~office~~ upon request



1 constitutes grounds for the immediate suspension of the  
2 license issued under this section.

3 (5) After licensure as a nonresident public adjuster,  
4 as a condition of doing business in this state, the licensee  
5 must annually on or before January 1, on a form prescribed by  
6 the department ~~commission~~, submit an affidavit certifying that  
7 the licensee is familiar with and understands the insurance  
8 code and rules adopted thereunder and the provisions of the  
9 contracts negotiated or to be negotiated. Compliance with this  
10 filing requirement is a condition precedent to the issuance,  
11 continuation, reinstatement, or renewal of a nonresident  
12 public adjuster's appointment.

13 Section 70. Subsections (1), (3), and (4) of section  
14 626.8734, Florida Statutes, are amended to read:

15 626.8734 Nonresident independent adjuster's  
16 qualifications.--

17 (1) The department ~~office~~ shall, upon application  
18 therefor, issue a license to an applicant for a nonresident  
19 independent adjuster's license upon determining that the  
20 applicant has paid the applicable license fees required under  
21 s. 624.501 and:

22 (a) Is a natural person at least 18 years of age.

23 (b) Has passed to the satisfaction of the department  
24 ~~office~~ a written Florida independent adjuster's examination of  
25 the scope prescribed in s. 626.241(6); however, the  
26 requirement for the examination does not apply to any of the  
27 following:

28 1. An applicant who is licensed as a resident  
29 independent adjuster in his or her state of residence when  
30 that state requires the passing of a written examination in  
31 order to obtain the license and a reciprocal agreement with

1 the appropriate official of that state has been entered into  
2 by the department ~~office~~; or

3 2. An applicant who is licensed as a nonresident  
4 independent adjuster in a state other than his or her state of  
5 residence when the state of licensure requires the passing of  
6 a written examination in order to obtain the license and a  
7 reciprocal agreement with the appropriate official of the  
8 state of licensure has been entered into by the department  
9 ~~office~~.

10 (c) Is self-employed or associated with or employed by  
11 an independent adjusting firm or other independent adjuster.  
12 Applicants licensed as nonresident independent adjusters under  
13 this section must be appointed as such in accordance with the  
14 provisions of ss. 626.112 and 626.451. Appointment fees in the  
15 amount specified in s. 624.501 must be paid to the department  
16 ~~office~~ in advance. The appointment of a nonresident  
17 independent adjuster shall continue in force until suspended,  
18 revoked, or otherwise terminated, but subject to biennial  
19 renewal or continuation by the licensee in accordance with  
20 procedures prescribed in s. 626.381 for licensees in general.

21 (d) Is trustworthy and has such business reputation as  
22 would reasonably assure that he or she will conduct his or her  
23 business as a nonresident independent adjuster fairly and in  
24 good faith and without detriment to the public.

25 (e) Has had sufficient experience, training, or  
26 instruction concerning the adjusting of damages or losses  
27 under insurance contracts, other than life and annuity  
28 contracts; is sufficiently informed as to the terms and  
29 effects of the provisions of those types of insurance  
30 contracts; and possesses adequate knowledge of the laws of  
31 this state relating to such contracts as to enable and qualify

1 him or her to engage in the business of insurance adjuster  
2 fairly and without injury to the public or any member thereof  
3 with whom he or she may have business as an independent  
4 adjuster.

5 (3) The usual and customary records pertaining to  
6 transactions under the license of a nonresident independent  
7 adjuster must be retained for at least 3 years after  
8 completion of the adjustment and must be made available in  
9 this state to the department ~~office~~ upon request. The failure  
10 of a nonresident independent adjuster to properly maintain  
11 records and make them available to the department ~~office~~ upon  
12 request constitutes grounds for the immediate suspension of  
13 the license issued under this section.

14 (4) After licensure as a nonresident independent  
15 adjuster, as a condition of doing business in this state, the  
16 licensee must annually on or before January 1, on a form  
17 prescribed by the department ~~commission~~, submit an affidavit  
18 certifying that the licensee is familiar with and understands  
19 the insurance laws and administrative rules of this state and  
20 the provisions of the contracts negotiated or to be  
21 negotiated. Compliance with this filing requirement is a  
22 condition precedent to the issuance, continuation,  
23 reinstatement, or renewal of a nonresident independent  
24 adjuster's appointment.

25 Section 71. Subsection (4) of section 626.8736,  
26 Florida Statutes, is amended to read:

27 626.8736 Nonresident independent or public adjusters;  
28 service of process.--

29 (4) Upon receiving the service, the Chief Financial  
30 Officer shall forthwith send one of the copies of the process,  
31 by registered mail with return receipt requested, to the

1 defendant nonresident independent or public adjuster at his or  
2 her last address of record with the department ~~office~~.

3 Section 72. Section 626.8738, is amended to read:

4 626.8738 Penalty for violation.--In addition to any  
5 other remedy imposed pursuant to this code, any person who  
6 acts as a resident or nonresident public adjuster or holds  
7 himself or herself out to be a public adjuster to adjust  
8 claims in this state, without being licensed by the department  
9 ~~office~~ as a public adjuster and appointed as a public  
10 adjuster, commits a felony of the third degree, punishable as  
11 provided in s. 775.082, s. 775.083, or s. 775.084. Each act in  
12 violation of this section constitutes a separate offense.

13 Section 73. Section 626.874, Florida Statutes, is  
14 amended to read:

15 626.874 Catastrophe or emergency adjusters.--

16 (1) In the event of a catastrophe or emergency, the  
17 department ~~office~~ may issue a license, for the purposes and  
18 under the conditions which it shall fix and for the period of  
19 emergency as it shall determine, to persons who are residents  
20 or nonresidents of this state, who are at least 18 years of  
21 age, who are United States citizens or legal aliens who  
22 possess work authorization from the United States Immigration  
23 and Naturalization Service, and who are not licensed adjusters  
24 under this part but who have been designated and certified to  
25 it as qualified to act as adjusters by independent resident  
26 adjusters or by an authorized insurer or by a licensed general  
27 lines agent to adjust claims, losses, or damages under  
28 policies or contracts of insurance issued by such insurers.  
29 The fee for the license shall be as provided in s.  
30 624.501(12)(c).

31

1           (2) If any person not a licensed adjuster who has been  
2 permitted to adjust such losses, claims, or damages under the  
3 conditions and circumstances set forth in subsection (1),  
4 engages in any of the misconduct described in or contemplated  
5 by ss. 626.611 and 626.621, the department ~~office~~, without  
6 notice and hearing, shall be authorized to issue its order  
7 denying such person the privileges granted under this section;  
8 and thereafter it shall be unlawful for any such person to  
9 adjust any such losses, claims, or damages in this state.

10           Section 74. Section 626.878, Florida Statutes, is  
11 amended to read:

12           626.878 Rules; code of ethics.--An adjuster shall  
13 subscribe to the code of ethics specified in the rules of the  
14 department ~~commission~~. The rules shall implement the  
15 provisions of this part and specify the terms and conditions  
16 of contracts, including a right to cancel, and require  
17 practices necessary to ensure fair dealing, prohibit conflicts  
18 of interest, and ensure preservation of the rights of the  
19 claimant to participate in the adjustment of claims.

20           Section 75. Section 627.7012, Florida Statutes, is  
21 transferred, renumbered as section 626.879, Florida Statutes,  
22 and amended to read:

23           ~~626.879~~627.7012 Pools of insurance adjusters.--The  
24 department ~~commission~~ may, by rule, establish a pool of  
25 qualified insurance adjusters. The rules must provide that, if  
26 a hurricane occurs or an emergency is declared, the department  
27 ~~office~~ may assign members of the pool to the affected area and  
28 that an insurer may request that a member of the pool adjust  
29 claims in the assigned area. The rules may not require that an  
30 insurer use those adjusters assigned by the department ~~office~~.

31

1 Section 76. Subsection (3) of section 626.9543,  
2 Florida Statutes, is amended to read:

3 626.9543 Holocaust victims.--

4 (3) DEFINITIONS.--For the purpose of this section:

5 ~~(a) "Department" means the Department of Insurance.~~

6 (a)(b) "Holocaust victim" means any person who lost  
7 his or her life or property as a result of discriminatory  
8 laws, policies, or actions targeted against discrete groups of  
9 persons between 1920 and 1945, inclusive, in Nazi Germany,  
10 areas occupied by Nazi Germany, or countries allied with Nazi  
11 Germany.

12 (b)(e) "Insurance policy" means, but is not limited  
13 to, life insurance, property insurance, or education policies.

14 (c)(d) "Legal relationship" means any parent,  
15 subsidiary, or affiliated company with an insurer doing  
16 business in this state.

17 (d)(e) "Proceeds" means the face or other payout value  
18 of policies and annuities plus reasonable interest to date of  
19 payments without diminution for wartime or immediate postwar  
20 currency devaluation.

21 Section 77. Paragraphs (c), (e), and (f) of subsection  
22 (9) of section 626.989, Florida Statutes, are amended to read:

23 626.989 Investigation by department or Division of  
24 Insurance Fraud; compliance; immunity; confidential  
25 information; reports to division; division investigator's  
26 power of arrest.--

27 (9) In recognition of the complementary roles of  
28 investigating instances of workers' compensation fraud and  
29 enforcing compliance with the workers' compensation coverage  
30 requirements under chapter 440, the Department of Financial  
31 Services shall prepare and submit a joint performance report

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2004 Legislature

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1 to the President of the Senate and the Speaker of the House of  
2 Representatives by November 1, 2003, and then by January 1 of  
3 each year. The annual report must include, but need not be  
4 limited to:

5 (c) The number of investigations undertaken by the  
6 Bureau of Workers' Compensation Insurance Fraud ~~office~~ which  
7 were not the result of a referral from an insurer or the  
8 Division of Workers' Compensation.

9 (e) The number and reasons provided by local  
10 prosecutors or the statewide prosecutor for declining  
11 prosecution of a case presented by the Bureau of Workers'  
12 Compensation Insurance Fraud ~~office~~ by circuit.

13 (f) The total number of employees assigned to the  
14 Bureau of Workers' Compensation Insurance Fraud ~~office~~ and the  
15 Division of Workers' Compensation Bureau of Compliance ~~unit~~  
16 delineated by location of staff assigned; and the number and  
17 location of employees assigned to the Bureau of Workers'  
18 Compensation Insurance Fraud ~~office~~ who were assigned to work  
19 other types of fraud cases.

20 Section 78. Subsection (4) is added to section  
21 626.99245, Florida Statutes, to read:

22 626.99245 Conflict of regulation of viaticals.--

23 (4) The offer, sale, and purchase of viatical  
24 settlement contracts, and the regulation of viatical  
25 settlement providers shall be within the exclusive  
26 jurisdiction of the Office of Insurance Regulation under the  
27 provisions of part X of chapter 626.

28 Section 79. Subsection (2) of section 627.0628,  
29 Florida Statutes, is amended to read:

30 627.0628 Florida Commission on Hurricane Loss

31 Projection Methodology.--

1           (2) COMMISSION CREATED.--

2           (a) There is created the Florida Commission on

3 Hurricane Loss Projection Methodology, which is assigned to

4 the State Board of Administration. For the purposes of this

5 section, the term "commission" means the Florida Commission on

6 Hurricane Loss Projection Methodology. The commission shall be

7 administratively housed within the State Board of

8 Administration, but it shall independently exercise the powers

9 and duties specified in this section.

10          (b) The commission shall consist of the following 11

11 members:

12           1. The insurance consumer advocate.

13           2. The senior employee of the State Board of

14 Administration responsible for operations of the Florida

15 Hurricane Catastrophe Fund.

16           3. The Executive Director of the Citizens Property

17 Insurance Corporation.

18           4. The Director of the Division of Emergency

19 Management of the Department of Community Affairs.

20           5. The actuary member of the Florida Hurricane

21 Catastrophe Fund Advisory Council.

22           6. An employee of the office who is an actuary

23 responsible for property insurance rate filings and who is

24 appointed by the director of the office.

25           ~~7.6. Five Six~~ members appointed by the Chief Financial

26 Officer, as follows:

27           ~~a. An employee of the office who is an actuary~~

28 ~~responsible for property insurance rate filings.~~

29           ~~a.b.~~ An actuary who is employed full time by a

30 property and casualty insurer which was responsible for at

31 least 1 percent of the aggregate statewide direct written



1 premium for homeowner's insurance in the calendar year  
2 preceding the member's appointment to the commission.

3 ~~b.e.~~ An expert in insurance finance who is a full time  
4 member of the faculty of the State University System and who  
5 has a background in actuarial science.

6 ~~c.d.~~ An expert in statistics who is a full time member  
7 of the faculty of the State University System and who has a  
8 background in insurance.

9 ~~d.e.~~ An expert in computer system design who is a full  
10 time member of the faculty of the State University System.

11 ~~e.f.~~ An expert in meteorology who is a full time  
12 member of the faculty of the State University System and who  
13 specializes in hurricanes.

14 (c) Members designated under subparagraphs (b)1.-5.  
15 shall serve on the commission as long as they maintain the  
16 respective offices designated in subparagraphs (b)1.-5. The  
17 member appointed by the director of the office under  
18 subparagraph (b)6. shall serve on the commission until the end  
19 of the term of office of the director who appointed him or  
20 her, unless removed earlier by the director for cause. Members  
21 appointed by the Chief Financial Officer under subparagraph  
22 (b)7. subparagraph (b)6. shall serve on the commission until  
23 the end of the term of office of the Chief Financial Officer  
24 who appointed them, unless earlier removed by the Chief  
25 Financial Officer for cause. Vacancies on the commission  
26 shall be filled in the same manner as the original  
27 appointment.

28 (d) The State Board of Administration shall annually  
29 appoint one of the members of the commission to serve as  
30 chair.

31

1 (e) Members of the commission shall serve without  
2 compensation, but shall be reimbursed for per diem and travel  
3 expenses pursuant to s. 112.061.

4 (f) The State Board of Administration shall, as a cost  
5 of administration of the Florida Hurricane Catastrophe Fund,  
6 provide for travel, expenses, and staff support for the  
7 commission.

8 (g) There shall be no liability on the part of, and no  
9 cause of action of any nature shall arise against, any member  
10 of the commission, any member of the State Board of  
11 Administration, or any employee of the State Board of  
12 Administration for any action taken in the performance of  
13 their duties under this section. In addition, the commission  
14 may, in writing, waive any potential cause of action for  
15 negligence of a consultant, contractor, or contract employee  
16 engaged to assist the commission.

17 Section 80. Paragraph (b) of subsection (11) of  
18 section 627.6699, Florida Statutes, is amended to read:

19 627.6699 Employee Health Care Access Act.--

20 (11) SMALL EMPLOYER HEALTH REINSURANCE PROGRAM.--

21 (b)1. The program shall operate subject to the  
22 supervision and control of the board.

23 2. Effective upon this act becoming a law, the board  
24 shall consist of the director of the office ~~Chief Financial~~  
25 ~~Officer~~ or his or her designee, who shall serve as the  
26 chairperson, and 13 additional members who are representatives  
27 of carriers and insurance agents and are appointed by the  
28 director of the office ~~Chief Financial Officer~~ and serve as  
29 follows:

30 a. The director of the office ~~Chief Financial Officer~~  
31 shall include representatives of small employer carriers

1 subject to assessment under this subsection. If two or more  
2 carriers elect to be risk-assuming carriers, the membership  
3 must include at least two representatives of risk-assuming  
4 carriers; if one carrier is risk-assuming, one member must be  
5 a representative of such carrier. At least one member must be  
6 a carrier who is subject to the assessments, but is not a  
7 small employer carrier. Subject to such restrictions, at  
8 least five members shall be selected from individuals  
9 recommended by small employer carriers pursuant to procedures  
10 provided by rule of the commission. Three members shall be  
11 selected from a list of health insurance carriers that issue  
12 individual health insurance policies. At least two of the  
13 three members selected must be reinsuring carriers. Two  
14 members shall be selected from a list of insurance agents who  
15 are actively engaged in the sale of health insurance.

16 b. A member appointed under this subparagraph shall  
17 serve a term of 4 years and shall continue in office until the  
18 member's successor takes office, except that, in order to  
19 provide for staggered terms, the director of the office ~~Chief~~  
20 ~~Financial Officer~~ shall designate two of the initial  
21 appointees under this subparagraph to serve terms of 2 years  
22 and shall designate three of the initial appointees under this  
23 subparagraph to serve terms of 3 years.

24 3. The director of the office ~~Chief Financial Officer~~  
25 may remove a member for cause.

26 4. Vacancies on the board shall be filled in the same  
27 manner as the original appointment for the unexpired portion  
28 of the term.

29 5. The director of the office ~~Chief Financial Officer~~  
30 may require an entity that recommends persons for appointment  
31 to submit additional lists of recommended appointees.

1           Section 81. The transfer of the regulation of  
2 adjusters from the Office of Insurance Regulation to the  
3 Department of Financial Services by this act shall not affect  
4 the regulation of adjusters in any administrative or judicial  
5 action of the Office of Insurance Regulation arising out of or  
6 involving the Office of Insurance Regulation before or pending  
7 on the effective date of this act, and the Department of  
8 Financial Services shall be substituted as a party in interest  
9 on any such pending action.

10           Section 82. Any license, form, or action that was  
11 approved or authorized by the Financial Services Commission or  
12 the Office of Insurance Regulation which was otherwise  
13 lawfully in use before the effective date of this act may  
14 continue to be used or be effective as originally authorized  
15 or permitted, until the Department of Financial Services  
16 otherwise prescribes.

17           Section 83. Upon the effective date of this act, the  
18 rules or portions thereof of the Financial Services Commission  
19 which govern the regulation of insurance adjusters shall  
20 become rules or portions thereof of the Department of  
21 Financial Services as is appropriate to the corresponding  
22 regulatory or constitutional function and shall remain in  
23 effect until specifically amended or repealed in the manner  
24 provided by law.

25           Section 84. Subsection (10) is added to section  
26 494.0025, Florida Statutes, to read:

27           494.0025 Prohibited practices.--It is unlawful for any  
28 person:

29           (10) To use the name or logo of a financial  
30 institution, as defined in s. 655.005(1), or its affiliates or  
31 subsidiaries when marketing or soliciting existing or

1 prospective customers if such marketing materials are used  
2 without the written consent of the financial institution and  
3 in a manner that would lead a reasonable person to believe  
4 that the material or solicitation originated from, was  
5 endorsed by, or is related to or the responsibility of the  
6 financial institution or its affiliates or subsidiaries.

7 Section 85. Paragraph (o) is added to subsection (1)  
8 of section 516.07, Florida Statutes, to read:

9 516.07 Grounds for denial of license or for  
10 disciplinary action.--

11 (1) The following acts are violations of this chapter  
12 and constitute grounds for denial of an application for a  
13 license to make consumer finance loans and grounds for any of  
14 the disciplinary actions specified in subsection (2):

15 (o) Using the name or logo of a financial institution,  
16 as defined in s. 655.005(1), or its affiliates or subsidiaries  
17 when marketing or soliciting existing or prospective customers  
18 if such marketing materials are used without the written  
19 consent of the financial institution and in a manner that  
20 would lead a reasonable person to believe that the material or  
21 solicitation originated from, was endorsed by, or is related  
22 to or the responsibility of the financial institution or its  
23 affiliates or subsidiaries.

24 Section 86. Paragraph (j) is added to subsection (1)  
25 of section 520.995, Florida Statutes, to read:

26 520.995 Grounds for disciplinary action.--

27 (1) The following acts are violations of this chapter  
28 and constitute grounds for the disciplinary actions specified  
29 in subsection (2):

30 (j) Using the name or logo of a financial institution,  
31 as defined in s. 655.005(1), or its affiliates or subsidiaries

1 when marketing or soliciting existing or prospective customers  
2 if such marketing materials are used without the written  
3 consent of the financial institution and in a manner that  
4 would lead a reasonable person to believe that the material or  
5 solicitation originated from, was endorsed by, or is related  
6 to or the responsibility of the financial institution or its  
7 affiliates or subsidiaries.

8           Section 87. Paragraph (bb) is added to subsection (1)  
9 of section 626.9541, Florida Statutes, to read:

10           626.9541 Unfair methods of competition and unfair or  
11 deceptive acts or practices defined.--

12           (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR  
13 DECEPTIVE ACTS.--The following are defined as unfair methods  
14 of competition and unfair or deceptive acts or practices:

15           (bb) Deceptive use of name.--Using the name or logo of  
16 a financial institution, as defined in s. 655.005(1), or its  
17 affiliates or subsidiaries when marketing or soliciting  
18 existing or prospective customers if such marketing materials  
19 are used without the written consent of the financial  
20 institution and in a manner that would lead a reasonable  
21 person to believe that the material or solicitation originated  
22 from, was endorsed by, or is related to or the responsibility  
23 of the financial institution or its affiliates or  
24 subsidiaries.

25           Section 88. Paragraphs (h) and (p) of subsection (1)  
26 of section 655.005, Florida Statutes, are amended to read:

27           655.005 Definitions.--

28           (1) As used in the financial institutions codes,  
29 unless the context otherwise requires, the term:

30           (h) "Financial institution" means a state or federal  
31 association, bank, savings bank, trust company, international

1 bank agency, international branch, representative office or  
2 international administrative office, or credit union.

3 (p) "State financial institution" means a  
4 state-chartered or state-organized association, bank,  
5 investment company, trust company, international bank agency,  
6 international branch, international representative office,  
7 international administrative office, or credit union.

8 Section 89. Subsection (1) of section 655.0322,  
9 Florida Statutes, is amended to read:

10 655.0322 Prohibited acts and practices; criminal  
11 penalties.--

12 (1) As used in this section, the term "financial  
13 institution" means a financial institution as defined in s.  
14 655.50 which includes a state trust company, state or national  
15 bank, state or federal association, state or federal savings  
16 bank, state or federal credit union, Edge Act or agreement  
17 corporation, international bank agency, international branch,  
18 representative office or administrative office or other  
19 business entity as defined by the commission by rule, whether  
20 organized under the laws of this state, the laws of another  
21 state, or the laws of the United States, which institution is  
22 located in this state.

23 Section 90. Section 655.0385, Florida Statutes, is  
24 amended to read:

25 655.0385 Disapproval of directors and executive  
26 officers.--

27 (1) Each state financial institution shall notify the  
28 office of the proposed appointment of any individual to the  
29 board of directors or the appointment or employment of any  
30 individual as an executive officer or equivalent position at  
31

1 | least 60 days before such appointment or employment becomes  
2 | effective, if the state financial institution:

3 |       (a) Has been chartered for less than 2 years;

4 |       (b) Has undergone a change in control or conversion  
5 | within the preceding 2 years. The office may exempt a  
6 | financial institution from this paragraph if it operates in a  
7 | safe and sound manner;

8 |       (c) Is not in compliance with the minimum capital  
9 | requirements applicable to such financial institution; or

10 |       (d) Is otherwise operating in an unsafe and unsound  
11 | condition, as determined by the office, on the basis of such  
12 | financial institution's most recent report of condition or  
13 | report of examination.

14 |       (2) A state financial institution may not appoint any  
15 | individual to the board of directors, or employ any individual  
16 | as an executive officer or equivalent position, if the office  
17 | issues a notice of disapproval with respect to that person.

18 |       (3) The office shall issue a notice of disapproval if  
19 | the competence, experience, character, or integrity of the  
20 | individual to be appointed or employed indicates that it is  
21 | not in the best interests of the depositors, the members, or  
22 | the public to permit the individual to be employed by or  
23 | associated with the state financial institution.

24 |       (4) Beginning 1 year after opening, each notification  
25 | of a proposed appointment of an individual to the board of  
26 | directors must be accompanied by a nonrefundable fee of \$35.

27 |       ~~(5)(4)~~ The commission may adopt rules to implement  
28 | this section.

29 |       Section 91. Subsection (3) of section 655.045, Florida  
30 | Statutes, is amended to read:

31 |



1           655.045 Examinations, reports, and internal audits;  
2 penalty.--

3           (3)(a) The board of directors of each state financial  
4 institution or, in the case of a credit union, the supervisory  
5 committee or audit committee shall perform or cause to be  
6 performed, within each calendar year, an internal audit of  
7 each state financial institution, subsidiary, or service  
8 corporation and to file a copy of the report and findings of  
9 such audit with the office on a timely basis. Such internal  
10 audit must include such information as the commission by rule  
11 requires for that type of institution.

12           (b) With the approval of the office, the board of  
13 directors or, in the case of a credit union, the supervisory  
14 committee may elect, in lieu of such periodic audits, to adopt  
15 and implement an adequate continuous audit system and  
16 procedure which must include full, adequate, and continuous  
17 written reports to, and review by, the board of directors or,  
18 in the case of a credit union, the supervisory committee,  
19 together with written statements of the actions taken thereon  
20 and reasons for omissions to take actions, all of which shall  
21 be noted in the minutes and filed among the records of the  
22 board of directors or, in the case of a credit union, the  
23 supervisory committee. If at any time such continuous audit  
24 system and procedure, including the reports and statements,  
25 becomes inadequate, in the judgment of the office, the state  
26 financial institution shall promptly make such changes as may  
27 be required by the office to cause the same to accomplish the  
28 purpose of this section.

29           (c) Any de novo state financial institution open less  
30 than 4 months is exempt from the audit requirements of this  
31 section.

1           Section 92. Subsection (1) of section 655.059, Florida  
2 Statutes, is amended to read:  
3           655.059 Access to books and records; confidentiality;  
4 penalty for disclosure.--  
5           (1) The books and records of a financial institution  
6 are confidential and shall be made available for inspection  
7 and examination only:  
8           (a) To the office or its duly authorized  
9 representative;  
10           (b) To any person duly authorized to act for the  
11 financial institution;  
12           (c) To any federal or state instrumentality or agency  
13 authorized to inspect or examine the books and records of an  
14 insured financial institution;  
15           (d) With respect to an international banking  
16 corporation, to the home-country supervisor of the  
17 corporation, provided:  
18           1. The supervisor provides advance notice to the  
19 office that the supervisor intends to examine the Florida  
20 office of the corporation.  
21           2. The supervisor confirms to the office that the  
22 purpose of the examination is to ensure the safety and  
23 soundness of the corporation.  
24           3. The books and records pertaining to customer  
25 deposit, investment, and custodial accounts are not disclosed  
26 to the supervisor.  
27           4. At any time during the conduct of the examination,  
28 the office reserves the right to have an examiner present or  
29 to participate jointly in the examination.  
30  
31

1 For purposes of this paragraph, "home-country supervisor"  
2 means the governmental entity in the corporation's home  
3 country with responsibility for the supervision and regulation  
4 of the corporation;

5 (e) As compelled by a court of competent jurisdiction,  
6 pursuant to a subpoena issued pursuant to the Florida Rules of  
7 Civil or Criminal Procedure or the Federal Rules of Civil  
8 Procedure, or pursuant to a subpoena issued in accordance with  
9 state or federal law. Prior to the production of the books and  
10 records of a financial institution, the party seeking  
11 production must reimburse the financial institution for the  
12 reasonable costs and fees incurred in compliance with the  
13 production. If the parties disagree regarding the amount of  
14 reimbursement, the party seeking the records may request the  
15 court or agency having jurisdiction to set the amount of  
16 reimbursement;

17 (f) As compelled by legislative subpoena as provided  
18 by law, in which case the provisions of s. 655.057 apply;

19 (g) Pursuant to a subpoena, to any federal or state  
20 law enforcement or prosecutorial instrumentality authorized to  
21 investigate suspected criminal activity;

22 (h) As authorized by the board of directors of the  
23 financial institution; or

24 (i) As provided in subsection (2).

25 Section 93. Section 655.921, Florida Statutes, is  
26 amended to read:

27 655.921 Transaction of business by out-of-state  
28 financial institutions; exempt transactions in the financial  
29 institutions codes.--

30 (1) Nothing in the financial institutions codes shall  
31 be construed to prohibit a financial institution having its

1 principal place of business outside this state and not  
2 operating branches in this state from:

3 (a) Contracting in this state with any person to  
4 acquire from such person a part, or the entire, interest in a  
5 loan that such person proposes to make, has heretofore made,  
6 or hereafter makes, together with a like interest in any  
7 security instrument covering real or personal property in the  
8 state proposed to be given or hereafter or heretofore given to  
9 such person to secure or evidence such loan.

10 (b) Entering into mortgage servicing contracts with  
11 persons authorized to transact business in this state and  
12 enforcing in this state the obligations heretofore or  
13 hereafter acquired by it in the transaction of business  
14 outside this state or in the transaction of any business  
15 authorized by this section.

16 (c) Acquiring, holding, leasing, mortgaging,  
17 contracting with respect to, or otherwise protecting,  
18 managing, or conveying property in this state which has  
19 heretofore or may hereafter be assigned, transferred,  
20 mortgaged, or conveyed to it as security for, or in whole or  
21 in part in satisfaction of, a loan or loans made by it or  
22 obligations acquired by it in the transaction of any business  
23 authorized by this section.

24 (d) Making loans or committing to make loans to any  
25 person located in this state and soliciting compensating  
26 deposit balances in connection therewith.

27 (2) No such financial institution shall be deemed to  
28 be transacting business in this state, or be required to  
29 qualify so to do, solely by reason of the performance of any  
30 of the acts or business authorized in this section. ~~This~~

31

1 ~~section does not authorize or permit any such financial~~  
2 ~~institution to maintain an office within the state.~~

3 Section 94. Section 655.922, Florida Statutes, is  
4 amended to read:

5 655.922 Banking business by unauthorized persons; use  
6 of name.--

7 (1) No person other than a financial institution  
8 authorized to do business in this state pursuant to the  
9 financial institutions codes of any state or federal law  
10 shall, in this state, engage in the business of soliciting or  
11 receiving funds for deposit or of issuing certificates of  
12 deposit or of paying checks; and no person shall establish or  
13 maintain a place of business in this state for any of the  
14 functions, transactions, or purposes mentioned in this  
15 subsection. Any person who violates the provisions of this  
16 subsection is guilty of a felony of the third degree,  
17 punishable as provided in s. 775.082, s. 775.083, or s.  
18 775.084. This subsection does not prohibit the issuance or  
19 sale by a financial institution of traveler's checks, money  
20 orders, or other instruments for the transmission or payment  
21 of money, by or through employees or agents of the financial  
22 institution off the financial institution's premises.

23 (2) No person other than a financial institution  
24 shall, in this state:

25 (a) Transact business under any name or title that  
26 contains the words "bank," "banco," "banque," "banker,"  
27 "banking," "trust company," "savings and loan association,"  
28 "savings bank," or "credit union," or words of similar import,  
29 in any context or in any manner;

30 (b) Use any name, word, sign, symbol, or device in any  
31 context or in any manner; or

1 (c) Circulate or use any letterhead, billhead,  
2 circular, paper, or writing of any kind or otherwise advertise  
3 or represent in any manner,  
4

5 which indicates or reasonably implies that the business being  
6 conducted or advertised is the kind or character of business  
7 transacted or conducted by a financial institution or which is  
8 likely to lead any person to believe that such business is  
9 that of a financial institution; however, the words "bank,"  
10 "banker," "banking," "trust company," "savings and loan  
11 association," "savings bank," or "credit union," or the plural  
12 of any thereof, may be used by, and in the corporate or other  
13 name or title of, any company which is or becomes a financial  
14 institution holding company pursuant to federal law; any  
15 subsidiary of any such financial institution holding company  
16 which includes as a part of its name or title all or any part,  
17 or abbreviations, of the name or title of the financial  
18 institution holding company of which it is a subsidiary; any  
19 trade organization or association, whether or not  
20 incorporated, functioning for the purpose of promoting the  
21 interests of financial institutions or financial institution  
22 holding companies, the active members of which are financial  
23 institutions or financial institution holding companies; and  
24 any international development bank chartered pursuant to part  
25 II of chapter 663.

26 (3) No person may use the name or logo of any  
27 financial institution or an affiliate or subsidiary thereof,  
28 or use a name similar to that of a financial institution or an  
29 affiliate or subsidiary thereof, to market or solicit business  
30 from a customer or prospective customer of such institution  
31 if:

1           (a) The solicitation is done without the written  
2 consent of the financial institution or its affiliate or  
3 subsidiary; and

4           (b) A reasonable person would believe that the  
5 materials originated from, are endorsed by, or are connected  
6 with the financial institution or its affiliates or  
7 subsidiaries.

8           ~~(4)(3)~~ Any court, in a proceeding brought by the  
9 office, by any financial institution the principal place of  
10 business of which is in this state, or by any other person  
11 residing, or whose principal place of business is located, in  
12 this state and whose interests are substantially affected  
13 thereby, may enjoin any person from violating any of the  
14 provisions of this section. For the purposes of this  
15 subsection, the interests of a trade organization or  
16 association are deemed to be substantially affected if the  
17 interests of any of its members are so affected. In addition,  
18 the office may issue and serve upon any person who violates  
19 any of the provisions of this section a complaint seeking a  
20 cease and desist order in accordance with the procedures and  
21 in the manner prescribed by s. 655.033.

22           ~~(5)(4)~~ Nothing in this section shall be construed to  
23 prohibit the lawful establishment or the lawful operations of  
24 a financial institution and nothing in this code shall be  
25 construed to prohibit any advertisement or other activity in  
26 this state by any person if such prohibition would contravene  
27 any applicable federal law which preempts the law of this  
28 state.

29           (6) The commission shall adopt rules to administer  
30 this section.

31

1           Section 95. Subsection (1) of section 655.94, Florida  
2 Statutes, is amended to read:

3           655.94 Special remedies for nonpayment of rent.--

4           (1) If the rental due on a safe-deposit box has not  
5 been paid for 3 months, the lessor may send a notice by  
6 certified ~~registered~~ mail to the last known address of the  
7 lessee stating that the safe-deposit box will be opened and  
8 its contents stored at the expense of the lessee unless  
9 payment of the rental is made within 30 days. If the rental  
10 is not paid within 30 days from the mailing of the notice, the  
11 box may be opened in the presence of an officer of the lessor  
12 and of a notary public ~~who is not a director, officer,~~  
13 ~~employee, or stockholder of the lessor.~~ The contents shall be  
14 sealed in a package by a notary public who shall write on the  
15 outside the name of the lessee and the date of the opening.  
16 The notary public shall execute a certificate reciting the  
17 name of the lessee, the date of the opening of the box, and a  
18 list of its contents. The certificate shall be included in  
19 the package, and a copy of the certificate shall be sent by  
20 certified ~~registered~~ mail to the last known address of the  
21 lessee. The package shall then be placed in the general  
22 vaults of the lessor at a rental not exceeding the rental  
23 previously charged for the box. The lessor has a lien on the  
24 package and its contents to the extent of any rental due and  
25 owing plus the actual, reasonable costs of removing the  
26 contents from the safe-deposit box.

27           Section 96. Section 658.16, Florida Statutes, is  
28 amended to read:

29           658.16 Creation of banking or trust corporation.--

30           (1) When authorized by the office, as provided herein,  
31 a corporation may be formed under the laws of this state for



1 the purpose of becoming a state bank or a state trust company  
2 and conducting a general banking or trust business.

3 (2) A bank or trust company that is chartered as a  
4 limited liability company under the law of any state is deemed  
5 to be incorporated under the financial institutions codes if:

6 (a) The institution is not subject to automatic  
7 termination, dissolution, or suspension upon the occurrence of  
8 an event including the death, disability, bankruptcy,  
9 expulsion, or withdrawal of an owner of the institution, other  
10 than the passage of time;

11 (b) The exclusive authority to manage the institution  
12 is vested in a board of managers or directors that is elected  
13 or appointed by the owners which operates in substantially the  
14 same manner as, and has substantially the same rights, powers,  
15 privileges, duties, and responsibilities, as a board of  
16 directors of a bank or trust company chartered as a  
17 corporation; and

18 (c) Neither the laws of the state of the institution's  
19 organization nor the institution's operating agreement,  
20 bylaws, or other organizational documents:

21 1. Provide that an owner of the institution is liable  
22 for the debts, liabilities, or obligations of the institution  
23 in excess of the amount of the owner's investment; or

24 2. Require the consent of any other owner of the  
25 institution in order for an owner to transfer an ownership  
26 interest in the institution, including voting rights.

27 (3) As used in the financial institutions codes, the  
28 term:

29 (a) "Stockholder" or "shareholder" includes an owner  
30 of any interest in a bank or trust company chartered as a  
31 limited liability company, including a member or participant;

1           (b) "Director" includes a manager or director of a  
2 bank or trust company chartered as a limited liability  
3 company, or other person who has, with respect to such a bank  
4 or trust company, authority substantially similar to that of a  
5 director of a corporation;

6           (c) "Officer" includes an officer of a bank or trust  
7 company chartered as a limited liability company, or other  
8 person who has, with respect to such a bank or trust company,  
9 authority substantially similar to that of an officer of a  
10 corporation;

11           (d) "Stock," "voting stock," "voting shares," and  
12 "voting securities" includes similar ownership interests in a  
13 bank or trust company chartered as a limited liability  
14 company, including certificates or other evidence of ownership  
15 interests;

16           (e) "Articles of incorporation" or "bylaws" of a bank  
17 or trust company chartered as a limited liability company  
18 means the institution's articles of organization and operating  
19 agreement or other organizational documentation that is  
20 substantially similar to that of a corporation;

21           (f) "Par value" of any ownership interest in a bank or  
22 trust company chartered as a limited liability company means  
23 the amount of capital which must be invested for each unit of  
24 ownership; and

25           (g) "Dividend" includes distributions of earnings to  
26 the owners of a bank or trust company chartered as a limited  
27 liability company.

28           Section 97. Subsection (5) of section 658.23, Florida  
29 Statutes, is amended to read:

30  
31

1           658.23 Submission of articles of incorporation;  
2 contents; form; approval; filing; commencement of corporate  
3 existence; bylaws.--

4           (5) Unless the articles of incorporation provide  
5 otherwise, the board of directors shall have authority to  
6 adopt or amend bylaws that do not conflict with bylaws that  
7 may have been adopted by the stockholders. The bylaws shall  
8 be for the governance ~~government~~ of the bank or trust company,  
9 subordinate only to the articles of incorporation and the laws  
10 of the United States and of this state. ~~A current copy of the~~  
11 ~~bylaws shall be filed with the office at all times.~~

12           Section 98. Section 658.26, Florida Statutes, is  
13 amended to read:

14           658.26 Places of transacting business; branches;  
15 facilities.--

16           (1) Any bank or trust company heretofore or hereafter  
17 incorporated pursuant to this chapter shall have one main  
18 office, which shall be located within the state.

19           (2)(a) In addition, with the approval of the office  
20 and upon such conditions as the commission or office  
21 prescribes, any state bank or trust company may establish  
22 branches or relocate offices within or outside the state. With  
23 the approval of the office upon a determination that the  
24 resulting bank or trust company will be of sound financial  
25 condition, any bank or trust company incorporated pursuant to  
26 this chapter may establish branches by merger with any other  
27 bank or trust company.

28           (b) As provided by commission rules, a financial  
29 institution operating in a safe and sound manner may establish  
30 or relocate an office by filing a written notice with the  
31 office at least 30 days before opening or relocating that

1 office, without filing an application or paying an application  
2 fee. The notification must specify the name and location of  
3 the office and effective date of the change. The relocation of  
4 a main office to a location outside this state must be by  
5 application only.

6 (c) Applications filed pursuant to this subsection  
7 need not be published in the Florida Administrative Weekly,  
8 but shall otherwise be subject to chapter 120.

9 (d)(b) An application to establish ~~for~~ a branch by a  
10 bank that is ineligible ~~does not meet the requirements for the~~  
11 branch notification ~~process~~ shall be in writing in such form  
12 as the commission prescribes and be supported by such  
13 information, data, and records as the commission or office may  
14 require to make findings necessary for approval. ~~Applications~~  
15 ~~filed pursuant to this subsection shall not be published in~~  
16 ~~the Florida Administrative Weekly but shall otherwise be~~  
17 ~~subject to the provisions of chapter 120.~~ Upon the filing of  
18 an application and a nonrefundable filing fee for the  
19 establishment of any branch permitted by paragraph (a), the  
20 office shall ~~make an investigation with respect to compliance~~  
21 ~~with the requirements of paragraph (a) and shall investigate~~  
22 ~~and consider all factors relevant to such requirements,~~  
23 ~~including~~ the following:

24 1. The sufficiency of capital accounts in relation to  
25 the deposit liabilities of the bank, or in relation to the  
26 number and valuation of fiduciary accounts of the trust  
27 company, including the proposed branch, and the additional  
28 fixed assets, if any, which are proposed for the branch and  
29 its operations, without undue risk to the bank or its  
30 depositors, or undue risk to the trust company or its  
31 fiduciary accounts;

1           2. The sufficiency of earnings and earning prospects  
2 of the bank or trust company to support the anticipated  
3 expenses and any anticipated operating losses of the branch  
4 during its formative or initial years;

5           3. The sufficiency and quality of management available  
6 to operate the branch;

7           4. The name of the proposed branch to determine if it  
8 reasonably identifies the branch as a branch of the main  
9 office and is not likely to unduly confuse the public; and

10           5. Substantial compliance by the applicants with  
11 applicable law governing their operations.

12           ~~(e)(e)~~ A state bank that is not eligible for  
13 notification of a branch relocation must file an application  
14 in the form required by the commission. Upon the filing of a  
15 relocation application and a nonrefundable filing fee, the  
16 office shall investigate to determine whether the financial  
17 institution has substantially complied with applicable law  
18 governing its operations. Additional investments in land,  
19 buildings, leases, and leasehold improvements resulting from  
20 such relocation must comply with the limitations imposed by s.  
21 658.67(7)(a). A main office may not be moved outside this  
22 state unless the move is expressly authorized by the financial  
23 institutions codes or by federal law. A financial institution  
24 that has been in operation for less than 24 months must  
25 provide evidence that the criteria of s. 658.21(1) will be  
26 met. As provided by commission rule, a financial institution  
27 operating in a safe and sound manner may establish a branch by  
28 filing a written notice with the office at least 30 days  
29 before opening that branch. In such case, the financial  
30 institution need not file a branch application or pay a branch  
31 application fee.

1           ~~(3)(a) An office in this state may be relocated with~~  
2 ~~prior written approval of the office. An application for~~  
3 ~~relocation shall be in writing in such form as the commission~~  
4 ~~prescribes and shall be supported by such information, data,~~  
5 ~~and records as the commission or office may require to make~~  
6 ~~findings necessary for approval.~~

7           ~~(b) Applications filed pursuant to this subsection~~  
8 ~~shall not be published in the Florida Administrative Weekly~~  
9 ~~but shall otherwise be subject to the provisions of chapter~~  
10 ~~120. Upon the filing of a relocation application and a~~  
11 ~~nonrefundable filing fee, the office shall investigate to~~  
12 ~~determine substantial compliance by the financial institution~~  
13 ~~with applicable law governing its operations. Additional~~  
14 ~~investments in land, buildings, leases, and leasehold~~  
15 ~~improvements resulting from such relocation shall comply with~~  
16 ~~the limitations imposed by s. 658.67(7)(a). A main office may~~  
17 ~~not be moved outside this state unless expressly authorized by~~  
18 ~~the financial institutions codes or by federal law.~~

19           ~~(c) A relocation application filed by a state bank or~~  
20 ~~trust company that is operating in a safe and sound manner~~  
21 ~~which is not denied within 10 working days after receipt shall~~  
22 ~~be deemed approved unless the office notifies the financial~~  
23 ~~institution in writing that the application was not complete.~~

24           ~~(d) In addition to the application required by~~  
25 ~~paragraph (a), a financial institution whose main office in~~  
26 ~~this state has been in operation less than 24 months must~~  
27 ~~provide evidence that the criteria of s. 658.21(1) will be~~  
28 ~~met.~~

29           (f)(e) A branch office may be closed with 30 days'  
30 prior written notice to the office. The notice shall include  
31 any information the commission prescribes by rule.

1           ~~(3)~~(4) With prior written notification to the office,  
2 any bank may operate facilities which are not physically  
3 connected to the main or branch office of the bank, provided  
4 that the facilities are situated on the property of the main  
5 or branch office or property contiguous thereto. Property  
6 which is separated from the main or branch office of a bank by  
7 only a street, and one or more walkways and alleyways are  
8 determined to be, for purposes of this subsection, contiguous  
9 to the property of the main or branch office.

10           ~~(4)~~(5) A bank may provide, directly or through a  
11 contract with another company, off-premises armored car  
12 service to its customers. Armored car services shall not be  
13 considered a branch for the purposes of subsection (2).

14           ~~(5)~~(6)(a) Any state bank that is a subsidiary of a  
15 bank holding company may agree to receive deposits, renew time  
16 deposits, close loans, service loans, and receive payments on  
17 loans and other obligations, as an agent for an affiliated  
18 depository institution.

19           (b) The term "close loan" does not include the making  
20 of a decision to extend credit or the extension of credit.

21           (c) As used in this section, "receive deposits" means  
22 the taking of deposits to be credited to an existing account  
23 and does not include the opening or origination of new deposit  
24 accounts at an affiliated institution by the agent  
25 institution.

26           (d) Under this section, affiliated banks may act as  
27 agents for one another regardless of whether the institutions  
28 are located in the same or different states. This section  
29 applies solely to affiliated depository institutions acting as  
30 agents, and has no application to agency relationships  
31

1 concerning nondepositories as agent, whether or not affiliated  
2 with the depository institution.

3 (e) In addition, under this section, agent banks may  
4 perform ministerial functions for the principal bank making a  
5 loan. Ministerial functions include, but are not limited to,  
6 such activities as providing loan applications, assembling  
7 documents, providing a location for returning documents  
8 necessary for making the loan, providing loan account  
9 information, and receiving payments. It does not include such  
10 loan functions as evaluating applications or disbursing loan  
11 funds.

12 Section 99. Subsection (5) of section 658.33, Florida  
13 Statutes, is amended to read:

14 658.33 Directors, number, qualifications; officers.--

15 (5) The president, ~~or~~ chief executive officer, or any  
16 other person, regardless of title, who has equivalent rank or  
17 leads the overall operations of a bank or trust company must  
18 have had at least 1 year of direct experience as an executive  
19 officer, director, or regulator of a financial institution  
20 within the last 3 years. This requirement may be waived by the  
21 office after considering the overall experience and expertise  
22 of the proposed officer and the condition of the bank or trust  
23 company, as reflected in the most recent regulatory  
24 examination report and other available data.

25 Section 100. Section 658.37, Florida Statutes, is  
26 amended to read:

27 658.37 Dividends and surplus.--

28 (1) The directors of any bank or trust company, after  
29 charging off bad debts, depreciation, and other worthless  
30 assets if any, and making provision for reasonably anticipated  
31 future losses on loans and other assets, may quarterly,



1 semiannually, or annually declare a dividend of so much of the  
2 aggregate of the net profits of that period combined with its  
3 retained net profits of the preceding 2 years as they shall  
4 judge expedient, and, with the approval of the office, any  
5 bank or trust company may declare a dividend from retained net  
6 profits which accrued prior to the preceding 2 years, but each  
7 bank or trust company shall, before the declaration of a  
8 dividend on its common stock, carry 20 percent of its net  
9 profits for such preceding period as is covered by the  
10 dividend to its surplus fund, until the same shall at least  
11 equal the amount of its common and preferred stock then issued  
12 and outstanding. No bank or trust company shall declare any  
13 dividend at any time at which its net income from the current  
14 year combined with the retained net income from the preceding  
15 2 years is a loss or which would cause the capital accounts of  
16 the bank or trust company to fall below the minimum amount  
17 required by law, regulation, order, or any written agreement  
18 with the office or a state or federal regulatory agency. A  
19 bank or trust company may, however, split up or divide the  
20 issued shares of capital stock into a greater number of shares  
21 without increasing or decreasing the capital accounts of the  
22 bank or trust company, and such shall not be construed to be a  
23 dividend within the meaning of this section.

24 (2) A bank that has been determined to be imminently  
25 insolvent may not pay a dividend.

26 Section 101. Present subsection (10) of section  
27 658.48, Florida Statutes, is redesignated as subsection (11),  
28 and a new subsection (10) is added to that section, to read:

29 658.48 Loans.--A state bank may make loans and  
30 extensions of credit, with or without security, subject to the  
31 following limitations and provisions:

1           (10) IMMINENTLY INSOLVENT BANK.--When the office has  
2 determined that a state bank is imminently insolvent, the bank  
3 may not make any new loans or discounts other than by  
4 discounting or purchasing bills of exchange payable at sight.

5           Section 102. Paragraph (a) of subsection (9) of  
6 section 658.67, Florida Statutes, is amended to read:

7           658.67 Investment powers and limitations.--A bank may  
8 invest its funds, and a trust company may invest its corporate  
9 funds, subject to the following definitions, restrictions, and  
10 limitations:

11           (9) ACQUISITIONS OF PROPERTY AS SECURITY.--A bank or  
12 trust company may acquire property of any kind to secure,  
13 protect, or satisfy a loan or investment previously made in  
14 good faith, and such property shall be entered on the books of  
15 the bank or trust company and held and disposed of subject to  
16 the following conditions and limitations:

17           (a) The book entry shall be the lesser of the balance  
18 of the loan or investment plus acquisition costs and accrued  
19 interest or the appraisal value or market value of the  
20 property acquired which shall be determined and dated within 1  
21 year prior to or 90 days after the date of acquisition and in  
22 compliance with s. 655.60.

23           Section 103. Subsection (4) of section 658.73, Florida  
24 Statutes, is amended to read:

25           658.73 Fees and assessments.--

26           (4) Any individual or entity other than a financial  
27 institution chartered in this state must ~~Each state bank and~~  
28 ~~state trust company shall~~ pay to the office \$25 for each  
29 "certificate of good standing" certifying that a  
30 state-chartered financial institution is licensed to conduct  
31 business in this state under the financial institutions codes.

1 All such requests shall be in writing. The office shall waive  
2 this fee when the request is by a state or federal regulatory  
3 agency or law enforcement agency.

4 Section 104. Subsections (4) and (7) of section  
5 663.16, Florida Statutes, are amended to read:

6 663.16 Definitions; ss. 663.17-663.181.--As used in  
7 ss. 663.17-663.181, the term:

8 (4) Except where the context otherwise requires,  
9 "international banking corporation" or "corporation" means any  
10 international bank agency or branch operating in this state.

11 (7) "Control" means any person or group of persons  
12 acting in concert, directly or indirectly, owning,  
13 controlling, or holding the power to vote 25 ~~more than 50~~  
14 percent or more of the voting stock of a company, or having  
15 the ability in any manner to elect a majority of directors of  
16 a corporation, or otherwise exercising a controlling influence  
17 over the management and policies of a corporation as  
18 determined by the office.

19 Section 105. Subsection (1) of section 663.304,  
20 Florida Statutes, is amended to read:

21 663.304 Application for authority to organize an  
22 international development bank.--

23 (1) A written application for authority to organize an  
24 international development bank shall be filed with the office  
25 by the proposed incorporator and shall include:

26 (a) The name, residence, and occupation of each  
27 incorporator and proposed director.

28 ~~(b) The proposed corporate name and evidence of~~  
29 ~~reservation of the proposed corporate name with the Department~~  
30 ~~of State.~~

31

1        ~~(b)(e)~~ The total initial capital and the number of  
2 shares of capital stock to be authorized.

3        ~~(c)(d)~~ The location, by street and post-office address  
4 and county, of the principal office of the proposed  
5 international development bank.

6        ~~(d)(e)~~ If known, the name and residence of the  
7 proposed president and the proposed chief executive officer,  
8 if other than the proposed president.

9        ~~(e)(f)~~ Such detailed financial, business, and  
10 biographical information as the commission or office may  
11 reasonably require for each proposed director and for the  
12 proposed president and the proposed chief executive officer,  
13 if other than the president.

14        Section 106. Paragraph (a) of subsection (4) of  
15 section 665.034, Florida Statutes, is amended to read:

16        665.034 Acquisition of assets of or control over an  
17 association.--

18        (4) For purposes of this section, a person or group of  
19 persons shall be deemed to have control of an association if  
20 such person or group of persons:

21        (a) Directly or indirectly, or acting in concert with  
22 one or more persons or through one or more subsidiaries, owns,  
23 controls, holds with powers to vote, or holds proxies  
24 representing ~~more than~~ 25 percent or more of the voting common  
25 stock of such association.

26        Section 107. Subsections (2) and (6) of section  
27 674.406, Florida Statutes, are amended to read:

28        674.406 Customer's duty to discover and report  
29 unauthorized signature or alteration.--

30        (2) If the items are not returned to the customer, the  
31 person retaining the items shall either retain the items or,

1 | if the items are destroyed, maintain the capacity to furnish  
2 | legible copies of the items until the expiration of 5 7 years  
3 | after receipt of the items. A customer may request an item  
4 | from the bank that paid the item, and that bank must provide  
5 | in a reasonable time either the item or, if the item has been  
6 | destroyed or is not otherwise obtainable, a legible copy of  
7 | the item.

8 |         (6) Without regard to care or lack of care of either  
9 | the customer or the bank, a customer who does not within 180  
10 | days ~~1 year~~ after the statement or items are made available to  
11 | the customer (subsection (1)) discover and report the  
12 | customer's unauthorized signature on or any alteration on the  
13 | item or who does not, within 1 year after that time, discover,  
14 | and report any unauthorized endorsement is precluded from  
15 | asserting against the bank the unauthorized signature or  
16 | alteration. If there is a preclusion under this subsection,  
17 | the payor bank may not recover for breach of warranty under s.  
18 | 674.2081 with respect to the unauthorized signature or  
19 | alteration to which the preclusion applies.

20 |         Section 108. Section 658.68, Florida Statutes, is  
21 | repealed.

22 |         Section 109. Subsection (4) is added to section  
23 | 627.4133, Florida Statutes, to read:

24 |         627.4133 Notice of cancellation, nonrenewal, or  
25 | renewal premium.--

26 |         (4) Notwithstanding the provisions of s. 440.42(3), if  
27 | cancellation of a policy providing coverage for workers'  
28 | compensation and employer's liability insurance is requested  
29 | by the insured, such cancellation shall be effective on the  
30 | date the carrier sends the notice of cancellation to the  
31 | insured.

1           Section 110. Subsection (15) of section 717.101,  
2 Florida Statutes, is renumbered as subsection (16) and  
3 amended, subsections (5) through (18) are renumbered as  
4 subsections (6) through (19), respectively, present subsection  
5 (19) is renumbered as subsection (21), and new subsections (5)  
6 and (20) are added to that section, to read:

7           717.101 Definitions.--As used in this chapter, unless  
8 the context otherwise requires:

9           (5) "Claimant" means the person on whose behalf a  
10 claim is filed.

11           ~~(16)~~~~(15)~~ "Owner" means a depositor in the case of a  
12 deposit, a beneficiary in case of a trust or ~~other than~~ a  
13 deposit in trust, ~~a claimant~~, or a payee in the case of other  
14 intangible property, or a person having a legal or equitable  
15 interest in property subject to this chapter or his or her  
16 legal representative.

17           (20) "Ultimate equitable owner" means a natural person  
18 who, directly or indirectly, owns or controls an ownership  
19 interest in a corporation, a foreign corporation, an alien  
20 business organization, or any other form of business  
21 organization, regardless of whether such natural person owns  
22 or controls such ownership interest through one or more  
23 natural persons or one or more proxies, powers of attorney,  
24 nominees, corporations, associations, partnerships, trusts,  
25 joint stock companies, or other entities or devices, or any  
26 combination thereof.

27           Section 111. Subsection (1) of section 717.106,  
28 Florida Statutes, are amended to read:

29           717.106 Bank deposits and funds in financial  
30 organizations.--  
31

1           (1) Any demand, savings, or matured time deposit with  
2 a banking or financial organization, including deposits that  
3 are automatically renewable, and any funds paid toward the  
4 purchase of shares, a mutual investment certificate, or any  
5 other interest in a banking or financial organization is  
6 presumed unclaimed unless the owner has, within 5 years:

7           (a) Increased or decreased the amount of the deposit  
8 or presented the passbook or other similar evidence of the  
9 deposit for the crediting of interest;

10           (b) Communicated in writing or by telephone with the  
11 banking or financial organization concerning the property;

12           (c) Otherwise indicated an interest in the property as  
13 evidenced by a memorandum or other record on file with the  
14 banking or financial organization;

15           (d) Owned other property to which paragraph (a),  
16 paragraph (b), or paragraph (c) is applicable and if the  
17 banking or financial organization communicates in writing with  
18 the owner with regard to the property that would otherwise be  
19 presumed unclaimed under this subsection at the address to  
20 which communications regarding the other property regularly  
21 are sent; or

22           (e) Had another relationship with the banking or  
23 financial organization concerning which the owner has:

24           1. Communicated in writing with the banking or  
25 financial organization; or

26           2. Otherwise indicated an interest as evidenced by a  
27 memorandum or other record on file with the banking or  
28 financial organization and if the banking or financial  
29 organization communicates in writing with the owner with  
30 regard to the property that would otherwise be unclaimed under  
31

1 this subsection at the address to which communications  
2 regarding the other relationship regularly are sent; ~~or~~  
3 ~~(f) Received first class mail from the banking or~~  
4 ~~financial organization or a subsidiary of such banking or~~  
5 ~~financial organization, which was not returned as~~  
6 ~~undeliverable, in the ordinary course of business at the~~  
7 ~~address reflected in the banking or financial organization's~~  
8 ~~records.~~

9 Section 112. Subsection (1) of section 717.107,  
10 Florida Statutes, is amended to read:

11 717.107 Funds owing under life insurance policies.--

12 (1) Funds held or owing under any life or endowment  
13 insurance policy or annuity contract which has matured or  
14 terminated are presumed unclaimed if unclaimed for more than 5  
15 years after the funds became due and payable as established  
16 from the records of the insurance company holding or owing the  
17 funds, but property described in paragraph (3)(b) is presumed  
18 unclaimed if such property is not claimed for more than 2  
19 years. The amount presumed unclaimed shall include any amount  
20 due and payable under s. 627.4615.

21 Section 113. Section 717.109, Florida Statutes, is  
22 amended to read:

23 717.109 Refunds held by business associations.--Except  
24 as to the extent otherwise provided ~~ordered by law the court~~  
25 ~~or administrative agency~~, any sum that a business association  
26 has been ordered to refund by a court or administrative agency  
27 which has been unclaimed by the owner for more than 1 year  
28 after it became payable in accordance with the final  
29 determination or order providing for the refund, regardless of  
30 whether the final determination or order requires any person  
31



1 entitled to a refund to make a claim for it, is presumed  
2 unclaimed.

3 Section 114. Section 717.116, Florida Statutes, is  
4 amended to read:

5 717.116 Contents of safe-deposit box or other  
6 safekeeping repository.--All tangible and intangible property  
7 held by a banking or financial organization in a safe-deposit  
8 box or any other safekeeping repository in this state in the  
9 ordinary course of the holder's business, and proceeds  
10 resulting from the sale of the property permitted by law, that  
11 has not been claimed by the owner for more than 3 years after  
12 the lease or rental period on the box or other repository has  
13 expired are presumed unclaimed.

14 Section 115. Subsections (1), (3), (4), and (7) of  
15 section 717.117, Florida Statutes, are amended to read:

16 717.117 Report of unclaimed property.--

17 (1) Every person holding funds or other property,  
18 tangible or intangible, presumed unclaimed and subject to  
19 custody as unclaimed property under this chapter shall report  
20 to the department on such forms as the department may  
21 prescribe by rule. In lieu of forms, a report identifying 25  
22 or more different apparent owners must be submitted by the  
23 holder ~~may submit the required information~~ via electronic  
24 medium as the department may prescribe by rule. The report  
25 must include:

26 (a) Except for traveler's checks and money orders, the  
27 name, social security number or taxpayer identification  
28 number, and date of birth, if known, and last known address,  
29 if any, of each person appearing from the records of the  
30 holder to be the owner of any property which is presumed  
31 unclaimed and which has a value of \$50 or more.

1           (b) For unclaimed funds which have a value of \$50 or  
2 more held or owing under any life or endowment insurance  
3 policy or annuity contract, the full name, taxpayer  
4 identification number or social security number, date of  
5 birth, if known, and last known address of the insured or  
6 annuitant and of the beneficiary according to records of the  
7 insurance company holding or owing the funds.

8           (c) For all tangible property held in a safe-deposit  
9 box or other safekeeping repository, a description of the  
10 property and the place where the property is held and may be  
11 inspected by the department, and any amounts owing to the  
12 holder. Contents of a safe-deposit box or other safekeeping  
13 repository which consist of documents or writings of a private  
14 nature and which have little or no apparent value shall not be  
15 presumed unclaimed.

16           (d) The nature and identifying number, if any, or  
17 description of the property and the amount appearing from the  
18 records to be due. Items of value under \$50 each may be  
19 reported in the aggregate.

20           (e) The date the property became payable, demandable,  
21 or returnable, and the date of the last transaction with the  
22 apparent owner with respect to the property.

23           (f) Any person or business association or public  
24 corporation ~~entity~~ holding funds presumed unclaimed and having  
25 a total value of \$10 or less may file a zero balance report  
26 for that reporting period. The balance brought forward to the  
27 new reporting period is zero.

28           (g) Such other information as the department may  
29 prescribe by rule as necessary for the administration of this  
30 chapter.

31

1           (h) Credit balances, customer overpayments, security  
2 deposits, and refunds having a value of less than \$10 shall  
3 not be presumed unclaimed.

4           (3) The report must be filed before May 1 of each  
5 year. Such report shall apply to the preceding calendar year.  
6 ~~If such report is not filed on or before the applicable filing~~  
7 ~~date, the holder shall pay to~~ The department may impose and  
8 collect a penalty of \$10 per day up to a maximum of ~~for each~~  
9 ~~day the report is delinquent, but such penalty shall not~~  
10 exceed \$500 for the failure to timely report or the failure to  
11 include in a report information required by this chapter. The  
12 penalty shall be remitted to the department within 30 days  
13 after the date of the notification to the holder that the  
14 penalty is due and owing. As necessary for proper  
15 administration of this chapter, the department may waive any  
16 penalty due with appropriate justification. On written request  
17 by any person required to file a report and upon a showing of  
18 good cause, the department may postpone the reporting date.  
19 The department must provide information contained in a report  
20 filed with the department to any person requesting a copy of  
21 the report or information contained in a report, to the extent  
22 the information requested is not confidential, within 90 days  
23 after the report has been processed and added to the unclaimed  
24 property data base subsequent to a determination that the  
25 report is accurate and that the reported property is the same  
26 as the remitted property.

27           (4) Holders of inactive accounts having a value of \$50  
28 or more shall use due diligence to locate apparent owners.

29           (a) When an owner's account becomes inactive, the  
30 holder shall conduct at least one search for the apparent  
31 owner using due diligence. For purposes of this section,

1 ~~except for banks, credit unions, and state or federal savings~~  
2 ~~associations,~~ an account is inactive if 2 years have  
3 transpired after the last owner-initiated account activity, if  
4 2 years have transpired after the expiration date on the  
5 instrument or contract, or if 2 years have transpired since  
6 first-class mail has been returned as undeliverable. ~~With~~  
7 ~~respect to banks, credit unions, and state or federal savings~~  
8 ~~associations, an account is inactive if 2 years have~~  
9 ~~transpired after the last owner initiated account activity and~~  
10 ~~first class mail has been returned as undeliverable or 2 years~~  
11 ~~after the expiration date on the instrument or contract and~~  
12 ~~first class mail has been returned as undeliverable.~~

13 ~~(b)1-~~ Within 180 days after an account becomes  
14 inactive, the holder shall conduct a search to locate the  
15 apparent owner of the property. The holder may satisfy such  
16 requirement by conducting one annual search for the owners of  
17 all accounts which have become inactive during the prior year.

18 ~~(c)2-~~ Within 30 days after receiving updated address  
19 information, the holder shall provide notice by telephone or  
20 first-class mail to the current address notifying the apparent  
21 owner that the holder is in possession of property which is  
22 presumed unclaimed and may be remitted to the department. The  
23 notice shall also provide the apparent owner with the address  
24 or the telephone number of an office where the apparent owner  
25 may claim the property or reestablish the inactive account.

26 (d) The account shall be presumed unclaimed if the  
27 holder is not able to contact the apparent owner by telephone,  
28 the first-class mail notice is returned to the holder as  
29 undeliverable, or the apparent owner does not contact the  
30 holder in response to the first-class mail notice.

31

1           ~~(b) The claim of the apparent owner is not barred by~~  
2 ~~the statute of limitations.~~

3           (7)(a) This section does ~~shall~~ not apply to the  
4 unclaimed patronage refunds as provided for by contract or  
5 through bylaw provisions of entities organized under chapter  
6 425.

7           (b) This section does not apply to intangible property  
8 held, issued, or owing by a business association subject to  
9 the jurisdiction of the United States Surface Transportation  
10 Board or its successor federal agency if the apparent owner of  
11 such intangible property is a business association. The holder  
12 of such property does not have any obligation to report, to  
13 pay, or to deliver such property to the department.

14           Section 116. Section 717.118, Florida Statutes, is  
15 amended to read:

16           717.118 Notification of apparent owners ~~Notice and~~  
17 ~~publication of lists~~ of unclaimed property.--

18           (1) It is specifically recognized that the state has  
19 an obligation to make an effort to notify owners of unclaimed  
20 property in a cost-effective manner. In order to provide all  
21 the citizens of this state an effective and efficient program  
22 for the recovery of unclaimed property, the department shall  
23 use cost-effective means to make at least one active attempt  
24 to notify owners of unclaimed property accounts valued at more  
25 than \$100 with a reported address or taxpayer identification  
26 number ~~the existence of unclaimed property held by the~~  
27 ~~department~~. Such active attempt to notify ~~locate~~ apparent  
28 owners shall include any attempt by the department to directly  
29 contact the owner. Other means of notification, such as  
30 publication of the names of owners in the newspaper, on  
31 television, on the Internet, or through other promotional

1 efforts and items in which the department does not directly  
2 attempt to contact the owner are expressly declared to be  
3 passive attempts. Nothing in this subsection precludes other  
4 agencies or entities of state government from notifying owners  
5 of the existence of unclaimed property or attempting to notify  
6 ~~locate~~ apparent owners of unclaimed property.

7 (2) ~~The following notification requirements shall~~  
8 ~~apply:~~

9 (a) ~~Notifications that are published or televised may~~  
10 ~~consist of the names of apparent owners of unclaimed property,~~  
11 ~~and information regarding recovery of unclaimed property from~~  
12 ~~the department. Such notification may be televised or~~  
13 ~~published in the county in which the last known address of the~~  
14 ~~apparent owner is located or, if the address is unknown, in~~  
15 ~~the county in which the holder has its principal place of~~  
16 ~~business. Published notifications may be in accordance with s.~~  
17 ~~50.011.~~

18 (b) Notification provided directly to individual  
19 apparent owners shall consist of a description of the property  
20 and information regarding recovery of unclaimed property from  
21 the department.

22 (3) ~~The department may publish in the notice any items~~  
23 ~~of more than \$100.~~

24 (3)(4) This section is not applicable to sums payable  
25 on traveler's checks, money orders, and other written  
26 instruments presumed unclaimed under s. 717.104.

27 Section 117. Subsection (5) of section 717.119,  
28 Florida Statutes, is amended to read:

29 717.119 Payment or delivery of unclaimed property.--

30 (5) All intangible and tangible property held in a  
31 safe-deposit box or any other safekeeping repository reported

1 under s. 717.117 shall not be delivered to the department  
2 until 120 days after the report due date. The delivery of the  
3 property, through the United States mail or any other carrier,  
4 shall be insured by the holder at an amount equal to the  
5 estimated value of the property. Each package shall be clearly  
6 marked on the outside "Deliver Unopened." A holder's  
7 safe-deposit box contents shall be delivered to the department  
8 in a single shipment. In lieu of a single shipment, holders  
9 may provide the department with a single detailed shipping  
10 schedule that includes package tracking information for all  
11 packages being sent pursuant to this section.

12 (a) Holders may remit the value of cash and coins  
13 found in unclaimed safe-deposit boxes to the department by  
14 cashier's check or by electronic funds transfer, unless the  
15 cash or coins have a value above face value. The department  
16 shall identify by rule those cash and coin items having a  
17 numismatic value. Cash and coin items identified as having a  
18 numismatic value shall be remitted to the department in their  
19 original form.

20 (b) Any firearm or ammunition found in an unclaimed  
21 safe-deposit box or any other safekeeping repository shall be  
22 delivered by the holder to a law enforcement agency for  
23 disposal. However, the department is authorized to make a  
24 reasonable attempt to ascertain the historical value to  
25 collectors of any firearm that has been delivered to the  
26 department. Any firearm appearing to have historical value to  
27 collectors may be sold by the department pursuant to s.  
28 717.122 to a person having a federal firearms license. Any  
29 firearm which is not sold pursuant to s. 717.122 shall be  
30 delivered by the department to a law enforcement agency in  
31 this state for disposal. The department shall not be

1 administratively, civilly, or criminally liable for any  
2 firearm delivered by the department to a law enforcement  
3 agency in this state for disposal.

4 (c) If such property is not paid or delivered to the  
5 department on or before the applicable payment or delivery  
6 date, the holder shall pay to the department a penalty ~~of \$10~~  
7 for each safe-deposit box shipment received late, ~~but such~~  
8 ~~penalty shall not exceed \$1,000. The penalty shall be \$100 for~~  
9 a safe-deposit box shipment container that is late 30 days or  
10 less. Thereafter, the penalty shall be \$500 for a safe-deposit  
11 box shipment container that is late for each additional  
12 successive 30-day period. The penalty assessed against a  
13 holder for a late safe-deposit box shipment container shall  
14 not exceed \$4,000 annually. The penalty shall be remitted to  
15 the department within 30 days after the date of the  
16 notification to the holder that the penalty is due and owing.

17 (d) The department may waive any penalty due with  
18 appropriate justification, as provided by rule.

19 ~~(e) Upon written request by any person required to~~  
20 ~~deliver safe deposit box contents, the department may postpone~~  
21 ~~the delivery.~~

22 Section 118. Subsection (2) of section 717.1201,  
23 Florida Statutes, is amended to read:

24 717.1201 Custody by state; holder relieved from  
25 liability; reimbursement of holder paying claim; reclaiming  
26 for owner; defense of holder; payment of safe-deposit box or  
27 repository charges.--

28 (2) Any holder who has paid money to the department  
29 pursuant to this chapter may make payment to any person  
30 appearing to ~~the holder to~~ be entitled to payment and, upon  
31 filing ~~proof of payment and~~ proof that the payee is was



1 entitled thereto, the department shall forthwith repay  
2 ~~reimburse~~ the holder ~~for the payment~~ without deduction of any  
3 fee or other charges. If repayment ~~reimbursement~~ is sought for  
4 a payment made on a negotiable instrument, including a  
5 traveler's check or money order, the holder must be repaid  
6 ~~reimbursed~~ under this subsection upon filing proof that the  
7 instrument was duly presented and that the payee is ~~payment~~  
8 ~~was made to a person who appeared to the holder to be~~ entitled  
9 to payment. The holder shall be repaid ~~reimbursed~~ for payment  
10 made under this subsection even if the payment was made to a  
11 person whose claim was barred under s. 717.129(1).

12 Section 119. Subsections (1) and (3) of section  
13 717.122, Florida Statutes, are amended, and subsection (5) is  
14 added to that section, to read:

15 717.122 Public sale of unclaimed property.--

16 (1) Except as provided in subsection (2), the  
17 department after the receipt of unclaimed property shall sell  
18 it to the highest bidder at public sale on the Internet or at  
19 a specified physical location wherever in the judgment of the  
20 department the most favorable market for the property involved  
21 exists. The department may decline the highest bid and reoffer  
22 the property for sale if in the judgment of the department the  
23 bid is insufficient. The department shall have the discretion  
24 to withhold from sale any unclaimed property that the  
25 department deems to be of benefit to the people of the state.  
26 If in the judgment of the department the probable cost of sale  
27 exceeds the value of the property, it need not be offered for  
28 sale and may be disposed of as the department determines  
29 appropriate. Any sale at a specified physical location held  
30 under this section must be preceded by a single publication of  
31 notice, at least 3 weeks in advance of sale, in a newspaper of

1 general circulation in the county in which the property is to  
2 be sold. The department shall proportionately deduct auction  
3 fees, preparation costs, and expenses from the amount posted  
4 to the owner's account when safe-deposit box contents are  
5 sold. No action or proceeding may be maintained against the  
6 department for or on account of any decision to decline the  
7 highest bid or withhold any unclaimed property from sale.

8 (3) Unless the department deems it to be in the public  
9 interest to do otherwise, all securities presumed unclaimed  
10 and delivered to the department may be sold upon receipt. Any  
11 person making a claim pursuant to this chapter is entitled to  
12 receive either the securities delivered to the department by  
13 the holder, if they still remain in the hands of the  
14 department, or the proceeds received from sale, ~~less any~~  
15 ~~amounts deducted pursuant to subsection (2),~~ but no person has  
16 any claim under this chapter against the state, the holder,  
17 any transfer agent, any registrar, or any other person acting  
18 for or on behalf of a holder for any appreciation in the value  
19 of the property occurring after delivery by the holder to the  
20 state.

21 (5) The sale of unclaimed tangible personal property  
22 is not subject to tax under chapter 212 when such property is  
23 sold by or on behalf of the department pursuant to this  
24 section.

25 Section 120. Subsection (1) of section 717.123,  
26 Florida Statutes, is amended to read:

27 717.123 Deposit of funds.--

28 (1) All funds received under this chapter, including  
29 the proceeds from the sale of unclaimed property under s.  
30 717.122, shall forthwith be deposited by the department in the  
31 Unclaimed Property Trust Fund. The department shall retain,

1 from funds received under this chapter, an amount not  
2 exceeding ~~\$15.58~~ million from which the department shall make  
3 prompt payment of claims allowed by the department and shall  
4 pay the costs incurred by the department in administering and  
5 enforcing this chapter. All remaining funds received by the  
6 department under this chapter shall be deposited by the  
7 department into the State School Fund.

8 Section 121. Section 717.124, Florida Statutes, is  
9 amended to read:

10 717.124 Unclaimed property claims ~~Filing of claim with~~  
11 ~~department.~~--

12 (1) Any person, excluding another state, claiming an  
13 interest in any property paid or delivered to the department  
14 under this chapter may file with the department a claim on a  
15 form prescribed by the department and verified by the claimant  
16 or the claimant's representative. The claimant's  
17 representative must be an attorney licensed to practice law in  
18 this state, a licensed Florida-certified public accountant, or  
19 a private investigator licensed under chapter 493. The  
20 claimant's representative must be registered with the  
21 department under this chapter. The claimant, or the claimant's  
22 representative, shall provide the department with a legible  
23 copy of a valid driver's license of the claimant at the time  
24 the original claim form is filed. If the claimant has not been  
25 issued a valid driver's license at the time the original claim  
26 form is filed, the department shall be provided with a legible  
27 copy of a photographic identification of the claimant issued  
28 by the United States or a foreign nation, a state or territory  
29 of the United States or foreign nation, or a political  
30 subdivision or agency thereof. In lieu of photographic  
31 identification, a notarized sworn statement by the claimant

1 may be provided which affirms the claimant's identity and  
2 states the claimant's full name and address. Any claim filed  
3 without the required identification or the sworn statement  
4 with the original claim form and the original power of  
5 attorney, if applicable, is void.

6 (a) Within 90 days after receipt of a claim, the  
7 department may return any claim that provides for the receipt  
8 of fees and costs greater than that permitted under this  
9 chapter or that contains any apparent errors or omissions. The  
10 department may also request that the claimant or the  
11 claimant's representative provide additional information. The  
12 department shall retain a copy or electronic image of the  
13 claim.

14 (b) A claimant or the claimant's representative shall  
15 be deemed to have withdrawn a claim if no response to the  
16 department's request for additional information is received by  
17 the department within 60 days after the notification of any  
18 apparent errors or omissions.

19 (c) Within 90 days after receipt of the claim, or the  
20 response of the claimant or the claimant's representative to  
21 the department's request for additional information, whichever  
22 is later, the department shall determine each claim ~~within 90~~  
23 ~~days after it is filed.~~ Such determination shall contain a  
24 notice of rights provided by ss. 120.569 and 120.57. The  
25 90-day period shall be extended by 60 days if the department  
26 has good cause to need additional time or if the unclaimed  
27 property:

28 1. Is owned by a person who has been a debtor in  
29 bankruptcy;

30 2. Was reported with an address outside of the United  
31 States;

1           3. Is being claimed by a person outside of the United  
2 States; or

3           4. Contains documents filed in support of the claim  
4 that are not in the English language and have not been  
5 accompanied by an English language translation.

6           (d) The department shall deny any claim under which  
7 the claimant's representative has refused to authorize the  
8 department to reduce the fees and costs to the maximum  
9 permitted under this chapter.

10           (2) A claim for a cashier's check or a stock  
11 certificate without the original instrument may require an  
12 indemnity bond equal to the value of the claim to be provided  
13 prior to issue of the stock or payment of the claim by the  
14 department.

15           (3) The department may require an affidavit swearing  
16 to the authenticity of the claim, lack of documentation, and  
17 an agreement to allow the department to provide the name and  
18 address of the claimant to subsequent claimants coming forward  
19 with substantiated proof to claim the account. This shall  
20 apply to claims equal to or less than \$250. The exclusive  
21 remedy of a subsequent claimant to the property shall be  
22 against the person who received the property from the  
23 department.

24           (4)(a) Except as otherwise provided in this chapter,  
25 if a claim is determined in favor of the claimant, the  
26 department shall deliver or pay over to the claimant the  
27 property or the amount the department actually received or the  
28 proceeds if it has been sold by the department, together with  
29 any additional amount required by s. 717.121.

30           ~~(b)(5)(a)~~ If an owner authorizes an attorney licensed  
31 to practice law in this state, Florida-certified public

1 accountant, or private investigator licensed under chapter  
2 493, and registered with the department under this chapter,  
3 ~~investigative agency which is duly licensed to do business in~~  
4 ~~this state~~ to claim the unclaimed property on the owner's  
5 behalf, the department is authorized to make distribution of  
6 the property or money in accordance with such power of  
7 attorney. The original power of attorney must be executed by  
8 the owner and must be filed with the department.

9 (c)(b)1. Payments of approved claims for unclaimed  
10 cash accounts shall be made to the owner after deducting any  
11 fees and costs authorized pursuant to a written power of  
12 attorney. The contents of a safe-deposit box shall be  
13 delivered directly to the claimant notwithstanding any  
14 agreement to the contrary.

15 2. Payments of fees and costs authorized pursuant to a  
16 written power of attorney for approved ~~cash~~ claims shall be  
17 made or issued forwarded to the law firm employer of the  
18 designated attorney licensed to practice law in this state,  
19 the public accountancy firm employer of the licensed  
20 Florida-certified public accountant, or the designated  
21 employing private investigative agency licensed by this state.  
22 Such payments shall ~~may~~ be made by electronic funds transfer  
23 and may be made on such periodic schedule as the department  
24 may define by rule, provided the payment intervals do not  
25 exceed 31 days. Payment made to an attorney licensed in this  
26 state, a Florida-certified public accountant, or a private  
27 investigator licensed under chapter 493, operating  
28 individually or as a sole practitioner, shall be to the  
29 attorney, certified public accountant, or private  
30 investigator.

31

1           ~~3. Payments of approved claims for unclaimed~~  
2 ~~securities and other intangible ownership interests made to an~~  
3 ~~attorney, Florida certified public accountant, or private~~  
4 ~~investigative agency shall be promptly deposited into a trust~~  
5 ~~or escrow account which is regularly maintained by the~~  
6 ~~attorney, Florida certified public accountant, or the private~~  
7 ~~investigative agency in a financial institution authorized to~~  
8 ~~accept such deposits and located in this state.~~

9           ~~(c) Distribution of unclaimed property by the~~  
10 ~~attorney, Florida certified public accountant, or private~~  
11 ~~investigative agency to the claimant shall be made within 10~~  
12 ~~days following final credit of the deposit into the trust or~~  
13 ~~escrow account at the financial institution, unless a party to~~  
14 ~~the agreement protests in writing such distribution before it~~  
15 ~~is made.~~

16           ~~(5)(6)~~ The department shall not be administratively,  
17 civilly, or criminally liable for any property or funds  
18 distributed pursuant to this section, provided such  
19 distribution is made in good faith.

20           (6) This section does not supersede the licensing  
21 requirements of chapter 493.

22           Section 122. Section 717.12403, Florida Statutes, is  
23 created to read:

24           717.12403 Unclaimed demand, savings, or checking  
25 account in a financial institution held in the name of more  
26 than one person.--

27           (1)(a) If an unclaimed demand, savings, or checking  
28 account in a financial institution is reported as an "and"  
29 account in the name of two or more persons who are not  
30 beneficiaries, it is presumed that each person must claim the  
31 account in order for the claim to be approved by the

1 department. This presumption may be rebutted by showing that  
2 entitlement to the account has been transferred to another  
3 person or by clear and convincing evidence demonstrating that  
4 the account should have been reported by the financial  
5 institution as an "or" account.

6 (b) If an unclaimed demand, savings, or checking  
7 account in a financial institution is reported as an "and"  
8 account and one of the persons on the account is deceased, it  
9 is presumed that the account is a survivorship account. This  
10 presumption may be rebutted by showing that entitlement to the  
11 account has been transferred to another person or by clear and  
12 convincing evidence demonstrating that the account is not a  
13 survivorship account.

14 (2) If an unclaimed demand, savings, or checking  
15 account in a financial institution is reported as an "or"  
16 account in the name of two or more persons who are not  
17 beneficiaries, it is presumed that either person listed on the  
18 account may claim the entire amount held in the account. This  
19 presumption may be rebutted by showing that entitlement to the  
20 account has been transferred to another person or by clear and  
21 convincing evidence demonstrating that the account should have  
22 been reported by the financial institution as an "and"  
23 account.

24 (3) If an unclaimed demand, savings, or checking  
25 account in a financial institution is reported in the name of  
26 two or more persons who are not beneficiaries without  
27 identifying whether the account is an "and" account or an "or"  
28 account, it is presumed that the account is an "or" account.  
29 This presumption may be rebutted by showing that entitlement  
30 to the account has been transferred to another person or by  
31 clear and convincing evidence demonstrating that the account



1 should have been reported by the financial institution as an  
2 "and" account.

3 (4) The department shall be deemed to have made a  
4 distribution in good faith if the department remits funds  
5 consistent with this section.

6 Section 123. Section 717.12404, Florida Statutes, is  
7 created to read:

8 717.12404 Claims on behalf of a business entity or  
9 trust.--

10 (1) Claims on behalf of an active or dissolved  
11 corporation, for which the last annual report is not available  
12 from the Department of State through the Internet, must be  
13 accompanied by a microfiche copy of the records on file with  
14 the Department of State or, if the corporation has not made a  
15 corporate filing with the Department of State, an  
16 authenticated copy of the last corporate filing identifying  
17 the officers and directors from the appropriate authorized  
18 official of the state of incorporation. A claim on behalf of a  
19 corporation must be made by an officer or director identified  
20 on the last corporate filing.

21 (2) Claims on behalf of a dissolved corporation, a  
22 business entity other than an active corporation, or a trust  
23 must include a legible copy of a valid driver's license of the  
24 person acting on behalf of the dissolved corporation, business  
25 entity other than an active corporation, or trust. If the  
26 person has not been issued a valid driver's license, the  
27 department shall be provided with a legible copy of a  
28 photographic identification of the person issued by the United  
29 States or a foreign nation, or a political subdivision or  
30 agency thereof. In lieu of photographic identification, a  
31 notarized sworn statement by the person may be provided which

1 affirms the person's identity and states the person's full  
2 name and address. Any claim filed without the required  
3 identification or the sworn statement with the original claim  
4 form and the original power of attorney, if applicable, is  
5 void.

6 Section 124. Section 717.12405, Florida Statutes, is  
7 created to read:

8 717.12405 Claims by estates.--An estate or any person  
9 representing an estate or acting on behalf of an estate may  
10 claim unclaimed property only after the heir or legatee of the  
11 decedent entitled to the property has been located. Any  
12 estate, or any person representing an estate or acting on  
13 behalf of an estate, that receives unclaimed property before  
14 the heir or legatee of the decedent entitled to the property  
15 has been located, is personally liable for the unclaimed  
16 property and must immediately return the full amount of the  
17 unclaimed property or the value thereof to the department in  
18 accordance with s. 717.1341.

19 Section 125. Subsection (1) of section 717.1241,  
20 Florida Statutes, is amended, and subsection (3) is added to  
21 said section, to read:

22 717.1241 Conflicting claims.--

23 (1) ~~When ownership has been established but~~  
24 ~~conflicting claims have been received by the department, the~~  
25 ~~property shall be remitted as follows, notwithstanding the~~  
26 ~~withdrawal of a claim to the:~~

27 (a) As between an owner and an owner's representative:

28 1. To the person submitting the first claim that is  
29 complete or made complete received by the department; or  
30

31

1           2. If an owner's claim and an owner's representative's  
2 claim are received by the department on the same day and both  
3 claims are complete, to the owner;

4           (b) As between two or more owner's representatives, to  
5 the owner's representative who has submitted the first claim  
6 that is complete or made complete ~~Owner if an owner's claim~~  
7 ~~and an owner's representative's claim are received by the~~  
8 ~~department on the same day; or~~

9           (c) As between two or more owner's representatives  
10 whose claims were complete on the same day, to the owner's  
11 representative who has agreed to receive the lowest fee. If  
12 two or more owner's representatives whose claims were complete  
13 on the same day are charging the same lowest fee, the fees  
14 shall be divided equally between the owner's representatives  
15 ~~Owner's representative who has the earliest dated contract~~  
16 ~~with the owner if claims by two or more owner's~~  
17 ~~representatives are received by the department on the same~~  
18 ~~day.~~

19           (3) A claim is complete when entitlement to the  
20 unclaimed property has been established.

21           Section 126. Subsection (1) of section 717.1242,  
22 Florida Statutes, is amended to read:

23           717.1242 Restatement of jurisdiction of the circuit  
24 court sitting in probate and the department.--

25           (1) It is and has been the intent of the Legislature  
26 that, pursuant to s. 26.012(2)(b), circuit courts have  
27 jurisdiction of proceedings relating to the settlement of the  
28 estates of decedents and other jurisdiction usually pertaining  
29 to courts of probate. It is and has been the intent of the  
30 Legislature that, pursuant to s. 717.124, the department  
31 determines the merits of claims for property paid or delivered

1 to the department under this chapter. Consistent with this  
2 legislative intent, any estate or beneficiary, as defined in  
3 s. 731.201, heir of an estate seeking to obtain property paid  
4 or delivered to the department under this chapter must file a  
5 claim with the department as provided in s. 717.124.

6 Section 127. Section 717.1244, Florida Statutes, is  
7 created to read:

8 717.1244 Determinations of unclaimed property  
9 claims.--In rendering a determination regarding the merits of  
10 an unclaimed property claim, the department shall rely on the  
11 applicable statutory, regulatory, common, and case law. Agency  
12 statements applying the statutory, regulatory, common, and  
13 case law to unclaimed property claims are not agency  
14 statements subject to s. 120.56(4).

15 Section 128. Section 717.126, Florida Statutes, is  
16 amended to read:

17 717.126 Administrative hearing; burden of proof; proof  
18 of entitlement; venue.--

19 (1) Any person aggrieved by a decision of the  
20 department may petition for a hearing as provided in ss.  
21 120.569 and 120.57. In any proceeding for determination of a  
22 claim to property paid or delivered to the department under  
23 this chapter, the burden shall be upon the claimant to  
24 establish entitlement to the property by a preponderance of  
25 evidence. Having the same name as that reported to the  
26 department is not sufficient, in the absence of other  
27 evidence, to prove entitlement to unclaimed property.

28 (2) Unless otherwise agreed by the parties, venue  
29 shall be in Tallahassee, Leon County, Florida. However, upon  
30 the request of a party, the presiding officer may, in the  
31

1 presiding officer's discretion, conduct the hearing at an  
2 alternative remote video location.

3 Section 129. Section 717.1261, Florida Statutes, is  
4 created to read:

5 717.1261 Death certificates.--Any person who claims  
6 entitlement to unclaimed property by means of the death of one  
7 or more persons shall file a copy of the death certificate of  
8 the decedent or decedents that has been certified as being  
9 authentic by the issuing governmental agency.

10 Section 130. Section 717.1262, Florida Statutes, is  
11 created to read:

12 717.1262 Court documents.--Any person who claims  
13 entitlement to unclaimed property by reason of a court  
14 document shall file a certified copy of the court document  
15 with the department.

16 Section 131. Subsections (1) and (6) of section  
17 717.1301, Florida Statutes, are amended to read:

18 717.1301 Investigations; examinations; subpoenas.--

19 (1) The department may make investigations and  
20 examinations within or outside this state of claims, reports,  
21 and other records ~~within or outside this state~~ as it deems  
22 necessary to administer and enforce the provisions of this  
23 chapter. In such investigations and examinations the  
24 department may administer oaths, examine witnesses, issue  
25 subpoenas, and otherwise gather evidence. The department may  
26 request any person who has not filed a report under s. 717.117  
27 to file a verified report stating whether or not the person is  
28 holding any unclaimed property reportable or deliverable under  
29 this chapter.

30 (6) If an investigation or an examination of the  
31 records of any person results in the disclosure of property

1 reportable and deliverable under this chapter, the department  
2 may assess the cost of investigation or the examination  
3 against the holder at the rate of \$100 per 8-hour day for each  
4 ~~per~~ investigator or examiner. Such fee shall be calculated on  
5 an hourly basis and shall be rounded to the nearest hour. The  
6 person shall also pay the travel expense and per diem  
7 subsistence allowance provided for state employees in s.  
8 112.061. The person shall not be required to pay a per diem  
9 fee and expenses of an examination or investigation which  
10 shall consume more than 30 worker-days in any one year unless  
11 such examination or investigation is due to fraudulent  
12 practices of the person, in which case such person shall be  
13 required to pay the entire cost regardless of time consumed.  
14 The fee shall be remitted to the department within 30 days  
15 after the date of the notification that the fee is due and  
16 owing. Any person who fails to pay the fee within 30 days  
17 after the date of the notification that the fee is due and  
18 owing shall pay to the department interest at the rate of 12  
19 percent per annum on such fee from the date of the  
20 notification.

21 Section 132. Subsection (2) of section 717.1315,  
22 Florida Statutes, is amended to read:

23 717.1315 Retention of records by owner's  
24 representative.--

25 (2) An owner's representative, operating at two or  
26 more places of business in this state, may maintain the books,  
27 accounts, and records of all such offices at any one of such  
28 offices, or at any other office maintained by such owner's  
29 representative, upon the filing of a written notice with the  
30 department designating in the written notice the office at  
31 which such records are maintained.

1           (3) ~~An However, the~~ owner's representative shall make  
2 all books, accounts, and records available at a convenient  
3 location in this state upon request of the department.

4           Section 133. Subsection (2) of section 717.132,  
5 Florida Statutes, is amended to read:

6           717.132 Enforcement; cease and desist orders;  
7 administrative fines.--

8           (2) In addition to any other powers conferred upon it  
9 to enforce and administer the provisions of this chapter, the  
10 department may issue and serve upon a person an order to cease  
11 and desist and to take corrective action whenever the  
12 department finds that such person is violating, has violated,  
13 or is about to violate any provision of this chapter, any rule  
14 or order promulgated under this chapter, or any written  
15 agreement entered into with the department. For purposes of  
16 this subsection, the term "corrective action" includes  
17 refunding excessive charges, requiring a person to return  
18 unclaimed property, requiring a holder to remit unclaimed  
19 property, and requiring a holder to correct a report that  
20 contains errors or omissions. Any such order shall contain a  
21 notice of rights provided by ss. 120.569 and 120.57.

22           Section 134. Section 717.1322, Florida Statutes, is  
23 created to read:

24           717.1322 Administrative enforcement.--

25           (1) The following acts are violations of this chapter  
26 and constitute grounds for an administrative enforcement  
27 action by the department in accordance with the requirements  
28 of chapter 120:

29           (a) Failure to comply with any provision of this  
30 chapter, any rule or order adopted under this chapter, or any  
31 written agreement entered into with the department.

1           **(b) Fraud, misrepresentation, deceit, or gross**  
2 **negligence in any matter within the scope of this chapter.**

3           **(c) Fraudulent misrepresentation, circumvention, or**  
4 **concealment of any matter required to be stated or furnished**  
5 **to an owner or apparent owner under this chapter, regardless**  
6 **of reliance by or damage to the owner or apparent owner.**

7           **(d) Willful imposition of illegal or excessive charges**  
8 **in any unclaimed property transaction.**

9           **(e) False, deceptive, or misleading solicitation or**  
10 **advertising within the scope of this chapter.**

11           **(f) Failure to maintain, preserve, and keep available**  
12 **for examination all books, accounts, or other documents**  
13 **required by this chapter, by any rule or order adopted under**  
14 **this chapter, or by any agreement entered into with the**  
15 **department under this chapter.**

16           **(g) Refusal to permit inspection of books and records**  
17 **in an investigation or examination by the department or**  
18 **refusal to comply with a subpoena issued by the department**  
19 **under this chapter.**

20           **(h) Criminal conduct in the course of a person's**  
21 **business.**

22           **(i) Failure to timely pay any fine imposed or assessed**  
23 **under this chapter or any rule adopted under this chapter.**

24           **(j) For compensation or gain or in the expectation of**  
25 **compensation or gain, the filing of a claim for unclaimed**  
26 **property owned by another unless such person is a registered**  
27 **attorney licensed to practice law in this state, registered**  
28 **public accountant certified in this state, or a registered**  
29 **private investigator licensed under chapter 493. This**  
30 **subsection does not apply to a person who has been granted a**  
31 **durable power of attorney to convey and receive all of the**



1 real and personal property of the owner, is the  
2 court-appointed guardian of the owner, has been employed as an  
3 attorney or qualified representative to contest the  
4 department's denial of a claim, has been employed as an  
5 attorney or qualified representative to contest the  
6 department's denial of a claim, or has been employed as an  
7 attorney to probate the estate of the owner or an heir or  
8 legatee of the owner.

9 (k) Failure to authorize the release of records in the  
10 possession of a third party after being requested to do so by  
11 the department regarding a pending examination or  
12 investigation.

13 (l) Receipt or solicitation of consideration to be  
14 paid in advance of the approval of a claim under this chapter.

15 (2) Upon a finding by the department that any person  
16 has committed any of the acts set forth in subsection (1), the  
17 department may enter an order:

18 (a) Revoking or suspending a registration previously  
19 granted under this chapter;

20 (b) Placing a registrant or an applicant for a  
21 registration on probation for a period of time and subject to  
22 such conditions as the department may specify;

23 (c) Placing permanent restrictions or conditions upon  
24 issuance or maintenance of a registration under this chapter;

25 (d) Issuing a reprimand;

26 (e) Imposing an administrative fine not to exceed  
27 \$2,000 for each such act; or

28 (f) Prohibiting any person from being a director,  
29 officer, agent, employee, or ultimate equitable owner of a  
30 10-percent or greater interest in an employer of a registrant.

31

1       (3) A registrant is subject to the disciplinary  
2 actions specified in subsection (2) for violations of  
3 subsection (1) by an agent or employee of the registrant's  
4 employer if the registrant knew or should have known that such  
5 agent or employee was violating any provision of this chapter.

6       (4)(a) The department shall adopt, by rule, and  
7 periodically review the disciplinary guidelines applicable to  
8 each ground for disciplinary action which may be imposed by  
9 the department under this chapter.

10       (b) The disciplinary guidelines shall specify a  
11 meaningful range of designated penalties based upon the  
12 severity or repetition of specific offenses, or both. It is  
13 the legislative intent that minor violations be distinguished  
14 from more serious violations; that such guidelines consider  
15 the amount of the claim involved, the complexity of locating  
16 the owner, the steps taken to ensure the accuracy of the claim  
17 by the person filing the claim, the acts of commission and  
18 omission of the ultimate owners in establishing themselves as  
19 rightful owners of the funds, the acts of commission or  
20 omission of the agent or employee of an employer in the filing  
21 of the claim, the actual knowledge of the agent, employee,  
22 employer, or owner in the filing of the claim, the departure,  
23 if any, by the agent or employee from the internal controls  
24 and procedures established by the employer with regard to the  
25 filing of a claim, the number of defective claims previously  
26 filed by the agent, employee, employer, or owner; that such  
27 guidelines provide reasonable and meaningful notice of likely  
28 penalties that may be imposed for proscribed conduct; and that  
29 such penalties be consistently applied by the department.

30       (c) A specific finding of mitigating or aggravating  
31 circumstances shall allow the department to impose a penalty

1 other than that provided for in such guidelines. The  
2 department shall adopt by rule disciplinary guidelines to  
3 designate possible mitigating and aggravating circumstances  
4 and the variation and range of penalties permitted for such  
5 circumstances. Such mitigating and aggravating circumstances  
6 shall also provide for consideration of, and be consistent  
7 with, the legislative intent expressed in paragraph (b).

8 (d) In any proceeding brought under this chapter, the  
9 administrative law judge, in recommending penalties in any  
10 recommended order, shall follow the penalty guidelines  
11 established by the department and shall state in writing any  
12 mitigating or aggravating circumstances upon which the  
13 recommended penalty is based.

14 (5) The department may seek any appropriate civil  
15 legal remedy available to it by filing a civil action in a  
16 court of competent jurisdiction against any person who has,  
17 directly or through an owner's representative, wrongfully  
18 submitted a claim as the ultimate owner of property and  
19 improperly received funds from the department in violation of  
20 this chapter.

21 Section 135. Section 717.1331, Florida Statutes, is  
22 created to read:

23 717.1331 Actions against holders.--The department may  
24 initiate, or cause to be initiated, an action against a holder  
25 to recover unclaimed property. If the department prevails in a  
26 civil or administrative action to recover unclaimed property  
27 initiated by or on behalf of the department, the holder shall  
28 be ordered to pay the department reasonable costs and  
29 attorney's fees.

30 Section 136. Section 717.1333, Florida Statutes, is  
31 created to read:

1           717.1333 Evidence; audit reports; examiner's  
2 worksheets, investigative reports, other related  
3 documents.--In any proceeding involving a holder under ss.  
4 120.569 and 120.57 in which an auditor, examiner, or  
5 investigator acting under authority of this chapter is  
6 available for cross-examination, any official written report,  
7 worksheet, or other related paper, or copy thereof, compiled,  
8 prepared, drafted, or otherwise made or received by the  
9 auditor, examiner, or investigator, after being duly  
10 authenticated by the auditor, examiner, or investigator, may  
11 be admitted as competent evidence upon the oath of the  
12 auditor, examiner, or investigator that the report, worksheet,  
13 or related paper was prepared or received as a result of an  
14 audit, examination, or investigation of the books and records  
15 of the person audited, examined, or investigated, or the agent  
16 thereof.

17           Section 137. Subsection (5) is added to section  
18 717.134, Florida Statutes, to read:

19           717.134 Penalties and interest.--

20           (5) The department may impose and collect a penalty of  
21 \$500 per day up to a maximum of \$5,000 and 25 percent of the  
22 value of property willfully not reported with all of the  
23 information required by this chapter. Upon a holder's showing  
24 of good cause, the department may waive the penalty or any  
25 portion thereof. If the holder acted in good faith and without  
26 negligence, the department shall waive the penalty provided  
27 herein.

28           Section 138. Section 717.1341, Florida Statutes, is  
29 created to read:

30           717.1341 Invalid claims, recovery of property,  
31 interest and penalties.--

1       (1)(a) No person shall receive unclaimed property that  
2 the person is not entitled to receive. Any person who  
3 receives, or assists another person to receive, unclaimed  
4 property that the person is not entitled to receive is  
5 strictly, jointly, personally, and severally liable for the  
6 unclaimed property and shall immediately return the property,  
7 or the reasonable value of the property if the property has  
8 been damaged or disposed of, to the department plus interest  
9 at the rate set annually in accordance with s. 55.03(1).

10 Assisting another person to receive unclaimed property  
11 includes executing a claim form on the person's behalf.

12       (b)1. In the case of stocks or bonds which have been  
13 sold, the proceeds from the sale shall be returned to the  
14 department plus any dividends or interest received thereon  
15 plus an amount equal to the brokerage fee plus interest at a  
16 rate set annually in accordance with s. 55.03(1) on the  
17 proceeds from the sale of the stocks or bonds, the dividends  
18 or interest received, and the brokerage fee.

19       2. In the case of stocks or bonds which have not been  
20 sold, the stocks or bonds and any dividends or interest  
21 received thereon shall be returned to the department, together  
22 with interest on the dividends or interest received, at a rate  
23 set annually in accordance with s. 55.03(1) of the value of  
24 the property.

25       (2) The department may maintain a civil or  
26 administrative action:

27       (a) To recover unclaimed property that was paid or  
28 remitted to a person who was not entitled to the unclaimed  
29 property or to offset amounts owed to the department against  
30 amounts owed to an owner representative;

31

1           (b) Against a person who assists another person in  
2 receiving, or attempting to receive, unclaimed property that  
3 the person is not entitled to receive; or

4           (c) Against a person who attempts to receive unclaimed  
5 property that the person is not entitled to receive.

6           (3) If the department prevails in any proceeding under  
7 subsection (2), a fine not to exceed three times the value of  
8 the property received or sought to be received may be imposed  
9 on any person who knowingly, or with reckless disregard or  
10 deliberate ignorance of the truth, violated this section. If  
11 the department prevails in a civil or administrative  
12 proceeding under subsection (2), the person who violated  
13 subsection (1) shall be ordered to pay the department  
14 reasonable costs and attorney's fees.

15           (4) No person shall knowingly file, knowingly conspire  
16 to file, or knowingly assist in filing, a claim for unclaimed  
17 property the person is not entitled to receive. Any person who  
18 violates this subsection regarding unclaimed property of an  
19 aggregate value:

20           (a) Greater than \$50,000, is guilty of a felony of the  
21 first degree, punishable as provided in s. 775.082, s.  
22 775.083, or s. 775.084;

23           (b) Greater than \$10,000 up to \$50,000, is guilty of a  
24 felony of the second degree, punishable as provided in s.  
25 775.082, s. 775.083, or s. 775.084;

26           (c) Greater than \$250 up to \$10,000, is guilty of a  
27 felony of the third degree, punishable as provided in s.  
28 775.082, s. 775.083, or s. 775.084;

29           (d) Greater than \$50 up to \$250, is guilty of a  
30 misdemeanor of the first degree, punishable as provided in s.  
31 775.082 or s. 775.083; or

1           (e) Up to \$50, is guilty of a misdemeanor of the  
2 second degree, punishable as provided in s. 775.082 or s.  
3 775.083.

4           Section 139. Section 717.135, Florida Statutes, is  
5 amended to read:

6           717.135 Agreement to recover ~~locate~~ reported property  
7 in the custody of the department.--

8           (1) All agreements between a claimant's ~~an owner's~~  
9 representative and a claimant ~~an owner~~ for compensation to  
10 recover or assist in the recovery of property reported to the  
11 department under s. 717.117 shall be in 11-point type or  
12 greater and either:

13           (a) Limit the fees and costs for services ~~for each~~  
14 ~~owner contract to \$25 for all contracts relating to unclaimed~~  
15 ~~property with a dollar value below \$250. For all contracts~~  
16 ~~relating to unclaimed property with a dollar value of \$250 and~~  
17 ~~above, fees shall be limited to 20 15 percent per unclaimed ~~on~~~~  
18 ~~property account held by the department for 24 months or less~~  
19 ~~and 25 percent on property held by the department for more~~  
20 ~~than 24 months. Fees and costs for cash accounts shall be~~  
21 ~~based on the value of the property at the time the agreement~~  
22 ~~for recovery is signed by the claimant ~~apparent owner~~. Fees~~  
23 ~~and costs for accounts containing securities or other~~  
24 ~~intangible ownership interests, which securities or interests~~  
25 ~~are not converted to cash, shall be based on the purchase~~  
26 ~~price of the security as quoted on a national exchange or~~  
27 ~~other market on which the property ~~ownership interest~~ is~~  
28 ~~regularly traded at the time the securities or other ownership~~  
29 ~~interest is remitted to the claimant ~~owner~~ or the claimant's~~  
30 ~~owner's representative. Fees and costs for tangible property~~  
31 ~~or safe-deposit box accounts shall be based on the value of~~

1 the tangible property or contents of the safe-deposit box at  
2 the time the ownership interest is transferred or remitted to  
3 the claimant ~~owner or the owner's representative~~; or

4 (b) Disclose, on such form as the department shall  
5 prescribe by rule, that the property is held by the Bureau of  
6 Unclaimed Property of the Department of Financial Services  
7 pursuant to this chapter, the person or name of the entity  
8 that held the property prior to the property becoming  
9 unclaimed, the date of the holder's last contact with the  
10 owner, if known, and the approximate value of the property,  
11 and identify which of the following categories of unclaimed  
12 property the owner's representative is seeking to recover, as  
13 reported by the holder:

- 14 1. Cash accounts.
- 15 2. Stale dated checks.
- 16 3. Life insurance or annuity contract assets.
- 17 4. Utility deposits.
- 18 5. Securities or other interests in business  
19 associations.
- 20 6. Wages.
- 21 7. Accounts receivable.
- 22 8. Contents of safe-deposit boxes.

23  
24 Such disclosure shall be on a page signed and dated by the  
25 person asserting entitlement to the unclaimed property.

26 However, paragraph (1)(a) or (b) this section shall not apply  
27 if probate proceedings must be initiated on behalf of the  
28 claimant for an estate that has never been probated ~~to~~  
29 ~~contracts made in connection with guardianship proceedings or~~  
30 ~~the probate of an estate.~~

31



1           (2)(a) Agreements for recovery of cash accounts shall  
2 state the value of the unclaimed property, the unclaimed  
3 property account number, and the percentage dollar value of  
4 the unclaimed property account to be paid to the claimant  
5 ~~owner~~ and shall also state the percentage dollar value of  
6 compensation to be paid to the claimant's owner's  
7 representative.

8           (b) Agreements for recovery of accounts containing  
9 securities, safe-deposit box accounts, other intangible or  
10 tangible ownership interests, or other types of accounts,  
11 except cash accounts, shall state the unclaimed property  
12 account number, the number of shares of stock, if applicable,  
13 the approximate value of the unclaimed property, and the  
14 percentage value of compensation to be paid to the claimant's  
15 ~~owner's~~ representative.

16           (c) All disclosures and agreements shall include the  
17 name, address, and professional license number of the  
18 claimant's owner's representative, and, if available, the  
19 taxpayer identification number or social security number,  
20 address, and telephone number of the claimant owner. The  
21 original of all such disclosures and agreements to pay  
22 compensation shall be signed and dated by the claimant owner  
23 of the property and shall be filed ~~by the owner's~~  
24 ~~representative~~ with the claim form.

25           (d) All agreements between a claimant's representative  
26 and a claimant, who is a natural person, trust, or a dissolved  
27 corporation, for compensation to recover or assist in the  
28 recovery of property reported to the department under s.  
29 717.117 must use the following form on 8 and 1/2 inch by 11  
30 inch paper or on 8 and 1/2 inch by 14 inch paper with all of  
31 the text on one side of the paper and with the other side of

1 the paper left blank; except that, at the option of the owner  
2 representative, the department disclosure form may be placed  
3 on the reverse side of the agreement. The agreement must be  
4 accurately completed and executed. No other writing or  
5 information shall be printed on the agreement. The title of  
6 the agreement shall be in bold 14-point type and underlined.  
7 The rest of the agreement shall be in 10-point type or  
8 greater. All unclaimed property accounts claimed must be  
9 identified on the agreement. The agreement must state:

10 RECOVERY AGREEMENT

11 \$ \_\_\_\_\_ = APPROXIMATE DOLLAR VALUE OF UNCLAIMED PROPERTY  
12 NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF  
13 APPLICABLE): \_\_\_\_\_  
14 PROPERTY ACCOUNT NUMBERS: \_\_\_\_\_  
15 \_\_\_\_\_ PERCENT TO BE PAID AS COMPENSATION TO THE CLAIMANT'S  
16 REPRESENTATIVE  
17 \$ \_\_\_\_\_ = NET AMOUNT TO BE PAID TO CLAIMANT  
18 \$ \_\_\_\_\_ = AMOUNT TO BE PAID TO CLAIMANT'S REPRESENTATIVE

19  
20  
21 THIS AGREEMENT is between:

22 \_\_\_\_\_  
23 (hereinafter, CLAIMANT)

24 and

25 \_\_\_\_\_  
26 (hereinafter, CLAIMANT'S REPRESENTATIVE)

27 who agree to the following:

28 (1) As consideration for the research efforts in  
29 locating and identifying assets due to the CLAIMANT and for  
30 assistance in procuring payment of the assets to the CLAIMANT,  
31 the CLAIMANT authorizes the government to pay to the  
CLAIMANT'S REPRESENTATIVE a fee of either:

1           (a) \_\_\_\_\_ percent of all assets recovered, or  
2           (b) A flat fee of \$ \_\_\_\_\_ to recover the unclaimed  
3 property account identified above.

4  
5 NO FEES ARE TO BE PAID IN ADVANCE.

6           (2) I have read this agreement and in consideration  
7 thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a  
8 limited power of attorney to demand, collect, recover and  
9 receive the above compensation from the government in  
10 accordance with this agreement.

11           (3) IT IS HEREBY ACKNOWLEDGED BY ALL PARTIES TO THIS  
12 AGREEMENT THAT UNLESS THESE ASSETS ARE RECOVERED, NO FEES, NO  
13 COSTS OR CHARGES ARE DUE TO THE CLAIMANT'S REPRESENTATIVE, ITS  
14 AGENTS OR ATTORNEYS, AND THIS AGREEMENT WILL BECOME NULL AND  
15 VOID.

16 Original Signature of CLAIMANT: \_\_\_\_\_  
17 DATE: \_\_\_\_\_  
18 CLAIMANT'S Social Security Number or FEID number: \_\_\_\_\_  
19 Make the CLAIMANT'S check payable to: \_\_\_\_\_  
20 Mail check to this address: \_\_\_\_\_  
21 \_\_\_\_\_

22 The CLAIMANT'S telephone number is: \_\_\_\_\_  
23 Original Signature of CLAIMANT'S REPRESENTATIVE: \_\_\_\_\_  
24 FEID Number of CLAIMANT'S REPRESENTATIVE: \_\_\_\_\_  
25 DATE: \_\_\_\_\_  
26 Address of CLAIMANT'S REPRESENTATIVE: \_\_\_\_\_  
27 \_\_\_\_\_

28 Telephone number of CLAIMANT'S REPRESENTATIVE: \_\_\_\_\_  
29 Professional license number of CLAIMANT'S REPRESENTATIVE: \_\_\_\_\_  
30 \_\_\_\_\_

31

1           (e) All fees, whether expressed as a percentage or as  
2 a flat fee, are subject to the limitations and requirements of  
3 subsection (1).

4           (3) As used in this section, "claimant" means the  
5 person on whose behalf a claim is filed.

6           (4) This section does not supersede the licensing  
7 requirements of chapter 493.

8           Section 140. Section 717.1351, Florida Statutes, is  
9 created to read:

10           717.1351 Acquisition of unclaimed property.--

11           (1) A person desiring to acquire ownership or  
12 entitlement of property reported to the department under s.  
13 717.117 must be an attorney licensed to practice law in this  
14 state, a licensed Florida-certified public accountant, a  
15 private investigator licensed under chapter 493, or an  
16 employer of a licensed private investigator which employer  
17 possesses a Class "A" license under chapter 493 and must be  
18 registered with the department under this chapter.

19           (2) All contracts to acquire ownership or entitlement  
20 of unclaimed property from the person or persons entitled to  
21 the unclaimed property must be in 10-point type or greater and  
22 must:

23           (a) Have a purchase price that discounts the value of  
24 the unclaimed property at the time the agreement is executed  
25 by the seller at no greater than 20 percent per account held  
26 by the department; or

27           (b) Disclose, on such form as the department shall  
28 prescribe by rule, that the property is held by the Bureau of  
29 Unclaimed Property of the Department of Financial Services  
30 pursuant to this chapter, the person or name of the entity  
31 that held the property prior to the property becoming

1 unclaimed, the date of the holder's last contact with the  
2 owner, if known, and the approximate value of the property,  
3 and identify which of the following categories of unclaimed  
4 property buyer is seeking to purchase as reported by the  
5 holder:

6 1. Cash accounts.

7 2. Stale dated checks.

8 3. Life insurance or annuity contract assets.

9 4. Utility deposits.

10 5. Securities or other interests in business  
11 associations.

12 6. Wages.

13 7. Accounts receivable.

14 8. Contents of safe-deposit boxes.

15  
16 Such disclosure shall be on a page signed and dated by the  
17 seller of the unclaimed property.

18 (3) The originals of all such disclosures and  
19 agreements to transfer ownership or entitlement to unclaimed  
20 property shall be signed and dated by the seller and shall be  
21 filed with the claim form. The claimant shall provide the  
22 department with a legible copy of a valid driver's license of  
23 the seller at the time the original claim form is filed. If a  
24 seller has not been issued a valid driver's license at the  
25 time the original claim form is filed, the department shall be  
26 provided with a legible copy of a photographic identification  
27 of the seller issued by the United States or a foreign nation,  
28 a state or territory of the United States or foreign nation,  
29 or a political subdivision or agency thereof. In lieu of  
30 photographic identification, a notarized sworn statement by  
31 the seller may be provided which affirms the seller's identity

1 and states the seller's full name and address. If a claim is  
2 filed without the required identification or the sworn  
3 statement with the original claim form and the original  
4 agreement to acquire ownership or entitlement to the unclaimed  
5 property, the claim is void.

6 (4) Any contract to acquire ownership or entitlement  
7 of unclaimed property from the person or persons entitled to  
8 the unclaimed property must provide for the purchase price to  
9 be remitted to the seller or sellers within 10 days after the  
10 execution of the contract by the seller or sellers. The  
11 contract must specify the unclaimed property account number,  
12 the value of the unclaimed property account, and the number of  
13 shares of stock, if applicable. Proof of payment by check must  
14 be filed with the department with the claim.

15 (5) All agreements to purchase unclaimed property from  
16 an owner, who is a natural person, a trust, or a dissolved  
17 corporation must use the following form on 8 and 1/2 inch by  
18 11 inch paper or on 8 and 1/2 inch by 14 inch paper with all  
19 of the text on one side of the paper and with the other side  
20 of the paper left blank; except that, at the option of the  
21 owner representative, the department disclosure form may be  
22 placed on the reverse side of the agreement. The agreement  
23 must be accurately completed and executed. No other writing or  
24 information shall be printed on the agreement. The title of  
25 the agreement shall be in bold 14-point type and underlined.  
26 The rest of the agreement shall be in 10-point type or  
27 greater. All unclaimed property accounts to be purchased must  
28 be identified on the agreement. The agreement must state:

29 PURCHASE AGREEMENT

30 \$ \_\_\_\_\_ = APPROXIMATE DOLLAR VALUE OF THE UNCLAIMED  
31 PROPERTY

ENROLLED

2004 Legislature

CS for CS for SB 2994, 2nd Engrossed

1 PROPERTY ACCOUNT NUMBER(S):  
2 NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF  
3 APPLICABLE):  
4 PERCENT OF UNCLAIMED PROPERTY TO BE PAID TO THE  
5 BUYER  
6 \$ = NET AMOUNT TO BE PAID TO OWNER  
7 \$ = AMOUNT TO BE PAID TO BUYER  
8 THIS AGREEMENT is between:  
9  
10 (hereinafter, OWNER)  
11 and  
12 (hereinafter, BUYER)  
13 who agree that the OWNER transfers to the BUYER for a purchase  
14 price of \$ all rights to the above identified unclaimed  
15 property accounts.  
16 Original Signature of OWNER: DATE:  
17 OWNER'S Social Security Number or FEID number:  
18 Within 10 days after the execution of this Purchase Agreement  
19 by the Owner, Buyer shall remit the OWNER'S check payable to:  
20  
21 Mail check to this address:  
22  
23  
24 The OWNER'S telephone number is:  
25 Original Signature of BUYER:  
26 FEID Number of BUYER: DATE:  
27 Address of BUYER:  
28  
29 Telephone number of BUYER:  
30 Professional license number of BUYER:  
31

1           (6) This section does not supersede the licensing  
2 requirements of chapter 493.

3           Section 141. Section 717.1400, Florida Statutes, is  
4 created to read:

5           717.1400 Registration.--

6           (1) In order to file claims as a claimant's  
7 representative, acquire ownership or entitlement to unclaimed  
8 property, receive a distribution of fees and costs from the  
9 department, and obtain unclaimed property dollar amounts, the  
10 number of reported shares of stock, and the last four digits  
11 of social security numbers held by the department, a private  
12 investigator holding a Class "C" individual license under  
13 chapter 493 must register with the department on such form as  
14 the department shall prescribe by rule, and verified by the  
15 applicant. To register with the department, a private  
16 investigator must provide:

17           (a) A legible copy of the applicant's Class "A"  
18 business license under chapter 493 or that of the applicant's  
19 employer which holds a Class "A" business license under  
20 chapter 493.

21           (b) A legible copy of the applicant's Class "C"  
22 individual license issued under chapter 493.

23           (c) The applicant's business address and telephone  
24 number.

25           (d) The names of agents or employees, if any, who are  
26 designated to act on behalf of the private investigator  
27 together with a legible copy of their photo-identification  
28 issued by an agency of the United States, or a state, or a  
29 political subdivision thereof.

30           (e) Sufficient information to enable the department to  
31 disburse funds by electronic funds transfer.



1           (f) The tax identification number of the private  
2 investigator's employer which holds a Class "A" business  
3 license under chapter 493.

4           (2) In order to file claims as a claimant's  
5 representative, acquire ownership or entitlement to unclaimed  
6 property, receive a distribution of fees and costs from the  
7 department, and obtain unclaimed property dollar amounts, the  
8 number of reported shares of stock, and the last four digits  
9 of social security numbers held by the department, a  
10 Florida-certified public accountant must register with the  
11 department on such form as the department shall prescribe by  
12 rule, and must be verified by the applicant. To register with  
13 the department a Florida-certified public accountant must  
14 provide:

15           (a) The applicant's Florida Board of Accountancy  
16 number.

17           (b) A legible copy of the applicant's current driver's  
18 license showing the full name and current address of such  
19 person. If a current driver's license is not available,  
20 another form of identification showing full name and current  
21 address of such person or persons shall be filed with the  
22 department.

23           (c) The applicant's business address and telephone  
24 number.

25           (d) The names of agents or employees, if any, who are  
26 designated to act on behalf of the Florida-certified public  
27 accountant together with a legible copy of their  
28 photo-identification issued by an agency of the United States,  
29 or a state, or a political subdivision thereof.

30           (e) Sufficient information to enable the department to  
31 disburse funds by electronic funds transfer.

1           (f) The tax identification number of the accountant's  
2 public accounting firm employer.

3           (3) In order to file claims as a claimant's  
4 representative, acquire ownership or entitlement to unclaimed  
5 property, receive a distribution of fees and costs from the  
6 department, and obtain unclaimed property dollar amounts, the  
7 number of reported shares of stock, and the last four digits  
8 of social security numbers held by the department, an attorney  
9 licensed to practice in this state must register with the  
10 department on such form as the department shall prescribe by  
11 rule, and must be verified by the applicant. To register with  
12 the department, such attorney must provide:

13           (a) The applicant's Florida Bar number.

14           (b) A legible copy of the applicant's current driver's  
15 license showing the full name and current address of such  
16 person. If a current driver's license is not available,  
17 another form of identification showing full name and current  
18 address of such person or persons shall be filed with the  
19 department.

20           (c) The applicant's business address and telephone  
21 number.

22           (d) The names of agents or employees, if any, who are  
23 designated to act on behalf of the attorney, together with a  
24 legible copy of their photo-identification issued by an agency  
25 of the United States, or a state, or a political subdivision  
26 thereof.

27           (e) Sufficient information to enable the department to  
28 disburse funds by electronic funds transfer.

29           (f) The tax identification number of the lawyer's  
30 employer law firm.

31

1       (4) Information and documents already on file with the  
2 department prior to the effective date of this provision need  
3 not be resubmitted in order to complete the registration.

4       (5) If a material change in the status of a  
5 registration occurs, a registrant must, within 30 days,  
6 provide the department with the updated documentation and  
7 information in writing. Material changes include, but are not  
8 limited to; a designated agent or employee ceasing to act on  
9 behalf of the designating person, a surrender, suspension, or  
10 revocation of a license, or a license renewal.

11       (a) If a designated agent or employee ceases to act on  
12 behalf of the person who has designated the agent or employee  
13 to act on such person's behalf, the designating person must,  
14 within 30 days, inform the Bureau of Unclaimed Property in  
15 writing of the termination of agency or employment.

16       (b) If a registrant surrenders the registrant's  
17 license or the license is suspended or revoked, the registrant  
18 must, within 30 days, inform the bureau in writing of the  
19 surrender, suspension, or revocation.

20       (c) If a private investigator's Class "C" individual  
21 license under chapter 493 or a private investigator's  
22 employer's Class "A" business license under chapter 493 is  
23 renewed, the private investigator must provide a copy of the  
24 renewed license to the department within 30 days after the  
25 receipt of the renewed license by the private investigator or  
26 the private investigator's employer.

27       (6) A registrant or applicant for registration may not  
28 have a name that might lead another person to conclude that  
29 the registrant is affiliated or associated with the United  
30 States, or an agency thereof, or a state or an agency or  
31 political subdivision of a state. The department shall deny an

1 application for registration or revoke a registration if the  
2 applicant or registrant has a name that might lead another  
3 person to conclude that the applicant or registrant is  
4 affiliated or associated with the United States, or an agency  
5 thereof, or a state or an agency or political subdivision of a  
6 state. Names that might lead another person to conclude that  
7 the applicant or registrant is affiliated or associated with  
8 the United States, or an agency thereof, or a state or an  
9 agency or political subdivision of a state, include, but are  
10 not limited to, the words United States, Florida, state,  
11 bureau, division, department, or government.

12           Section 142. Subsection (2) of section 212.02, Florida  
13 Statutes, is amended to read:

14           212.02 Definitions.--The following terms and phrases  
15 when used in this chapter have the meanings ascribed to them  
16 in this section, except where the context clearly indicates a  
17 different meaning:

18           (2) "Business" means any activity engaged in by any  
19 person, or caused to be engaged in by him or her, with the  
20 object of private or public gain, benefit, or advantage,  
21 either direct or indirect. Except for the sales of any  
22 aircraft, boat, mobile home, or motor vehicle, the term  
23 "business" shall not be construed in this chapter to include  
24 occasional or isolated sales or transactions involving  
25 tangible personal property or services by a person who does  
26 not hold himself or herself out as engaged in business or  
27 sales of unclaimed tangible personal property under s.  
28 717.122, but includes other charges for the sale or rental of  
29 tangible personal property, sales of services taxable under  
30 this chapter, sales of or charges of admission, communication  
31 services, all rentals and leases of living quarters, other

1 | than low-rent housing operated under chapter 421, sleeping or  
2 | housekeeping accommodations in hotels, apartment houses,  
3 | roominghouses, tourist or trailer camps, and all rentals of or  
4 | licenses in real property, other than low-rent housing  
5 | operated under chapter 421, all leases or rentals of or  
6 | licenses in parking lots or garages for motor vehicles,  
7 | docking or storage spaces for boats in boat docks or marinas  
8 | as defined in this chapter and made subject to a tax imposed  
9 | by this chapter. The term "business" shall not be construed in  
10 | this chapter to include the leasing, subleasing, or licensing  
11 | of real property by one corporation to another if all of the  
12 | stock of both such corporations is owned, directly or through  
13 | one or more wholly owned subsidiaries, by a common parent  
14 | corporation; the property was in use prior to July 1, 1989,  
15 | title to the property was transferred after July 1, 1988, and  
16 | before July 1, 1989, between members of an affiliated group,  
17 | as defined in s. 1504(a) of the Internal Revenue Code of 1986,  
18 | which group included both such corporations and there is no  
19 | substantial change in the use of the property following the  
20 | transfer of title; the leasing, subleasing, or licensing of  
21 | the property was required by an unrelated lender as a  
22 | condition of providing financing to one or more members of the  
23 | affiliated group; and the corporation to which the property is  
24 | leased, subleased, or licensed had sales subject to the tax  
25 | imposed by this chapter of not less than \$667 million during  
26 | the most recent 12-month period ended June 30. Any tax on such  
27 | sales, charges, rentals, admissions, or other transactions  
28 | made subject to the tax imposed by this chapter shall be  
29 | collected by the state, county, municipality, any political  
30 | subdivision, agency, bureau, or department, or other state or  
31 |

1 | local governmental instrumentality in the same manner as other  
2 | dealers, unless specifically exempted by this chapter.

3 |       Section 143. Subsection (4) of section 322.142,  
4 | Florida Statutes, is amended to read:

5 |           322.142 Color photographic or digital imaged  
6 | licenses.--

7 |           (4) The department may maintain a film negative or  
8 | print file. The department shall maintain a record of the  
9 | digital image and signature of the licensees, together with  
10 | other data required by the department for identification and  
11 | retrieval. Reproductions from the file or digital record shall  
12 | be made and issued only for departmental administrative  
13 | purposes, for the issuance of duplicate licenses, in response  
14 | to law enforcement agency requests, ~~or~~ to the Department of  
15 | Revenue pursuant to an interagency agreement to facilitate  
16 | service of process in Title IV-D cases, or to the Department  
17 | of Financial Services pursuant to an interagency agreement to  
18 | facilitate the location of owners of unclaimed property, the  
19 | validation of unclaimed property claims, and the  
20 | identification of fraudulent or false claims, and are exempt  
21 | from the provisions of s. 119.07(1).

22 |       Section 144. Paragraph (1) is added to subsection (4)  
23 | of section 395.3025, Florida Statutes, and subsection (10) of  
24 | that section is amended, to read:

25 |           395.3025 Patient and personnel records; copies;  
26 | examination.--

27 |           (4) Patient records are confidential and must not be  
28 | disclosed without the consent of the person to whom they  
29 | pertain, but appropriate disclosure may be made without such  
30 | consent to:  
31 |

1           (1) The Department of Financial Services, or an agent,  
2 employee, or independent contractor of the department who is  
3 auditing for unclaimed property pursuant to chapter 717.

4           (10) The home addresses, telephone numbers, social  
5 security numbers, and photographs of employees of any licensed  
6 facility who provide direct patient care or security services;  
7 the home addresses, telephone numbers, social security  
8 numbers, photographs, and places of employment of the spouses  
9 and children of such persons; and the names and locations of  
10 schools and day care facilities attended by the children of  
11 such persons are confidential and exempt from s. 119.07(1) and  
12 s. 24(a), Art. I of the State Constitution. However, any state  
13 or federal agency that is authorized to have access to such  
14 information by any provision of law shall be granted such  
15 access in the furtherance of its statutory duties,  
16 notwithstanding the provisions of this subsection. The  
17 Department of Financial Services, or an agent, employee, or  
18 independent contractor of the department who is auditing for  
19 unclaimed property pursuant to chapter 717, shall be granted  
20 access to the name, address, and social security number of any  
21 employee owed unclaimed property. This subsection is subject  
22 to the Open Government Sunset Review Act of 1995 in accordance  
23 with s. 119.15, and shall stand repealed on October 2, 2004,  
24 unless reviewed and saved from repeal through reenactment by  
25 the Legislature.

26           Section 145. Section 732.103, Florida Statutes, is  
27 amended to read:

28           732.103 Share of other heirs.--The part of the  
29 intestate estate not passing to the surviving spouse under s.  
30 732.102, or the entire intestate estate if there is no  
31 surviving spouse, descends as follows:

1           (1) To the lineal descendants of the decedent.

2           (2) If there is no lineal descendant, to the  
3 decedent's father and mother equally, or to the survivor of  
4 them.

5           (3) If there is none of the foregoing, to the  
6 decedent's brothers and sisters and the descendants of  
7 deceased brothers and sisters.

8           (4) If there is none of the foregoing, the estate  
9 shall be divided, one-half of which shall go to the decedent's  
10 paternal, and the other half to the decedent's maternal,  
11 kindred in the following order:

12           (a) To the grandfather and grandmother equally, or to  
13 the survivor of them.

14           (b) If there is no grandfather or grandmother, to  
15 uncles and aunts and descendants of deceased uncles and aunts  
16 of the decedent.

17           (c) If there is either no paternal kindred or no  
18 maternal kindred, the estate shall go to the other kindred who  
19 survive, in the order stated above.

20           (5) If there is no kindred of either part, the whole  
21 of the property shall go to the kindred of the last deceased  
22 spouse of the decedent as if the deceased spouse had survived  
23 the decedent and then died intestate entitled to the estate.

24           (6) If none of the foregoing, and if any of the  
25 descendants of the decedent's great-grandparents were  
26 holocaust victims as defined in s. 626.9543(3)(b), including  
27 such victims in countries cooperating with the discriminatory  
28 policies of Nazi Germany then to the lineal descendants of the  
29 great grandparents. The court shall allow any such descendent  
30 to meet a reasonable, not unduly restrictive, standard of  
31 proof to substantiate his or her lineage. This subsection only



1 applies to escheated property and shall cease to be effective  
2 for proceedings filed after December 31, 2004.

3 Section 146. Section 627.4554, Florida Statutes, is  
4 created to read:

5 627.4554 Annuity investments by seniors.--

6 (1) PURPOSE; CONSTRUCTION.--

7 (a) The purpose of this section is to set forth  
8 standards and procedures for recommendations to senior  
9 consumers which result in a transaction involving annuity  
10 products to appropriately address the insurance needs and  
11 financial objectives of senior consumers at the time of the  
12 transaction.

13 (b) Nothing in this section shall be construed to  
14 create or imply a private cause of action for a violation of  
15 this section.

16 (2) APPLICATION.--This section applies to any  
17 recommendation to purchase or exchange an annuity made to a  
18 senior consumer by an insurance agent, or an insurer where no  
19 agent is involved, that results in the purchase or exchange  
20 recommended.

21 (3) DEFINITIONS.--For purposes of this section:

22 (a) "Annuity" means a fixed annuity or variable  
23 annuity that is individually solicited, whether the product is  
24 classified as an individual annuity or a group annuity.

25 (b) "Recommendation" means advice provided by an  
26 insurance agent, or an insurer if no insurance agent is  
27 involved, to an individual senior consumer which results in a  
28 purchase or exchange of an annuity in accordance with that  
29 advice.

30 (c) "Senior consumer" means a person 65 years of age  
31 or older. In the event of a joint purchase by more than one

1 party, a purchaser is considered to be a senior consumer if  
2 any of the parties is age 65 or older.

3 (4) DUTIES OF INSURERS AND INSURANCE AGENTS.--

4 (a) In recommending to a senior consumer the purchase  
5 of an annuity or the exchange of an annuity that results in  
6 another insurance transaction or series of insurance  
7 transactions, an insurance agent, or an insurer if no  
8 insurance agent is involved, shall have reasonable grounds for  
9 believing that the recommendation is suitable for the senior  
10 consumer on the basis of the facts disclosed by the senior  
11 consumer as to his or her investments and other insurance  
12 products and as to his or her financial situation and needs.

13 (b) Before executing a purchase or exchange of an  
14 annuity resulting from a recommendation to a senior consumer,  
15 an insurance agent, or an insurer if no insurance agent is  
16 involved, shall make reasonable efforts to obtain information  
17 concerning the senior consumer's financial status, tax status,  
18 and investment objectives and such other information used or  
19 considered to be reasonable by the insurance agent, or the  
20 insurer if no agent is involved, in making the recommendation.

21 (c)1. Except as provided under subparagraph 2., an  
22 insurance agent, or an insurer if no insurance agent is  
23 involved, shall not have any obligation to a senior consumer  
24 under paragraph (a) related to any recommendation if the  
25 senior consumer:

26 a. Refuses to provide relevant information requested  
27 by the insurer or insurance agent;

28 b. Decides to enter into an insurance transaction that  
29 is not based on a recommendation of the insurer or insurance  
30 agent; or

31 c. Fails to provide complete or accurate information.

1           2. An insurer or insurance agent's recommendation  
2 subject to subparagraph 1. shall be reasonable under all the  
3 circumstances actually known to the insurer or insurance agent  
4 at the time of the recommendation.

5           (d)1. An insurer or insurance agent shall ensure that  
6 a system to supervise recommendations which is reasonably  
7 designed to achieve compliance with this section is  
8 established and maintained by complying with subparagraphs 3.,  
9 4., and 5., or shall establish and maintain such a system,  
10 including, but not limited to:

11           a. Maintaining written procedures.

12           b. Conducting periodic reviews of its records that are  
13 reasonably designed to assist in detecting and preventing  
14 violations of this section.

15           2. A managing general agent and an insurance agency  
16 shall adopt a system established by an insurer to supervise  
17 recommendations of its insurance agents which is reasonably  
18 designed to achieve compliance with this section or shall  
19 establish and maintain such a system, including, but not  
20 limited to:

21           a. Maintaining written procedures.

22           b. Conducting periodic reviews of records that are  
23 reasonably designed to assist in detecting and preventing  
24 violations of this section.

25           3. An insurer may contract with a third party,  
26 including a managing general agent or an insurance agency, to  
27 establish and maintain a system of supervision as required by  
28 subparagraph 1. with respect to insurance agents under  
29 contract with or employed by the third party.

30           4. An insurer shall make reasonable inquiry to ensure  
31 that such third party contracting under subparagraph 3. is

1 performing the functions required under subparagraph 1. and  
2 shall take such action as is reasonable under the  
3 circumstances to enforce the contractual obligation to perform  
4 the functions. An insurer may comply with its obligation to  
5 make reasonable inquiry by:

6 a. Annually obtaining a certification from a third  
7 party senior manager who has responsibility for the delegated  
8 functions that the manager has a reasonable basis to  
9 represent, and does represent, that the third party is  
10 performing the required functions.

11 b. Based on reasonable selection criteria,  
12 periodically selecting third parties contracting under  
13 subparagraph 3. for a review to determine whether the third  
14 parties are performing the required functions. The insurer  
15 shall perform any procedures necessary to conduct the review  
16 which are reasonable under the circumstances.

17 5. An insurer that contracts with a third party  
18 pursuant to subparagraph 3. and complies with the requirements  
19 specified in subparagraph 4. is deemed to have fulfilled its  
20 responsibilities under subparagraph 1.

21 6. An insurer, managing general agent, or insurance  
22 agency is not required by subparagraph 1. or subparagraph 2.  
23 to:

24 a. Review or provide for review of all transactions  
25 solicited by an insurance agent; or

26 b. Include in its system of supervision an insurance  
27 agent's recommendations to senior consumers of products other  
28 than the annuities offered by the insurer, managing general  
29 agent, or insurance agency.

30 7. A managing general agent or insurance agency  
31 contracting with an insurer pursuant to subparagraph 3. shall

1 promptly, when requested by the insurer pursuant to  
2 subparagraph 4., provide a certification as described in  
3 subparagraph 4. or provide a clear statement that the managing  
4 general agent or insurance agency is unable to meet the  
5 certification criteria.

6 8. A person may not provide a certification under  
7 sub-subparagraph 4.a. unless the person is a senior manager  
8 with responsibility for the delegated functions and has a  
9 reasonable basis for making the certification.

10 (5) MITIGATION OF RESPONSIBILITY.--

11 (a) The office may order an insurer to take reasonably  
12 appropriate corrective action for any senior consumer harmed  
13 by a violation of this section by the insurer or the insurer's  
14 insurance agent.

15 (b) The department may order:

16 1. An insurance agent to take reasonably appropriate  
17 corrective action for any senior consumer harmed by a  
18 violation of this section by the insurance agent.

19 2. A managing general agency or insurance agency that  
20 employs or contracts with an insurance agent to sell or  
21 solicit the sale of annuities to senior consumers to take  
22 reasonably appropriate corrective action for any senior  
23 consumer harmed by a violation of this section by the  
24 insurance agent.

25 (c) Any applicable penalty under the Florida Insurance  
26 Code for a violation of paragraph (4)(a), paragraph (4)(b), or  
27 subparagraph (4)(c)2. may be reduced or eliminated, according  
28 to a schedule adopted by the office or the department, as  
29 appropriate, if corrective action for the senior consumer was  
30 taken promptly after a violation was discovered.

31 (6) RECORDKEEPING.--

1       (a) Insurers, managing general agents, insurance  
2 agencies, and insurance agents shall maintain or be able to  
3 make available to the department or office, as appropriate,  
4 records of the information collected from the senior consumer  
5 and other information used in making the recommendations that  
6 were the basis for insurance transactions for 5 years after  
7 the insurance transaction is completed by the insurer. An  
8 insurer is permitted, but shall not be required, to maintain  
9 documentation on behalf of an insurance agent.

10       (b) Records required to be maintained by this  
11 regulation may be maintained in paper, photographic,  
12 microprocess, magnetic, mechanical, or electronic media, or by  
13 any process that accurately reproduces the actual document.

14       (7) EXEMPTIONS.--Unless otherwise specifically  
15 included, this section does not apply to recommendations  
16 involving:

17       (a) Direct-response solicitations where there is no  
18 recommendation based on information collected from the senior  
19 consumer pursuant to this section.

20       (b) Contracts used to fund:

21       1. An employee pension or welfare benefit plan that is  
22 covered by the Employee Retirement and Income Security Act;

23       2. A plan described by Sections 401(a), 401(k),  
24 403(b), 408(k), or 408(p) of the Internal Revenue Code of  
25 1986, as amended, if established or maintained by an employer;

26       3. A government or church plan defined in Section 414  
27 of the Internal Revenue Code of 1986, as amended, a government  
28 or church welfare benefit plan, or a deferred compensation  
29 plan of a state or local government or tax-exempt organization  
30 under Section 457 of the Internal Revenue Code of 1986, as  
31 amended;

1           4. A nonqualified deferred compensation arrangement  
2 established or maintained by an employer or plan sponsor;

3           5. Settlements of or assumptions of liabilities  
4 associated with personal injury litigation or any dispute or  
5 claim resolution process; or

6           6. Prepaid funeral contracts.

7           (8) APPLICATION TO VARIABLE ANNUITIES.--Compliance  
8 with the National Association of Securities Dealers Conduct  
9 Rules in effect on January 1, 2004, shall satisfy the  
10 requirements under this section for the recommendation of  
11 variable annuities. This section does not limit the  
12 department's ability to enforce the provisions of this section  
13 with respect to insurance agents, insurance agencies, and  
14 managing general agents, or the office's ability to enforce  
15 the provisions of this section with respect to insurers.

16           Section 147. Paragraph (h) of subsection (2) of  
17 section 20.121, Florida Statutes, is amended to read:

18           20.121 Department of Financial Services.--There is  
19 created a Department of Financial Services.

20           (2) DIVISIONS.--The Department of Financial Services  
21 shall consist of the following divisions:

22           (h) The Division of Consumer Services, which shall  
23 include a Bureau of Funeral and Cemetery Services.

24           1. The Division of Consumer Services shall perform the  
25 following functions concerning products or services regulated  
26 by the Department of Financial Services or by either office of  
27 the Financial Services Commission:

28           a. Receive inquiries and complaints from consumers.+

29           b. Prepare and disseminate such information as the  
30 department deems appropriate to inform or assist consumers.+

31

1           c. Provide direct assistance and advocacy for  
2 consumers who request such assistance or advocacy.

3           d. With respect to apparent or potential violations of  
4 law or applicable rules by a person or entity licensed by the  
5 department or by either office of the commission, report such  
6 apparent or potential violation to the appropriate division of  
7 the department or office of the commission, which may take  
8 such further action as it deems appropriate.

9           e. Designate an employee of the division as primary  
10 contact for consumers on issues relating to sinkholes.

11           2. Any person licensed or issued a certificate of  
12 authority by the department or by the Office of Insurance  
13 Regulation shall respond, in writing, to the Division of  
14 Consumer Services within 20 days after receipt of a written  
15 request for information from the division concerning a  
16 consumer complaint. The response must address the issues and  
17 allegations raised in this complaint. The division may, in its  
18 discretion, impose an administrative penalty for failure to  
19 comply with this subparagraph in an amount up to \$2,500 per  
20 violation upon any entity licensed by the department or the  
21 Office of Insurance Regulation and \$250 for the first  
22 violation, \$500 for the second violation and up to \$1,000 per  
23 violation thereafter upon any individual licensed by the  
24 department or the Office of Insurance Regulation.

25           3. The department may adopt rules to implement the  
26 provisions of this paragraph.

27           4. The powers, duties, and responsibilities expressed  
28 or granted in this paragraph shall not limit the powers,  
29 duties, and responsibilities of the Department of Financial  
30 Services, the Financial Services Commission, the Office of  
31



1 Insurance Regulation, or the Office of Financial Regulation  
2 set forth elsewhere in the Florida Statutes.

3 Section 148. Paragraph (a) of subsection (7) of  
4 section 440.107, Florida Statutes, is amended to read:

5 440.107 Department powers to enforce employer  
6 compliance with coverage requirements.--

7 (7)(a) Whenever the department determines that an  
8 employer who is required to secure the payment to his or her  
9 employees of the compensation provided for by this chapter has  
10 failed to secure the payment of workers' compensation required  
11 by this chapter or to produce the required business records  
12 under subsection (5) within 5 business days after receipt of  
13 the written request of the department, such failure shall be  
14 deemed an immediate serious danger to public health, safety,  
15 or welfare sufficient to justify service by the department of  
16 a stop-work order on the employer, requiring the cessation of  
17 all business operations. If the department makes such a  
18 determination, the department shall issue a stop-work order  
19 within 72 hours. The order shall take effect when served upon  
20 the employer or, for a particular employer work site, when  
21 served at that work site. In addition to serving a stop-work  
22 order at a particular work site which shall be effective  
23 immediately, the department shall immediately proceed with  
24 service upon the employer which shall be effective upon all  
25 employer work sites in the state for which the employer is not  
26 in compliance. A stop-work order may be served with regard to  
27 an employer's work site by posting a copy of the stop-work  
28 order in a conspicuous location at the work site. The order  
29 shall remain in effect until the department issues an order  
30 releasing the stop-work order upon a finding that the employer  
31 has come into compliance with the coverage requirements of

1 | this chapter and has paid any penalty assessed under this  
2 | section. The department may issue an order of conditional  
3 | release from a stop-work order to an employer upon a finding  
4 | that the employer has complied with coverage requirements of  
5 | this chapter and has agreed to remit periodic payments of the  
6 | penalty pursuant to a payment agreement schedule with the  
7 | department. If an order of conditional release is issued,  
8 | failure by the employer to meet any term or condition of such  
9 | penalty payment agreement shall result in the immediate  
10 | reinstatement of the stop-work order and the entire unpaid  
11 | balance of the penalty shall become immediately due. The  
12 | department may require an employer who is found to have failed  
13 | to comply with the coverage requirements of s. 440.38 to file  
14 | with the department, as a condition of release from a  
15 | stop-work order, periodic reports for a probationary period  
16 | that shall not exceed 2 years that demonstrate the employer's  
17 | continued compliance with this chapter. The department shall  
18 | by rule specify the reports required and the time for filing  
19 | under this subsection.

20 |           Section 149. Section 501.137, Florida Statutes, is  
21 | amended to read:

22 |           501.137 Mortgage lenders; tax and insurance payments  
23 | from escrow accounts; duties.--

24 |           (1) Every lender of money, whether a natural person or  
25 | an artificial entity, whose loans are secured by a mortgage on  
26 | real estate located within the state and who receives funds  
27 | incidental thereto or in connection therewith for the payment  
28 | of property taxes or hazard insurance premiums when ~~the such~~  
29 | funds are held in escrow by or on behalf of the lender, shall  
30 | promptly pay ~~the such~~ taxes or insurance premiums when ~~the~~  
31 | ~~such~~ taxes or premiums become due and adequate escrow funds

1 are deposited, so that the maximum tax discount available may  
2 be obtained with regard to the taxable property and so that  
3 insurance coverage on the property does not lapse.

4 (2) If an escrow account for ~~the such~~ taxes or  
5 insurance premiums is deficient, the lender shall notify the  
6 property owner within 15 days after the lender receives the  
7 notification of taxes due from the county tax collector or  
8 receives the notification from the insurer that a premium is  
9 due.

10 (3)(a) If the lender, as a result of neglect, fails to  
11 pay any tax or insurance premium when the tax or premium is  
12 due and there are sufficient escrow funds on deposit to pay  
13 the tax or premium, and if the property owner suffers a loss  
14 as a result of ~~this such~~ failure, then the lender ~~is will be~~  
15 liable for ~~the such~~ loss; except, however, that with respect  
16 to any loss which would otherwise have been insured, the  
17 extent of ~~the such~~ liability shall not exceed the coverage  
18 limits of any insurance policy which has lapsed.

19 (b) If the lender violates paragraph (a) and the  
20 premium payment is not more than 90 days overdue, the insurer  
21 shall reinstate the insurance policy, retroactive to the date  
22 of cancellation, and the lender shall reimburse the property  
23 owner for any penalty or fees imposed by the insurer and paid  
24 by the property owner for purposes of reinstating the policy.

25 (c) If the lender violates paragraph (a) and the  
26 premium payment is more than 90 days overdue or if the insurer  
27 refuses to reinstate the insurance policy, the lender shall  
28 pay the difference between the cost of the previous insurance  
29 policy and a new, comparable insurance policy for a period of  
30 2 years.

31

1           (4) At the expiration of the annual accounting period,  
2 the lender shall issue to the property owner an annual  
3 statement of the escrow account.

4           Section 150. Paragraph (c) of subsection (3) of  
5 section 624.610, Florida Statutes, is amended to read:

6           624.610 Reinsurance.--

7           (3)

8           (c)1. Credit must be allowed when the reinsurance is  
9 ceded to an assuming insurer that maintains a trust fund in a  
10 qualified United States financial institution, as defined in  
11 paragraph (5)(b), for the payment of the valid claims of its  
12 United States ceding insurers and their assigns and successors  
13 in interest. To enable the office to determine the sufficiency  
14 of the trust fund, the assuming insurer shall report annually  
15 to the office information substantially the same as that  
16 required to be reported on the NAIC Annual Statement form by  
17 authorized insurers. The assuming insurer shall submit to  
18 examination of its books and records by the office and bear  
19 the expense of examination.

20           2.a. Credit for reinsurance must not be granted under  
21 this subsection unless the form of the trust and any  
22 amendments to the trust have been approved by:

23           (I) The insurance regulator of the state in which the  
24 trust is domiciled; or

25           (II) The insurance regulator of another state who,  
26 pursuant to the terms of the trust instrument, has accepted  
27 principal regulatory oversight of the trust.

28           b. The form of the trust and any trust amendments must  
29 be filed with the insurance regulator of every state in which  
30 the ceding insurer beneficiaries of the trust are domiciled.  
31 The trust instrument must provide that contested claims are

1 valid and enforceable upon the final order of any court of  
2 competent jurisdiction in the United States. The trust must  
3 vest legal title to its assets in its trustees for the benefit  
4 of the assuming insurer's United States ceding insurers and  
5 their assigns and successors in interest. The trust and the  
6 assuming insurer are subject to examination as determined by  
7 the insurance regulator.

8 c. The trust remains in effect for as long as the  
9 assuming insurer has outstanding obligations due under the  
10 reinsurance agreements subject to the trust. No later than  
11 February 28 of each year, the trustee of the trust shall  
12 report to the insurance regulator in writing the balance of  
13 the trust and list the trust's investments at the preceding  
14 year end, and shall certify that the trust will not expire  
15 prior to the following December 31.

16 3. The following requirements apply to the following  
17 categories of assuming insurer:

18 a. The trust fund for a single assuming insurer  
19 consists of funds in trust in an amount not less than the  
20 assuming insurer's liabilities attributable to reinsurance  
21 ceded by United States ceding insurers, and, in addition, the  
22 assuming insurer shall maintain a trusteed surplus of not less  
23 than \$20 million. Not less than 50 percent of the funds in the  
24 trust covering the assuming insurer's liabilities attributable  
25 to reinsurance ceded by United States ceding insurers and  
26 trusteed surplus shall consist of assets of a quality  
27 substantially similar to that required in part II of chapter  
28 625. Clean, irrevocable, unconditional, and evergreen letters  
29 of credit, issued or confirmed by a qualified United States  
30 financial institution, as defined in paragraph (5)(a),  
31 effective no later than December 31 of the year for which the

1 filing is made and in the possession of the trust on or before  
2 the filing date of its annual statement, may be used to fund  
3 the remainder of the trust and trusted surplus.

4 b.(I) In the case of a group including incorporated  
5 and individual unincorporated underwriters:

6 (A) For reinsurance ceded under reinsurance agreements  
7 with an inception, amendment, or renewal date on or after  
8 August 1, 1995, the trust consists of a trustee account in an  
9 amount not less than the group's several liabilities  
10 attributable to business ceded by United States domiciled  
11 ceding insurers to any member of the group;

12 (B) For reinsurance ceded under reinsurance agreements  
13 with an inception date on or before July 31, 1995, and not  
14 amended or renewed after that date, notwithstanding the other  
15 provisions of this section, the trust consists of a trustee  
16 account in an amount not less than the group's several  
17 insurance and reinsurance liabilities attributable to business  
18 written in the United States; and

19 (C) In addition to these trusts, the group shall  
20 maintain in trust a trustee surplus of which \$100 million  
21 must be held jointly for the benefit of the United States  
22 domiciled ceding insurers of any member of the group for all  
23 years of account.

24 (II) The incorporated members of the group must not be  
25 engaged in any business other than underwriting of a member of  
26 the group, and are subject to the same level of regulation and  
27 solvency control by the group's domiciliary regulator as the  
28 unincorporated members.

29 (III) Within 90 days after its financial statements  
30 are due to be filed with the group's domiciliary regulator,  
31 the group shall provide to the insurance regulator an annual

1 certification by the group's domiciliary regulator of the  
2 solvency of each underwriter member or, if a certification is  
3 unavailable, financial statements, prepared by independent  
4 public accountants, of each underwriter member of the group.

5 Section 151. Section 625.081, Florida Statutes, is  
6 amended to read:

7 625.081 Reserve for health insurance.--For all health  
8 insurance policies, the insurer shall maintain an active life  
9 reserve which places a sound value on the insurer's  
10 liabilities under such policies; is not less than the reserve  
11 according to appropriate standards set forth in rules issued  
12 by the commission; and, with the exception of credit  
13 disability insurance, in no event, is less in the aggregate  
14 than the pro rata gross unearned premiums for such policies.

15 Section 152. Paragraphs (a), (e), and (f) of  
16 subsection (5) and subsection (13) of section 625.121, Florida  
17 Statutes, are amended, and paragraphs (k) and (l) are added to  
18 subsection (5) of that section, to read:

19 625.121 Standard Valuation Law; life insurance.--

20 (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND  
21 CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD  
22 NONFORFEITURE LAW.--Except as otherwise provided in paragraph  
23 (h) and subsections (6), (11), and (14), the minimum standard  
24 for the valuation of all such policies and contracts issued on  
25 or after the operative date of s. 627.476 (Standard  
26 Nonforfeiture Law for Life Insurance) shall be the  
27 commissioners' reserve valuation method defined in subsections  
28 (7), (11), and (14); 5 percent interest for group annuity and  
29 pure endowment contracts and 3.5 percent interest for all  
30 other such policies and contracts, or in the case of life  
31 insurance policies and contracts, other than annuity and pure

1 | endowment contracts, issued on or after July 1, 1973, 4  
2 | percent interest for such policies issued prior to October 1,  
3 | 1979, and 4.5 percent interest for such policies issued on or  
4 | after October 1, 1979; and the following tables:

5 |       (a) For all ordinary policies of life insurance issued  
6 | on the standard basis, excluding any disability and accidental  
7 | death benefits in such policies:

8 |           1. For policies issued prior to the operative date of  
9 | s. 627.476(9), the commissioners' 1958 Standard Ordinary  
10 | Mortality Table; except that, for any category of such  
11 | policies issued on female risks, modified net premiums and  
12 | present values, referred to in subsection (7), may be  
13 | calculated according to an age not more than 6 years younger  
14 | than the actual age of the insured. ~~;~~ ~~and~~

15 |           2. For policies issued on or after the operative date  
16 | of s. 627.476(9), the commissioners' 1980 Standard Ordinary  
17 | Mortality Table or, at the election of the insurer for any one  
18 | or more specified plans of life insurance, the commissioners'  
19 | 1980 Standard Ordinary Mortality Table with Ten-Year Select  
20 | Mortality Factors.

21 |           3. For policies issued on or after July 1, 2004,  
22 | ordinary mortality tables, adopted after 1980 by the National  
23 | Association of Insurance Commissioners, adopted by rule by the  
24 | commission for use in determining the minimum standard of  
25 | valuation for such policies.

26 |       (e) For total and permanent disability benefits in or  
27 | supplementary to ordinary policies or contracts:

28 |           1. For policies or contracts issued on or after  
29 | January 1, 1966, the tables of period 2 disablement rates and  
30 | the 1930 to 1950 termination rates of the 1952 disability  
31 |



1 study of the Society of Actuaries, with due regard to the type  
2 of benefit;

3           2. For policies or contracts issued on or after  
4 January 1, 1961, and prior to January 1, 1966, either those  
5 tables or, at the option of the insurer, the class three  
6 disability table (1926); ~~and~~

7           3. For policies issued prior to January 1, 1961, the  
8 class three disability table (1926); ~~and-~~

9           4. For policies or contracts issued on or after July  
10 1, 2004, tables of disablement rates and termination rates  
11 adopted after 1980 by the National Association of Insurance  
12 Commissioners, adopted by rule by the commission for use in  
13 determining the minimum standard of valuation for those  
14 policies or contracts.

15  
16 Any such table for active lives shall be combined with a  
17 mortality table permitted for calculating the reserves for  
18 life insurance policies.

19           (f) For accidental death benefits in or supplementary  
20 to policies:

21           1. For policies issued on or after January 1, 1966,  
22 the 1959 Accidental Death Benefits Table;

23           2. For policies issued on or after January 1, 1961,  
24 and prior to January 1, 1966, either that table or, at the  
25 option of the insurer, the Intercompany Double Indemnity  
26 Mortality Table; ~~and~~

27           3. For policies issued prior to January 1, 1961, the  
28 Intercompany Double Indemnity Mortality Table; ~~and-~~

29           4. For policies issued on or after July 1, 2004,  
30 tables of accidental death benefits adopted after 1980 by the  
31 National Association of Insurance Commissioners, adopted by

1 rule by the commission for use in determining the minimum  
2 standard of valuation for those policies.

3  
4 Either table shall be combined with a mortality table  
5 permitted for calculating the reserves for life insurance  
6 policies.

7 (k) For individual annuity and pure endowment  
8 contracts issued on or after July 1, 2004, excluding any  
9 disability and accidental death benefits purchased under those  
10 contracts, individual annuity mortality tables adopted after  
11 1980 by the National Association of Insurance Commissioners,  
12 adopted by rule by the commission for use in determining the  
13 minimum standard of valuation for those contracts.

14 (l) For all annuities and pure endowments purchased on  
15 or after July 1, 2004, under group annuity and pure endowment  
16 contracts, excluding any disability and accidental death  
17 benefits purchased under those contracts, group annuity  
18 mortality tables adopted after 1980 by the National  
19 Association of Insurance Commissioners, adopted by rule by the  
20 commission for use in determining the minimum standard of  
21 valuation for those contracts.

22 (13) ~~APPLICABILITY TO CREDIT LIFE AND DISABILITY~~  
23 ~~INSURANCE POLICIES.--~~

24 (a) For policies issued prior to January 1, 2004:

25 1. The minimum reserve for single-premium credit  
26 disability insurance, monthly premium credit life insurance  
27 and monthly premium credit disability insurance shall be the  
28 unearned gross premium.

29 2. As to single-premium credit life insurance  
30 policies, the insurer shall establish and maintain reserves  
31 that are not less than the value, at the valuation date, of

1 the risk for the unexpired portion of the period for which the  
2 premium has been paid as computed on the basis of the  
3 commissioners' 1980 Standard Ordinary Mortality Table and 3.5  
4 percent interest. At the discretion of the office, the insurer  
5 may make a reasonable assumption as to the ages at which net  
6 premiums are to be determined. In lieu of the foregoing basis,  
7 reserves based upon unearned gross premiums may be used at the  
8 option of the insurer.

9 (b) For policies issued on or after January 1, 2004:

10 1. The minimum reserve for single-premium credit  
11 disability insurance shall be either:

12 a. The unearned gross premium, or

13 b. Based upon a morbidity table that is adopted by the  
14 National Association of Insurance Commissioners and is  
15 specified in a rule the commission adopts pursuant to  
16 subsection (14).

17 2. The minimum reserve for monthly premium credit  
18 disability insurance shall be the unearned gross premium.

19 3. The minimum reserve for monthly premium credit life  
20 insurance shall be the unearned gross premium.

21 4. As to single-premium credit life insurance  
22 policies, the insurer shall establish and maintain reserves  
23 that are not less than the value, at the valuation date, of  
24 the risk for the unexpired portion of the period for which the  
25 premium has been paid as computed on the basis of the  
26 commissioners' 1980 Standard Ordinary Mortality Table or any  
27 ordinary mortality table, adopted after 1980 by the National  
28 Association of Insurance Commissioners, that is approved by  
29 rule adopted by the commission for use in determining the  
30 minimum standard of valuation for such policies; and an  
31 interest rate determined in accordance with subsection (6). At

1 the discretion of the office, the insurer may make a  
2 reasonable assumption as to the ages at which net premiums are  
3 to be determined. In lieu of the foregoing basis, reserves  
4 based upon unearned gross premiums may be used at the option  
5 of the insurer. This section does not apply as to those credit  
6 life insurance policies for which reserves are computed and  
7 maintained as required under s. 625.131.

8           Section 153. Paragraphs (c) and (d) of subsection (1)  
9 of section 626.321, Florida Statutes, are amended to read:

10           626.321 Limited licenses.--

11           (1) The department shall issue to a qualified  
12 individual, or a qualified individual or entity under  
13 paragraphs (c), (d), (e), and (i), a license as agent  
14 authorized to transact a limited class of business in any of  
15 the following categories:

16           (c) Personal accident insurance.--License covering  
17 only policies of personal accident insurance covering the  
18 risks of travel, except as provided in subparagraph 2. The  
19 license may be issued only:

20           1. To a full-time salaried employee of a common  
21 carrier or a full-time salaried employee or owner of a  
22 transportation ticket agency and may authorize the sale of  
23 such ticket policies only in connection with the sale of  
24 transportation tickets, or to the full-time salaried employee  
25 of such an agent. No such policy shall be for a duration of  
26 more than 48 hours or for the duration of a specified one-way  
27 trip or round trip.

28           2. To a full-time salaried employee of a business  
29 which offers motor vehicles for rent or lease, or to a  
30 business entity ~~office of a business~~ which offers motor  
31 vehicles for rent or lease ~~if insurance sales activities~~

1 ~~authorized by the license are limited to full time salaried~~  
2 ~~employees.~~ A business office licensed or a person licensed  
3 pursuant to this subparagraph may, as an agent of an insurer,  
4 transact insurance that provides coverage for accidental  
5 personal injury or death of the lessee and any passenger who  
6 is riding or driving with the covered lessee in the rental  
7 motor vehicle if the lease or rental agreement is for not more  
8 than 30 days, or if the lessee is not provided coverage for  
9 more than 30 consecutive days per lease period; however, if  
10 the lease is extended beyond 30 days, the coverage may be  
11 extended one time only for a period not to exceed an  
12 additional 30 days.

13 (d) Baggage and motor vehicle excess liability  
14 insurance.--

15 1. License covering only insurance of personal effects  
16 except as provided in subparagraph 2. The license may be  
17 issued only:

18 a. To a full-time salaried employee of a common  
19 carrier or a full-time salaried employee or owner of a  
20 transportation ticket agency, which person is engaged in the  
21 sale or handling of transportation of baggage and personal  
22 effects of travelers, and may authorize the sale of such  
23 insurance only in connection with such transportation; or

24 b. To the full-time salaried employee of a licensed  
25 general lines agent, ~~a full time salaried employee of a~~  
26 ~~business which offers motor vehicles for rent or lease,~~ or to  
27 ~~a business office of a business entity that which~~ offers motor  
28 vehicles for rent or lease if insurance sales activities  
29 authorized by the license are in connection with and  
30 incidental to the rental of a motor vehicle limited to

31

1 ~~full time salaried employees. An entity applying for a license~~  
2 ~~under this sub-subparagraph:~~

3 (I) Is required to submit only one application for a  
4 license under s. 626.171. The requirements of s. 626.171(5)  
5 shall apply only to the officers and directors of the entity  
6 submitting the application.

7 (II) Is required to obtain a license for each office,  
8 branch office, or place of business making use of the entity's  
9 business name by applying to the department for the license on  
10 a simplified application form developed by rule of the  
11 department for this purpose.

12 (III) Is required to pay the applicable fees for a  
13 license as prescribed in s. 624.501, be appointed under s.  
14 626.112, and pay the prescribed appointment fee under s.  
15 624.501. A licensed and appointed entity shall be directly  
16 responsible and accountable for all acts of the licensee's  
17 employees.

18  
19 The purchaser of baggage insurance shall be provided written  
20 information disclosing that the insured's homeowner's policy  
21 may provide coverage for loss of personal effects and that the  
22 purchase of such insurance is not required in connection with  
23 the purchase of tickets or in connection with the lease or  
24 rental of a motor vehicle.

25 2. A business entity that ~~office licensed pursuant to~~  
26 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~  
27 ~~1. who is a full time salaried employee of a business which~~  
28 offers motor vehicles for rent or lease, may include lessees  
29 under a master contract providing coverage to the lessor or  
30 may transact excess motor vehicle liability insurance  
31 providing coverage in excess of the standard liability limits

1 provided by the lessor in its lease to a person renting or  
2 leasing a motor vehicle from the licensee's employer for  
3 liability arising in connection with the negligent operation  
4 of the leased or rented motor vehicle, provided that the lease  
5 or rental agreement is for not more than 30 days; that the  
6 lessee is not provided coverage for more than 30 consecutive  
7 days per lease period, and, if the lease is extended beyond 30  
8 days, the coverage may be extended one time only for a period  
9 not to exceed an additional 30 days; that the lessee is given  
10 written notice that his or her personal insurance policy  
11 providing coverage on an owned motor vehicle may provide  
12 additional excess coverage; and that the purchase of the  
13 insurance is not required in connection with the lease or  
14 rental of a motor vehicle. The excess liability insurance may  
15 be provided to the lessee as an additional insured on a policy  
16 issued to the licensee's employer.

17 3. A business entity that ~~office licensed pursuant to~~  
18 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~  
19 ~~1. who is a full time salaried employee of a business which~~  
20 offers motor vehicles for rent or lease, may, as an agent of  
21 an insurer, transact insurance that provides coverage for the  
22 liability of the lessee to the lessor for damage to the leased  
23 or rented motor vehicle if:

24 a. The lease or rental agreement is for not more than  
25 30 days; or the lessee is not provided coverage for more than  
26 30 consecutive days per lease period, but, if the lease is  
27 extended beyond 30 days, the coverage may be extended one time  
28 only for a period not to exceed an additional 30 days;

29 b. The lessee is given written notice that his or her  
30 personal insurance policy that provides coverage on an owned  
31

1 motor vehicle may provide such coverage with or without a  
2 deductible; and

3 c. The purchase of the insurance is not required in  
4 connection with the lease or rental of a motor vehicle.

5 Section 154. Section 626.9743, Florida Statutes, is  
6 created to read:

7 626.9743 Claim settlement practices relating to motor  
8 vehicle insurance.--

9 (1) This section shall apply to the adjustment and  
10 settlement of personal and commercial motor vehicle insurance  
11 claims.

12 (2) An insurer may not, when liability and damages  
13 owed under the policy are reasonably clear, recommend that a  
14 third-party claimant make a claim under his or her own policy  
15 solely to avoid paying the claim under the policy issued by  
16 that insurer. However, the insurer may identify options to a  
17 third-party claimant relative to the repair of his or her  
18 vehicle.

19 (3) An insurer that elects to repair a motor vehicle  
20 and specifically requires a particular repair shop for vehicle  
21 repairs shall cause the damaged vehicle to be restored to its  
22 physical condition as to performance and appearance  
23 immediately prior to the loss at no additional cost to the  
24 insured or third-party claimant other than as stated in the  
25 policy.

26 (4) An insurer may not require the use of replacement  
27 parts in the repair of a motor vehicle which are not at least  
28 equivalent in kind and quality to the damaged parts prior to  
29 the loss in terms of fit, appearance, and performance.

30 (5) When the insurance policy provides for the  
31 adjustment and settlement of first-party motor vehicle total



1 losses on the basis of actual cash value or replacement with  
2 another of like kind and quality, the insurer shall use one of  
3 the following methods:

4 (a) The insurer may elect a cash settlement based upon  
5 the actual cost to purchase a comparable motor vehicle,  
6 including sales tax, if applicable pursuant to subsection (9).  
7 Such cost may be derived from:

8 1. When comparable motor vehicles are available in the  
9 local market area, the cost of two or more such comparable  
10 motor vehicles available within the preceding 90 days;

11 2. The retail cost as determined from a generally  
12 recognized used motor vehicle industry source such as:

13 a. An electronic database if the pertinent portions of  
14 the valuation documents generated by the database are provided  
15 by the insurer to the first-party insured upon request; or

16 b. A guidebook that is generally available to the  
17 general public if the insurer identifies the guidebook used as  
18 the basis for the retail cost to the first-party insured upon  
19 request; or

20 3. The retail cost using two or more quotations  
21 obtained by the insurer from two or more licensed dealers in  
22 the local market area.

23 (b) The insurer may elect to offer a replacement motor  
24 vehicle that is a specified comparable motor vehicle available  
25 to the insured, including sales tax if applicable pursuant to  
26 subsection (9), paid for by the insurer at no cost other than  
27 any deductible provided in the policy and betterment as  
28 provided in subsection (6). The offer must be documented in  
29 the insurer's claim file. For purposes of this subsection, a  
30 comparable motor vehicle is one that is made by the same  
31 manufacturer, of the same or newer model year, and of similar

1 body type and that has similar options and mileage as the  
2 insured vehicle. Additionally, a comparable motor vehicle must  
3 be in as good or better overall condition than the insured  
4 vehicle and available for inspection within a reasonable  
5 distance of the insured's residence.

6 (c) When a motor vehicle total loss is adjusted or  
7 settled on a basis that varies from the methods described in  
8 paragraph (a) or paragraph (b), the determination of value  
9 must be supported by documentation, and any deductions from  
10 value must be itemized and specified in appropriate dollar  
11 amounts. The basis for such settlement shall be explained to  
12 the claimant in writing, if requested, and a copy of the  
13 explanation shall be retained in the insurer's claim file.

14 (d) Any other method agreed to by the claimant.

15 (6) When the amount offered in settlement reflects a  
16 reduction by the insurer because of betterment or  
17 depreciation, information pertaining to the reduction shall be  
18 maintained with the insurer's claim file. Deductions shall be  
19 itemized and specific as to dollar amount and shall accurately  
20 reflect the value assigned to the betterment or depreciation.  
21 The basis for any deduction shall be explained to the claimant  
22 in writing, if requested, and a copy of the explanation shall  
23 be maintained with the insurer's claim file.

24 (7) Every insurer shall, if partial losses are settled  
25 on the basis of a written estimate prepared by or for the  
26 insurer, supply the insured a copy of the estimate upon which  
27 the settlement is based.

28 (8) Every insurer shall provide notice to an insured  
29 before termination of payment for previously authorized  
30 storage charges, and the notice shall provide 72 hours for the  
31

1 insured to remove the vehicle from storage before terminating  
2 payment of the storage charges.

3 (9) If sales tax will necessarily be incurred by a  
4 claimant upon replacement of a total loss or upon repair of a  
5 partial loss, the insurer may defer payment of the sales tax  
6 unless and until the obligation has actually been incurred.

7 (10) Nothing in this section shall be construed to  
8 authorize or preclude enforcement of policy provisions  
9 relating to settlement disputes.

10 Section 155. Section 626.9744, Florida Statutes, is  
11 created to read:

12 626.9744 Claim settlement practices relating to  
13 property insurance.--Unless otherwise provided by the policy,  
14 when a homeowner's insurance policy provides for the  
15 adjustment and settlement of first-party losses based on  
16 repair or replacement cost, the following requirements apply:

17 (1) When a loss requires repair or replacement of an  
18 item or part, any physical damage incurred in making such  
19 repair or replacement which is covered and not otherwise  
20 excluded by the policy shall be included in the loss to the  
21 extent of any applicable limits. The insured may not be  
22 required to pay for betterment required by ordinance or code  
23 except for the applicable deductible, unless specifically  
24 excluded or limited by the policy.

25 (2) When a loss requires replacement of items and the  
26 replaced items do not match in quality, color, or size, the  
27 insurer shall make reasonable repairs or replacement of items  
28 in adjoining areas. In determining the extent of the repairs  
29 or replacement of items in adjoining areas, the insurer may  
30 consider the cost of repairing or replacing the undamaged  
31 portions of the property, the degree of uniformity that can be

1 achieved without such cost, the remaining useful life of the  
2 undamaged portion, and other relevant factors.

3 (3) This section shall not be construed to make the  
4 insurer a warrantor of the repairs made pursuant to this  
5 section.

6 (4) Nothing in this section shall be construed to  
7 authorize or preclude enforcement of policy provisions  
8 relating to settlement disputes.

9 Section 156. Effective July 1, 2004, and applicable to  
10 cancellation requests and notices received on or after that  
11 date, subsection (3) of section 627.311, Florida Statutes, is  
12 amended to read:

13 627.311 Joint underwriters and joint reinsurers;  
14 public records and public meetings exemptions.--

15 (3) The office may, after consultation with insurers  
16 licensed to write automobile insurance in this state, approve  
17 a joint underwriting plan for purposes of equitable  
18 apportionment or sharing among insurers of automobile  
19 liability insurance and other motor vehicle insurance, as an  
20 alternate to the plan required in s. 627.351(1). All insurers  
21 authorized to write automobile insurance in this state shall  
22 subscribe to the plan and participate therein. The plan shall  
23 be subject to continuous review by the office which may at any  
24 time disapprove the entire plan or any part thereof if it  
25 determines that conditions have changed since prior approval  
26 and that in view of the purposes of the plan changes are  
27 warranted. Any disapproval by the office shall be subject to  
28 the provisions of chapter 120. The Florida Automobile Joint  
29 Underwriting Association is created under the plan. The plan  
30 and the association:

31

1 (a) Must be subject to all provisions of s.  
2 627.351(1), except apportionment of applicants.

3 (b) May provide for one or more designated insurers,  
4 able and willing to provide policy and claims service, to act  
5 on behalf of all other insurers to provide insurance for  
6 applicants who are in good faith entitled to, but unable to,  
7 procure insurance through the voluntary insurance market at  
8 standard rates.

9 (c) Must provide that designated insurers will issue  
10 policies of insurance and provide policyholder and claims  
11 service on behalf of all insurers for the joint underwriting  
12 association.

13 (d) Must provide for the equitable apportionment among  
14 insurers of losses and expenses incurred.

15 (e) Must provide that the joint underwriting  
16 association will operate subject to the supervision and  
17 approval of a board of governors consisting of 11 individuals,  
18 including 1 who will be elected as chair. Five members of the  
19 board must be appointed by the Chief Financial Officer. Two of  
20 the Chief Financial Officer's appointees must be chosen from  
21 the insurance industry. Any board member appointed by the  
22 Chief Financial Officer may be removed and replaced by her or  
23 him at any time without cause. Six members of the board must  
24 be appointed by the participating insurers, two of whom must  
25 be from the insurance agents' associations. All board members,  
26 including the chair, must be appointed to serve for 2-year  
27 terms beginning annually on a date designated by the plan.

28 (f) Must provide that an agent appointed to a  
29 servicing carrier must be a licensed general lines agent of an  
30 insurer which is authorized to write automobile liability and  
31 physical damage insurance in the state and which is actively

1 writing such coverage in the county in which the agent is  
2 located, or the immediately adjoining counties, or an agent  
3 who places a volume of other property and casualty insurance  
4 in an amount equal to the premium volume placed with the  
5 Florida Joint Underwriting Association. The office may,  
6 however, determine that an agent may be appointed to a  
7 servicing carrier if, after public hearing, the office finds  
8 that consumers in the agent's operating area would not have  
9 adequate and reasonable access to the purchase of automobile  
10 insurance if the agent were not appointed to a servicing  
11 carrier.

12 (g) Must make available noncancelable coverage as  
13 provided in s. 627.7275(2).

14 (h) Must provide for the furnishing of a list of  
15 insureds and their mailing addresses upon the request of a  
16 member of the association or an insurance agent licensed to  
17 place business with an association member. The list must  
18 indicate whether the insured is currently receiving a good  
19 driver discount from the association. The plan may charge a  
20 reasonable fee to cover the cost incurred in providing the  
21 list.

22 (i) Must not provide a renewal credit or discount or  
23 any other inducement designed to retain a risk.

24 (j) Must not provide any other good driver credit or  
25 discount that is not actuarially sound. In addition to other  
26 criteria that the plan may specify, to be eligible for a good  
27 driver credit, an insured must not have any criminal traffic  
28 violations within the most recent 36-month period preceding  
29 the date the discount is received.

30 (k)1. Shall have no liability, and no cause of action  
31 of any nature shall arise against any member insurer or its

1 agents or employees, agents or employees of the association,  
2 members of the board of governors of the association, the  
3 Chief Financial Officer, or the office or its representatives  
4 for any action taken by them in the performance of their  
5 duties or responsibilities under this subsection. Such  
6 immunity does not apply to actions for or arising out of  
7 breach of any contract or agreement pertaining to insurance,  
8 or any willful tort.

9 2. Notwithstanding the requirements of s.  
10 624.155(3)(a), as a condition precedent to bringing an action  
11 against the plan under s. 624.155, the department and the plan  
12 must have been given 90 days' written notice of the violation.  
13 If the department returns a notice for lack of specificity,  
14 the 90-day time period shall not begin until a proper notice  
15 is filed. This notice must comply with the information  
16 requirements of s. 624.155(3)(b). Effective October 1, 2007,  
17 this subparagraph shall expire unless reenacted by the  
18 Legislature prior to that date.

19 (1) May require from the insured proof that he or she  
20 has obtained the mandatory types and amounts of insurance from  
21 another admitted carrier prior to the cancellation of a policy  
22 the insured obtained from the plan and prior to the return of  
23 any unearned premium the insured paid for such coverage from  
24 the plan. This paragraph does not apply to any person who  
25 provides proof of sale or inoperability of the vehicle covered  
26 under the policy purchased from the plan or relocation outside  
27 the state.

28 Section 157. Subsection (5) is added to section  
29 627.4091, Florida Statutes, to read:

30 627.4091 Specific reasons for denial, cancellation, or  
31 nonrenewal.--

1           (5) When an insurer refuses to provide private  
2 passenger automobile insurance or personal lines residential  
3 property insurance, including, but not limited to,  
4 homeowner's, mobile home owner's, condominium unit owner's, or  
5 other insurance covering a personal residential structure, to  
6 an applicant due to adverse underwriting information, the  
7 insurer shall:

8           (a) Provide to the applicant specific information  
9 regarding the reasons for the refusal to insure.

10           (b) If the reason for the refusal to insure is based  
11 on a loss underwriting history or report from a consumer  
12 reporting agency, to the extent applicable identify the loss  
13 underwriting history and notify the applicant of his or her  
14 right under the federal Fair and Accurate Credit Transactions  
15 Act to obtain a copy of the report from the consumer reporting  
16 agency.

17           Section 158. Effective upon this act becoming a law,  
18 subsections (5) and (6) are added to section 627.4133, Florida  
19 Statutes, to read:

20           627.4133 Notice of cancellation, nonrenewal, or  
21 renewal premium.--

22           (5) An insurer that cancels a property insurance  
23 policy on property secured by a mortgage due to the failure of  
24 the lender to timely pay the premium when due shall reinstate  
25 the policy as required by s. 501.137.

26           (6) A single claim on a property insurance policy  
27 which is the result of water damage may not be used as the  
28 sole cause for cancellation or nonrenewal unless the insurer  
29 can demonstrate that the insured has failed to take action  
30 reasonably requested by the insurer to prevent a future  
31 similar occurrence of damage to the insured property.



1           Section 159. Paragraph (h) of subsection (9) of  
2 section 627.476, Florida Statutes, is amended to read:

3           627.476 Standard Nonforfeiture Law for Life  
4 Insurance.--

5           (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT  
6 VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS  
7 SUBSECTION.--

8           (h) All adjusted premiums and present values referred  
9 to in this section shall for all policies of ordinary  
10 insurance be calculated on the basis of the Commissioners'  
11 1980 Standard Ordinary Mortality Table or, at the election of  
12 the insurer for any one or more specified plans of life  
13 insurance, the Commissioners' 1980 Standard Ordinary Mortality  
14 Table with Ten-Year Select Mortality Factors; shall for all  
15 policies of industrial insurance be calculated on the basis of  
16 the Commissioners' 1961 Standard Industrial Mortality Table;  
17 and shall for all policies issued in a particular calendar  
18 year be calculated on the basis of a rate of interest not  
19 exceeding the nonforfeiture interest rate as defined in this  
20 subsection for policies issued in that calendar year. However:

21           1. At the option of the insurer, calculations for all  
22 policies issued in a particular calendar year may be made on  
23 the basis of a rate of interest not exceeding the  
24 nonforfeiture interest rate, as defined in this subsection,  
25 for policies issued in the immediately preceding calendar  
26 year.

27           2. Under any paid-up nonforfeiture benefit, including  
28 any paid-up dividend additions, any cash surrender value  
29 available, whether or not required by subsection (2), shall be  
30 calculated on the basis of the mortality table and rate of  
31

1 interest used in determining the amount of such paid-up  
2 nonforfeiture benefit and paid-up dividend additions, if any.

3         3. An insurer may calculate the amount of any  
4 guaranteed paid-up nonforfeiture benefit, including any  
5 paid-up additions under the policy, on the basis of an  
6 interest rate no lower than that specified in the policy for  
7 calculating cash surrender values.

8         4. In calculating the present value of any paid-up  
9 term insurance with accompanying pure endowment, if any,  
10 offered as a nonforfeiture benefit, the rates of mortality  
11 assumed may be not more than those shown in the Commissioners'  
12 1980 Extended Term Insurance Table for policies of ordinary  
13 insurance and not more than the Commissioners' 1961 Industrial  
14 Extended Term Insurance Table for policies of industrial  
15 insurance.

16         5. In lieu of the mortality tables specified in this  
17 section, at the option of the insurance company and subject to  
18 rules adopted by the commission, the insurance company may  
19 substitute:

20             a. The 1958 CSO or CET Smoker and Nonsmoker Mortality  
21 Tables, whichever is applicable, for policies issued on or  
22 after the operative date of this subsection and before January  
23 1, 1989;

24             b. The 1980 CSO or CET Smoker and Nonsmoker Mortality  
25 Tables, whichever is applicable, for policies issued on or  
26 after the operative date of this subsection;

27             c. A mortality table that is a blend of the  
28 sex-distinct 1980 CSO or CET mortality table standard,  
29 whichever is applicable, or a mortality table that is a blend  
30 of the sex-distinct 1980 CSO or CET smoker and nonsmoker  
31 mortality table standards, whichever is applicable, for

1 policies that are subject to the United States Supreme Court  
2 decision in Arizona Governing Committee v. Norris to prevent  
3 unfair discrimination in employment situations.

4 6. Ordinary mortality tables, adopted after 1980 by  
5 the National Association of Insurance Commissioners, adopted  
6 by rule by the commission for use in determining the minimum  
7 nonforfeiture standard may be substituted for the  
8 Commissioners' 1980 Standard Ordinary Mortality Table with or  
9 without Ten-Year Select Mortality Factors or for the  
10 Commissioners' 1980 Extended Term Insurance Table.

11 ~~7.6.~~ For insurance issued on a substandard basis, the  
12 calculation of any such adjusted premiums and present values  
13 may be based on appropriate modifications of the  
14 aforementioned tables.

15 Section 160. Section 627.7077, Florida Statutes, is  
16 created to read:

17 627.7077 Florida Sinkhole Insurance Facility and other  
18 matters related to affordability and availability of sinkhole  
19 insurance; feasibility study.--

20 (1) The Florida State University College of Business  
21 Department of Risk Management and Insurance shall, under the  
22 direction of the office, conduct a feasibility and  
23 cost-benefit study of a potential Florida Sinkhole Insurance  
24 Facility and of other matters related to affordability and  
25 availability of sinkhole insurance. The study shall be  
26 conducted in consultation with the State Board of  
27 Administration and the Florida Geological Survey. The  
28 university shall provide a preliminary report of its analysis,  
29 findings, and recommendations to the Financial Services  
30 Commission and the presiding officers of the Legislature no  
31

1 later than February 1, 2005, and shall provide a final report  
2 no later than April 1, 2005.

3 (2) The potential functions of the facility to be  
4 analyzed include:

5 (a) Serving as the direct insurer or the reinsurer for  
6 all or some sinkhole losses.

7 (b) Providing training, communication, and other  
8 educational services to the public, engineers, the  
9 construction industry, insurance professionals, or others.

10 (c) Providing uniform standards for use by insurers in  
11 evaluating sinkhole loss claims.

12 (d) Providing consulting services for insurers.

13 (e) Maintaining a public database of all confirmed  
14 sinkholes and paid sinkhole loss claims, for use by consumers  
15 and by the insurance, building construction, banking, and real  
16 estate industries.

17 (3) The feasibility study shall, at a minimum, address  
18 the following issues:

19 (a) Where the facility should be housed, including,  
20 but not limited to, the options of creating a separate  
21 facility or using the Citizens Property Insurance Corporation  
22 or the Florida Hurricane Catastrophe Fund.

23 (b) Federal income taxation implications.

24 (c) Funding options and costs associated with  
25 operating the facility, including means of funding sinkhole  
26 insurance through premiums that are adequate to fund covered  
27 losses.

28 (d) Applicability of the experience of similar  
29 facilities of other states.

30 (e) Other economic impact considerations pertinent to  
31 a facility.

1           (f) Alternative dispute resolution mechanisms.

2           (g) The impact of all present requirements in the  
3 Florida Insurance Code on affordability and availability of  
4 sinkhole insurance and recommendations to address such  
5 impacts.

6           (4) The study shall be funded from a budget of no more  
7 than \$300,000, which will be funded by assessments on insurers  
8 issuing property insurance in this state. Such assessments  
9 shall be collected by the office and shall be prorated among  
10 such insurers according to a formula whereby each insurer  
11 shall pay a fraction of such budget, the numerator of which  
12 shall be such insurer's direct earned premiums for property  
13 insurance in this state and the denominator of which shall be  
14 the total direct earned premiums for property insurance in  
15 this state for calendar year 2003.

16           Section 161. Section 627.838, Florida Statutes, is  
17 amended to read:

18           627.838 Filing and approval of forms; service  
19 charges.--

20           (1) No premium finance agreement form or related form  
21 shall be used in this state by a premium finance company  
22 unless it has been filed with and approved by the office.  
23 Every filing shall be made within 30 days of issuance or use.

24           (2) Each premium finance company shall file with the  
25 office the service charge and interest rate plan, including  
26 all modifications thereto, for informational purposes only.  
27 Every filing shall be made within 30 days of its effective  
28 date.

29           ~~(3) Each filing shall be accompanied by the filing fee~~  
30 ~~specified in s. 627.849.~~

31

1           Section 162. Paragraph (e) of subsection (1) of  
2 section 627.848, Florida Statutes, is amended to read:

3           627.848 Cancellation of insurance contract upon  
4 default.--

5           (1) When a premium finance agreement contains a power  
6 of attorney or other authority enabling the premium finance  
7 company to cancel any insurance contract listed in the  
8 agreement, the insurance contract shall not be canceled unless  
9 cancellation is in accordance with the following provisions:

10           (e) Whenever a financed ~~an~~ insurance contract is  
11 canceled ~~in accordance with this section~~, the insurer shall,  
12 within 30 days of the cancellation date, promptly return the  
13 unpaid balance due under the finance contract, up to the gross  
14 amount available upon the cancellation of the policy, to the  
15 premium finance company and any remaining unearned premium to  
16 the agent or the insured, or both, for the benefit of the  
17 insured or insureds. The insurer shall, within 30 days of the  
18 cancellation date, notify the insured and the agent of the  
19 amount of unearned premium returned to the premium finance  
20 company and the amount of unearned commission held by the  
21 agent. The premium finance company shall, within 15 days after  
22 the account has been overpaid, either refund to the insured  
23 for the insured's benefit any refund due on his or her account  
24 or, if the refund is sent or credited to the agent, return or  
25 credit to the agent the amount of the overpayment and notify  
26 the insured of the refunded amount. ~~The premium finance~~  
27 ~~company within 15 days shall notify the insured and the agent~~  
28 ~~of the amount of unearned premium.~~ Within 15 days of receipt  
29 of notification from the premium finance company, the agent  
30 shall return such amount including any unearned commission to  
31 the insured or with the written approval of the insured apply

1 such amount to the purchase of other insurance products  
2 regulated by the office. The commission may adopt rules  
3 necessary to implement the provisions of this subsection.

4 Section 163. Subsection (1) of section 627.849,  
5 Florida Statutes, is amended to read:

6 627.849 Fees.--

7 (1) The office shall collect in advance, and the  
8 persons so served shall pay to it in advance, the following  
9 fees:

- 10 (a) Annual license fee.....\$250
- 11 (b) Investigation fee.....100
- 12 (c) Annual report filing fee.....25
- 13 ~~(d) Form filing fee.....10~~

14 Section 164. Analysis of factors affecting premium  
15 levels and availability of personal lines property and  
16 casualty insurance to consumers in Florida.--

17 (1) The Legislative Auditing Committee shall enter  
18 into a contract with the Florida State University College of  
19 Business Department of Risk Management and Insurance to  
20 provide, no later than February 1, 2005, a detailed analysis  
21 of factors affecting costs and potential assessments on  
22 consumers, and availability, of personal lines property and  
23 casualty insurance in Florida generally and in those areas in  
24 which coverage is underwritten by the Citizens Property and  
25 Casualty Insurance Company. The analysis shall include an  
26 evaluation of such factors and recommendations appropriate to  
27 moderate or enhance their impact on premiums potential  
28 assessments and availability of such insurance. Such factors  
29 shall include, but are not limited to:

30 (a) The factors affecting the level of competition and  
31 premium levels specifically, including the impact of rate

1 regulation and possible rating law reforms, and including  
2 reforms that have succeeded or failed in other states.

3 (b) The cost and benefits of required coverages and of  
4 restrictions on optional coverages that could otherwise be  
5 made available to consumers.

6 (c) Such other information as may be useful to the  
7 Legislature in determining how to increase availability and,  
8 over the short and long term, to moderate costs and potential  
9 consumer assessments.

10 (2) The study shall be funded from a budget of no more  
11 than \$250,000, which shall be funded by assessments on  
12 insurers issuing personal lines property and casualty  
13 insurance in the state. Such assessments shall be collected by  
14 the Office of Insurance Regulation and shall be prorated among  
15 such insurers according to a formula whereby each insurer  
16 shall pay a fraction of such budget, the numerator of which  
17 shall be such insurer's direct earned premiums for personal  
18 lines property and casualty insurance in the state and the  
19 denominator of which shall be the total direct earned premiums  
20 for personal lines property and casualty insurance in the  
21 state for calendar year 2003.

22 (3) The Department of Financial Services, the Office  
23 of Insurance Regulation, and insurers shall cooperate with the  
24 Florida State University College of Business Department of  
25 Risk Management and Insurance conducting the analysis and  
26 shall provide such information as the Florida State University  
27 College of Business Department of Risk Management and  
28 Insurance may request in the format requested by the  
29 university.

30 Section 165. Section 625.131, Florida Statutes, is  
31 repealed.



1           Section 166. Nothing in this act shall be construed to  
2 create or be the basis of a civil action. Nothing in this act  
3 shall be construed as limiting settlement or adjustment of  
4 claims by methods that are otherwise permissible under Florida  
5 law.

6           Section 167. Except as otherwise expressly provided in  
7 this act and except for this section, which shall take effect  
8 upon becoming a law, this act shall take effect July 1, 2004.

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