

BILL PCS HB 853

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1                                   A bill to be entitled  
2           An act relating to title insurance; amending s. 20.121,  
3           F.S.; creating the Division of Title Insurance in the  
4           Department of Financial Services; creating part I of ch.  
5           637, F.S.; providing for administration of title insurance  
6           and general provisions; providing a short title; providing  
7           legislative findings, purposes, and intent; creating the  
8           Division of Title Insurance within the Department of  
9           Financial Services; providing powers and duties; providing  
10          for appointment of a division director; establishing the  
11          Bureau of Title Insurance Premium Rates and Forms and the  
12          Bureau of Title Insurance Licensing and Education within  
13          the division; providing definitions; preempting to the  
14          state the regulation of title insurance, title insurers,  
15          and title insurance agencies; providing for nonapplication  
16          of certain chapters; duplicating in ch. 637, F.S., certain  
17          provisions of chs. 624, 625, 626, and 628, F.S., relating  
18          to insurance and making such provisions applicable to  
19          title insurance, title insurers, title insurance agents,  
20          and title insurance agencies; creating s. 637.10335, F.S.;  
21          providing for civil remedies against title insurers;  
22          providing procedures, requirements, and limitations;  
23          providing for award of damages, court costs, and attorney  
24          fees; prohibiting punitive damages under certain  
25          circumstances; providing construction prohibitions;  
26          preserving certain remedies and causes of action; creating  
27          s. 637.10435, F.S.; providing a Policyholders Bill of  
28          Rights; specifying principles; providing a construction

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29 prohibition; creating s. 637.10445, F.S.; providing  
 30 procedures, requirements, and limitations for documents  
 31 claimed as trade secrets; creating part II of ch. 637,  
 32 F.S.; providing for licensing and administration of title  
 33 insurers; duplicating in ch. 637, F.S., and making  
 34 applicable to title insurers certain provisions of ch.  
 35 624, F.S.; transferring to ch. 637, F.S., certain  
 36 provisions of chs. 625 and 627, F.S., relating to title  
 37 insurance; creating s. 637.20035, F.S.; providing for  
 38 structure of title insurers; creating s. 637.20635, F.S.;  
 39 prohibiting title insurers, title insurance agencies, and  
 40 title insurance agents from rebating portions of premiums;  
 41 transferring, renumbering, and amending s. 627.7865, F.S.;  
 42 specifying requirements, procedures, and limitation for  
 43 assessments against title insurers in liquidation;  
 44 creating s. 637.2091, F.S.; specifying that title  
 45 insurance business in exclusive; creating part III of ch.  
 46 637, F.S.; providing for licensure and administration of  
 47 title insurance agents and agencies; duplicating in ch.  
 48 637, F.S., and making applicable to title insurance agents  
 49 and agencies certain provisions of ch. 626, F.S.;  
 50 transferring to ch. 637, F.S., certain provisions of ch.  
 51 626, F.S., relating to title insurance agents and  
 52 agencies; creating s. 637.30125, F.S.; providing  
 53 requirements for agents in charge; providing for  
 54 authority, duties, and responsibilities of agents in  
 55 charge; transferring regulation, administration, and  
 56 enforcement of title insurers from the Office of Insurance

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57 | Regulation and the Financial Services Commission to the  
 58 | Department of Financial Services and the Division of Title  
 59 | Insurance; deleting references to the office and  
 60 | commission to conform; amending ss. 624.5105 and 624.5107,  
 61 | F.S.; including references to applicable sections of ch.  
 62 | 637, F.S., under the community contribution tax credit  
 63 | program and the child care tax credit program; specifying  
 64 | rules of the Financial Services Commission and the Office  
 65 | of Insurance Regulation as rules of the department;  
 66 | transferring certain powers, duties, functions, records,  
 67 | personnel, property, and unexpended balances of  
 68 | appropriations, allocations, and other funds relating to  
 69 | title insurance to the department; preserving the validity  
 70 | of certain judicial and administrative actions relating to  
 71 | title insurance; providing for transfer of certain orders  
 72 | relating to title insurance to the department; requiring  
 73 | the Division of Statutory Revision to assist substantive  
 74 | legislative committees in developing conforming  
 75 | legislation; creating s. 689.263, F.S.; prohibiting title  
 76 | insurance agents or title insurance agencies from  
 77 | disbursing certain funds under certain circumstances;  
 78 | providing requirements for a statement of settlement  
 79 | costs; creating s. 717.1121, F.S.; providing construction  
 80 | of certain payments from escrow related to real estate  
 81 | transactions; amending s. 877.101, F.S.; providing an  
 82 | additional prohibition against transacting escrow business  
 83 | by unauthorized persons; revising cross-references for  
 84 | purposes of nonapplication to licensed title insurance

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85 agents; amending ss. 624.5015, 626.241, and 626.331, F.S.;  
 86 deleting provisions relating to title insurers; amending  
 87 ss. 197.502, 624.501, 624.604, 624.605, 625.031, 626.207,  
 88 655.005, 701.041, and 721.05, F.S.; conforming a cross-  
 89 reference; repealing s. 624.608, F.S., relating to the  
 90 definition of "title insurance"; repealing s. 626.841,  
 91 F.S., relating to definitions of "title insurance agent"  
 92 and "title insurance agency"; repealing s. 626.8411, F.S.,  
 93 relating to application of Florida Insurance Code  
 94 provisions to title insurance agents or agencies;  
 95 repealing s. 626.9531, F.S., relating to identification of  
 96 insurers, agents, and insurance contracts; repealing s.  
 97 627.7711, F.S., relating to definitions; repealing s.  
 98 627.776, F.S., relating to applicability or  
 99 inapplicability of Florida Insurance Code provisions to  
 100 title insurers; providing an effective date.

101

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

103

104 Section 1. Paragraph (o) is added to subsection (2) of  
 105 section 20.121, Florida Statutes, to read:

106 20.121 Department of Financial Services.—There is created  
 107 a Department of Financial Services.

108 (2) DIVISIONS.—The Department of Financial Services shall  
 109 consist of the following divisions:

110 (o) The Division of Title Insurance.

111 Section 2. Part I of chapter 637, Florida Statutes,  
 112 consisting of sections 637.1001, 637.1002, 637.1003, 637.1004,

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113 637.10045, 637.1005, 637.1006, 637.1007, 637.1008, 637.1009,  
 114 637.1011, 637.1012, 637.1013, 637.1014, 637.1015, 637.1016,  
 115 637.1017, 637.1018, 637.1019, 637.1021, 637.1022, 637.1023,  
 116 637.1024, 637.1025, 637.1026, 637.1027, 637.1028, 637.1029,  
 117 637.1031, 637.1032, 637.1033, 637.10335, 637.1034, 637.1035,  
 118 637.1036, 637.1037, 637.1038, 637.1039, 637.1041, 637.1042,  
 119 637.1043, 637.10435, 637.1044, 637.10445, 637.1045, 637.1046,  
 120 637.1047, 637.1048, and 637.1049, is created and entitled  
 121 "ADMINISTRATION AND GENERAL PROVISIONS."

122 Section 3. Sections 637.1001, 637.1002, 637.1003,  
 123 637.1004, 637.10045, 637.1005, 637.1006, 637.1007, 637.1008,  
 124 637.1009, 637.1011, 637.1012, 637.1013, 637.1014, 637.1015,  
 125 637.1016, 637.1017, 637.1018, 637.1019, 637.1021, 637.1022,  
 126 637.1023, 637.1024, 637.1025, 637.1026, 637.1027, 637.1029,  
 127 637.1031, 637.1032, 637.1033, 637.10335, 637.1034, 637.1035,  
 128 637.1036, 637.1037, 637.1038, 637.1039, 637.1041, 637.1042,  
 129 637.1043, 637.10435, 637.1044, 637.10445, 637.1045, 637.1046,  
 130 637.1047, 637.1048, and 637.1049, are created to read:

131 637.1001 Short title.—This chapter may be cited as the  
 132 "Florida Title Insurance Act."

133 637.1002 Legislative findings; purpose; intent.—

134 (1) The Legislature finds that a stable and efficient  
 135 title insurance delivery system is necessary to promote the  
 136 economic wellbeing of the citizens of this state. Title  
 137 insurance is essential to ensure homeowners and landowners of  
 138 the safety of real property transfers in the state. Lienholders  
 139 and investors require the security afforded their business  
 140 interests accorded by a financially stable and regulated title

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141 insurance industry. A viable title insurance delivery system  
 142 requires comprehensive state oversight, including regulation of  
 143 title insurers, agents, and agencies. Accordingly, it is the  
 144 intent of the Legislature to establish unitary regulation of the  
 145 title insurance industry by the creation of a Division of Title  
 146 Insurance within the Department of Financial Services. The  
 147 division shall have comprehensive authority to regulate insurer  
 148 and agent solvency, education, licensing, and discipline and to  
 149 establish title insurance premium rates and forms.

150 (2) The Legislature finds that title insurance is a unique  
 151 form of insurance unlike any casualty-based insurance.  
 152 Accordingly, a separate and distinct chapter of the Florida  
 153 Statutes is deemed appropriate.

154 (3) The Legislature recognizes that the title insurance  
 155 industry is founded upon a unique structure that requires title  
 156 agents and agencies to determine the insurability of titles,  
 157 thereby placing the title insurance agent at the cornerstone of  
 158 the delivery system. As such, the solvency and viability of  
 159 title insurance agents is essential. Therefore, the Legislature  
 160 deems it to be in the public interest to establish title  
 161 insurance rates that are adequate and to also establish  
 162 parameters for rebating portions of the title insurance premium.

163 (4) The Legislature finds that the unique issues relating  
 164 to title insurance premium rebates and negotiating the cost of  
 165 related closing services require clarification for the  
 166 protection of insurer solvency and consumer safety. The  
 167 Legislature finds that any portion of premium paid by a title  
 168 insurer to its agents is made for purposes of joint underwriting

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169 and the creation of each individual insurance contract and not  
 170 for purposes of providing direct services to the consumer. The  
 171 Legislature further finds that negotiating or rebating closing  
 172 services fees should not be restricted, but that discounting  
 173 premiums jeopardizes the solvency of insurers and the  
 174 maintenance of an efficient delivery system for title insurance  
 175 and impairs the protection of the consumer.

176 637.1003 Division of Title Insurance.—

177 (1) The Division of Title Insurance is created within the  
 178 Department of Financial Services. The division shall exercise  
 179 all powers and duties with respect to title insurance  
 180 regulation, including those exercised by the Office of Insurance  
 181 Regulation and the Division of Insurance Agents and Agency  
 182 Services of the Department of Financial Services prior to  
 183 October 1, 2010. The division director shall be appointed by the  
 184 Chief Financial Officer and shall have experience, education,  
 185 and expertise in the field of title insurance in this state. The  
 186 director may also be known as the Florida Title Insurance  
 187 Coordinator.

188 (2) The Division of Title Insurance shall consist of:

189 (a) The Bureau of Title Insurance Premium Rates and Forms.

190 (b) The Bureau of Title Insurance Licensing and Education.

191 637.1004 Definitions.—For purposes of this chapter, the  
 192 term:

193 (1) "Appointment" means the authority given by an insurer  
 194 to a licensee to transact insurance on behalf of an insurer.

195 (2) "Attorney" as used in this part means an individual  
 196 duly admitted to and a member in good standing of The Florida

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197 Bar.

198 (3) "Agent in charge" of a title insurance agency means an  
 199 attorney or a licensed and appointed title insurance agent who  
 200 is responsible for escrow and policy issuance services of a  
 201 title insurance agency location.

202 (4) "Authorized" means provided authority pursuant to  
 203 valid a certificate of authority issued by the department to  
 204 transact insurance in this state.

205 (5) "Closing services" means services performed by a  
 206 licensed title insurer, title insurance agent or agency, or  
 207 attorney agent in the agent's or agency's capacity as such,  
 208 including, but not limited to, preparing documents necessary to  
 209 close the transaction, conducting the closing, or handling the  
 210 disbursing of funds related to the closing transaction in which  
 211 a title insurance commitment or policy is to be issued.

212 (6) "Commercially domiciled insurer" means every foreign  
 213 or alien insurer that is authorized to do business in this state  
 214 and that, during its 3 preceding fiscal years taken together, or  
 215 during any lesser period of time if it has been licensed to  
 216 transact its business in this state only for the lesser period  
 217 of time, has written an average of 25 percent or more direct  
 218 premiums in this state than it has written in its state of  
 219 domicile during the same period, and the direct premiums written  
 220 constitute more than 55 percent of its total direct premiums  
 221 written everywhere in the United States during its 3 preceding  
 222 fiscal years taken together, or during any lesser period of time  
 223 if it has been authorized to transact its business in this state  
 224 only for the lesser period of time, as reported in its most

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225 recent applicable annual or quarterly statements, shall be  
 226 deemed a "commercially domiciled insurer" within this state.

227 (7) "Consent" means authorized written agreement to  
 228 supervision by the insurer.

229 (8) "Department" means the Department of Financial  
 230 Services. The term does not mean the Financial Services  
 231 Commission or any office of the Financial Services Commission.

232 (9) "Division" means the Division of Title Insurance of  
 233 the department.

234 (10) "Domestic," "foreign," and "alien" mean:

235 (a) A "domestic" insurer is one formed under the laws of  
 236 this state.

237 (b) A "foreign" insurer is one formed under the laws of  
 238 any state, district, territory, or commonwealth of the United  
 239 States other than this state.

240 (c) An "alien" insurer is an insurer other than a domestic  
 241 or foreign insurer.

242 (11) "Domicile," except as provided in s. 631.011, means:

243 (a) As to Canadian insurers, Canada and the province under  
 244 the laws of which the insurer was formed.

245 (b) As to other alien insurers authorized to transact  
 246 insurance in one or more states, the state designated by the  
 247 insurer in writing filed with the department at the time of  
 248 admission to this state or within 6 months after the effective  
 249 date of this chapter, whichever date is the later, and may be  
 250 any of the following states:

251 1. That in which the insurer was first authorized to  
 252 transact insurance if the insurer is still so authorized.

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253 2. That in which is located the insurer's principal place  
 254 of business in the United States.

255 3. That in which is held the larger deposit of trusteed  
 256 assets of the insurer for the protection of its policyholders  
 257 and creditors in the United States.

258 If the insurer makes no such designation, its domicile shall be  
 259 deemed to be that state in which is located its principal place  
 260 of business in the United States.

261 (c) As to alien insurers not authorized to transact  
 262 insurance in one or more states, the country under the laws of  
 263 which the insurer was formed.

264 (d) As to all other insurers, the state under the laws of  
 265 which the insurer was formed.

266 (12) "Exceeded its powers" means the following conditions:

267 (a) The insurer has refused to permit examination by the  
 268 department of its books, papers, accounts, records, or business  
 269 practices;

270 (b) An insurer organized in this state has unlawfully  
 271 removed from this state books, papers, accounts, or records  
 272 necessary for an examination of the insurer by the department;

273 (c) The insurer has failed to promptly comply with the  
 274 applicable financial reporting statutes and division requests  
 275 relating thereto;

276 (d) The insurer has neglected or refused to observe an  
 277 order of the department to correct a deficiency in its capital  
 278 or surplus; or

279 (e) The insurer has unlawfully or in violation of a  
 280 department order:

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- 281        1. Totally reinsured its entire outstanding business; or  
 282        2. Merged or consolidated substantially its entire  
 283 property or business with another insurer.

284        (13) "License" means a document issued by the department  
 285 authorizing a person to transact insurance.

286        (14) (a) "Managing general agent" means any person managing  
 287 all or part of the insurance business of an insurer, including  
 288 the management of a separate division, department, or  
 289 underwriting office, and acting as an agent for that insurer,  
 290 whether known as a managing general agent, manager, or other  
 291 similar term, who, with or without authority, separately or  
 292 together with affiliates, produces, directly or indirectly, or  
 293 underwrites an amount of gross direct written premium equal to  
 294 or more than 5 percent of the policyholder surplus as reported  
 295 in the last annual statement of the insurer in any single  
 296 quarter or year and also does one or more of the following:

- 297            1. Adjusts or pays claims.  
 298            2. Negotiates reinsurance on behalf of the insurer.

299        (b) The following persons shall not be considered managing  
 300 general agents:

- 301            1. An employee of the insurer.  
 302            2. A United States manager of the United States branch of  
 303 an alien insurer.  
 304            3. An underwriting manager managing all the insurance  
 305 operations of the insurer pursuant to a contract who is  
 306 under the common control of the insurer subject to regulation  
 307 and whose compensation is not based on the volume of premiums  
 308 written.

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309 4. The attorney in fact authorized by and acting for the  
 310 subscribers of a reciprocal insurer under powers of attorney.

311 (15) "Person" means an individual, insurer, company,  
 312 association, organization, Lloyds, society, reciprocal insurer  
 313 or interinsurance exchange, partnership, syndicate, business  
 314 trust, corporation, agent, general agent, broker, service  
 315 representative, adjuster, and every legal entity.

316 (16) "Premium" means the charge, as specified by rule of  
 317 the department, that is made by a title insurer for a title  
 318 insurance policy, including the charge for performance of  
 319 primary title services by a title insurer or title insurance  
 320 agent or agency, and incurring the risks incident to such  
 321 policy, under the several classifications of title insurance  
 322 contracts and forms, and upon which charge a premium tax is paid  
 323 under s. 624.509. As used in this part or in any other law, with  
 324 respect to title insurance, the word "premium" does not include  
 325 a commission.

326 (17) "Primary title services" means determining  
 327 insurability in accordance with sound underwriting practices  
 328 based upon evaluation of a reasonable title search or a search  
 329 of the records of a Uniform Commercial Code filing office and  
 330 such other information as may be necessary, determination and  
 331 clearance of underwriting objections and requirements to  
 332 eliminate risk, preparation and issuance of a title insurance  
 333 commitment setting forth the requirements to insure, and  
 334 preparation and issuance of the policy. Such services do not  
 335 include closing services or title searches, for which a separate  
 336 charge or separate charges may be made.

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337 (18) When used in context signifying a jurisdiction other  
 338 than the State of Florida, "state" means any state, district,  
 339 territory, or commonwealth of the United States.

340 (19) "Title insurance" means:

341 (a) Insurance of owners of real property or others having  
 342 an interest in real property or a contractual interest derived  
 343 from real property, or liens or encumbrances on real property,  
 344 against loss by encumbrance, or defective titles, or invalidity,  
 345 or adverse claim to title; or

346 (b) Insurance of owners and secured parties of the  
 347 attachment, perfection, and priority of security interests in  
 348 personal property under the Uniform Commercial Code.

349 (20) "Title insurance agent" means a person appointed in  
 350 writing by a title insurer to issue and countersign commitments  
 351 or policies of title insurance on the title insurer's behalf.

352 (21) "Title insurance agency" means an insurance agency as  
 353 defined in s. 626.015 under which a title insurance agent or  
 354 other employee determines insurability in accordance with  
 355 underwriting rules and standards prescribed by the title insurer  
 356 represented by the title insurance agency and issues and  
 357 countersigns commitments, endorsements, or policies of title  
 358 insurance on behalf of the appointing title insurer. The term  
 359 does not include a title insurer.

360 (22) "Title insurer" means any domestic company organized  
 361 and authorized to do business under the provisions of this  
 362 chapter, for the purpose of issuing title insurance, or any  
 363 insurer organized under the laws of another state, the District  
 364 of Columbia, or a foreign country and holding a certificate of

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365 authority to transact business in this state, for the purpose of  
 366 issuing title insurance.

367 (23) "Title search" means the compiling of title  
 368 information from official or public records.

369 (24) "Transact" means, with respect to insurance and in  
 370 addition to other applicable provisions of this chapter:

371 (a) Solicitation or inducement.

372 (b) Preliminary negotiations.

373 (c) Effectuation of a contract of insurance.

374 (d) Transaction of matters subsequent to effectuation of a  
 375 contract of insurance and arising out of it.

376 (25) "Unsound condition" means that the department has  
 377 determined that one or more of the following conditions exist  
 378 with respect to an insurer:

379 (a) The insurer's required surplus, capital, or capital  
 380 stock is impaired to an extent prohibited by law;

381 (b) The insurer continues to write new business when it  
 382 has not maintained the required surplus or capital stock;

383 (c) The insurer attempts to dissolve or liquidate without  
 384 first having made provisions, satisfactory to the department,  
 385 for liabilities arising from insurance policies issued by the  
 386 insurer; or

387 (d) The insurer meets one or more of the grounds in s.  
 388 631.051 for the appointment of the department as receiver.

389 637.10045 Preemption to state.—The regulation of title  
 390 insurance, title insurers, and title insurance agencies is  
 391 preempted to the state.

392 637.1005 General applicability of other chapters.—

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393       (1) The provisions of chapters 624, 626, and 627 do not  
 394 apply to title insurers or their agents unless specifically  
 395 incorporated by reference and made applicable to this chapter by  
 396 a provision of this chapter.

397       (2) The provisions of chapters 625, 628, and 631 apply to  
 398 title insurance and for purposes of applying such provisions to  
 399 title insurance, the term "office" shall be interpreted to mean  
 400 department and the term "Director of the Division of Insurance  
 401 Regulation" shall be interpreted to mean the "Florida Title  
 402 Insurance Coordinator," "Director of the Division of Title  
 403 Insurance," or "division director."

404       637.1006 General powers; duties.—

405       (1) The powers and duties of the Chief Financial Officer  
 406 and the department specified in this chapter apply with respect  
 407 to title insurers, title insurance agents, and title insurance  
 408 agencies.

409       (2) The department shall enforce the provisions of this  
 410 chapter and shall execute the duties imposed upon the department  
 411 by this chapter, as provided by law.

412       (3) The department shall have the powers and authority  
 413 expressly conferred upon it by, or reasonably implied from, the  
 414 provisions of this chapter.

415       (4) The department may conduct such investigations of  
 416 insurance matters, in addition to investigations expressly  
 417 authorized, as it may deem proper to determine whether any  
 418 person has violated any provision of this chapter within its  
 419 respective regulatory jurisdiction or to secure information  
 420 useful in the lawful administration of any such provision. The

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421 cost of such investigations shall be borne by the state.  
 422 (5) The department may collect, propose, publish, and  
 423 disseminate information relating to the subject matter of any  
 424 duties imposed upon it by law.  
 425 (6) The department shall have such additional powers and  
 426 duties as may be provided by other laws of this state.  
 427 (7) The department may employ actuaries who shall be at-  
 428 will employees and who shall serve at the pleasure of the Chief  
 429 Financial Officer, in the case of department employees.  
 430 Actuaries employed pursuant to this subsection shall be members  
 431 of the Society of Actuaries or the Casualty Actuarial Society  
 432 and shall be exempt from the Career Service System established  
 433 under chapter 110. The salaries of the actuaries employed  
 434 pursuant to this paragraph shall be set in accordance with s.  
 435 216.251(2)(a)5. and shall be set at levels which are  
 436 commensurate with salary levels paid to actuaries by the  
 437 insurance industry.  
 438 (8) The department shall, within existing resources,  
 439 develop and implement an outreach program for the purpose of  
 440 encouraging the entry of additional insurers into the Florida  
 441 market.  
 442 (9) Upon receiving service of legal process issued in any  
 443 civil action or proceeding in this state against any regulated  
 444 person required to appoint the Chief Financial Officer as its  
 445 attorney to receive service of all legal process, the Chief  
 446 Financial Officer, as attorney, may, in lieu of sending the  
 447 process by registered or certified mail, send the process by any  
 448 other verifiable means to the person last designated by the

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449 regulated person to receive the process.  
 450 (10) This section does not limit the authority of the  
 451 department and the Division of Insurance Fraud, as specified in  
 452 s. 637.1046.  
 453 (11) The division may enforce violations of the Real  
 454 Estate Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.  
 455 637.1007 Rules.-  
 456 (1) The department may adopt rules pursuant to ss.  
 457 120.536(1) and 120.54 to implement provisions of this chapter  
 458 and interpret the specific powers and duties provided in this  
 459 chapter, which rules may:  
 460 (a) Define the license and appointment requirements for  
 461 title insurance agents and agencies.  
 462 (b) Establish penalty guidelines for enforcing the  
 463 requirements of this chapter.  
 464 (c) Describe the fiduciary responsibilities of title  
 465 insurance agents and agencies, including, but not limited to,  
 466 duties related to escrow accounts.  
 467 (d) Identify the responsibilities, duties, and  
 468 designations of the agent in charge of the title insurance  
 469 agency or the attorney in charge of an attorney-owned title  
 470 insurance agency.  
 471 (e) Enable the collection of information from agents and  
 472 agencies relating to title insurance business.  
 473 (f) Set reasonable requirements for the timely recording  
 474 of documents and the delivery of final title policies.  
 475 (g) Establish rules for the protection, calculation, and  
 476 timely remittance of premiums that are owed to title insurers.

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477 (h) Prohibit the markup of the cost of any third-party  
 478 services without adding value.

479 (2) In addition to any other penalty provided, willful  
 480 violation of any such rule shall subject the violator to such  
 481 suspension or revocation of certificate of authority or license  
 482 as may be applicable under this chapter as for violation of the  
 483 provision as to which such rule relates.

484 637.1008 General penalty.-

485 (1) Each willful violation of this chapter or rule of the  
 486 department as to which a greater penalty is not provided by  
 487 another provision of this chapter or rule of the department or  
 488 by other applicable laws of this state is a misdemeanor of the  
 489 second degree and is, in addition to any prescribed applicable  
 490 denial, suspension, or revocation of certificate of authority,  
 491 license, or permit, punishable as provided in s. 775.082 or s.  
 492 775.083. Each instance of such violation shall be considered a  
 493 separate offense.

494 (2) Each willful violation of an emergency rule or order  
 495 of the department by a person who is not licensed, authorized,  
 496 or eligible to engage in business in accordance with this  
 497 chapter is a felony of the third degree, punishable as provided  
 498 in s. 775.082, s. 775.083, or s. 775.084. Each instance of such  
 499 violation is a separate offense. This subsection does not apply  
 500 to licensees or affiliated parties of licensees.

501 637.1009 Enforcement; cease and desist orders; removal of  
 502 certain persons; fines.-

503 (1) DEFINITIONS.-For the purposes of this section, the  
 504 term:

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505 (a) "Affiliated party" means any person who directs or  
 506 participates in the conduct of the affairs of a licensee and who  
 507 is:

508 1. A director, officer, employee, trustee, committee  
 509 member, or controlling stockholder of a licensee or a subsidiary  
 510 or service corporation of the licensee, other than a controlling  
 511 stockholder which is a holding company, or an agent of a  
 512 licensee or a subsidiary or service corporation of the licensee;

513 2. A person who has filed or is required to file a  
 514 statement or any other information required to be filed under s.  
 515 628.461 or s. 628.4615;

516 3. A stockholder, other than a stockholder that is a  
 517 holding company of the licensee, who participates in the conduct  
 518 of the affairs of the licensee; or

519 4. An independent contractor who:

520 a. Renders a written opinion required by the laws of this  
 521 state under her or his professional credentials on behalf of the  
 522 licensee, which opinion is reasonably relied on by the  
 523 department in the performance of its duties; or

524 b. Affirmatively and knowingly conceals facts, through a  
 525 written misrepresentation to the department, with knowledge that  
 526 such misrepresentation:

527 (I) Constitutes a violation of this chapter or a lawful  
 528 rule or order of the department; and

529 (II) Directly and materially endangers the ability of the  
 530 licensee to meet its obligations to policyholders.

531  
 532 For the purposes of this subparagraph, any representation of

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533 fact made by an independent contractor on behalf of a licensee,  
 534 affirmatively communicated as a representation of the licensee  
 535 to the independent contractor, shall not be considered a  
 536 misrepresentation by the independent contractor.

537 (b) "Licensee" means a person issued a license or  
 538 certificate of authority or approval under this chapter or a  
 539 person registered under a provision of this chapter.

540 (2) ENFORCEMENT GENERALLY.—

541 (a) The powers granted by this section to the department  
 542 apply only with respect to licensees of the department and their  
 543 affiliated parties and to unlicensed persons subject to  
 544 regulatory jurisdiction of the department.

545 (b) The department may institute such suits or other legal  
 546 proceedings as may be required to enforce any provision of this  
 547 chapter within the department's regulatory jurisdiction. If it  
 548 appears that any person has violated any provision of this  
 549 chapter for which criminal prosecution is provided, the  
 550 department shall provide the appropriate state attorney or other  
 551 prosecuting agency having jurisdiction with respect to such  
 552 prosecution with the relevant information in its possession.

553 (3) CEASE AND DESIST ORDERS.—

554 (a) The department may issue and serve a complaint stating  
 555 charges upon any licensee or upon any affiliated party, whenever  
 556 the department has reasonable cause to believe that the person  
 557 or individual named therein is engaging in or has engaged in  
 558 conduct that is:

559 1. An act that demonstrates a lack of fitness or  
 560 trustworthiness to engage in the business of insurance, is

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561 hazardous to the insurance buying public, or constitutes  
 562 business operations that are a detriment to policyholders,  
 563 stockholders, investors, creditors, or the public;  
 564 2. A violation of any provision of this chapter;  
 565 3. A violation of any rule of the department;  
 566 4. A violation of any order of the department; or  
 567 5. A breach of any written agreement with the department.  
 568 (b) The complaint shall contain a statement of facts and  
 569 notice of opportunity for a hearing pursuant to ss. 120.569 and  
 570 120.57.  
 571 (c) If no hearing is requested within the time allowed by  
 572 ss. 120.569 and 120.57, or if a hearing is held and the  
 573 department finds that any of the charges are proven, the  
 574 department may enter an order directing the licensee or the  
 575 affiliated party named in the complaint to cease and desist from  
 576 engaging in the conduct complained of and take corrective action  
 577 to remedy the effects of past improper conduct and assure future  
 578 compliance.  
 579 (d) If the licensee or affiliated party named in the order  
 580 fails to respond to the complaint within the time allotted by  
 581 ss. 120.569 and 120.57, the failure constitutes a default and  
 582 justifies the entry of a cease and desist order.  
 583 (e) A contested or default cease and desist order is  
 584 effective when reduced to writing and served upon the licensee  
 585 or affiliated party named therein. An uncontested cease and  
 586 desist order is effective as agreed.  
 587 (f) Whenever the department finds that conduct described  
 588 in paragraph (a) is likely to cause insolvency, substantial

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589 dissipation or misvaluation of assets or earnings of the  
 590 licensee, substantial inability to pay claims on a timely basis,  
 591 or substantial prejudice to prospective or existing insureds,  
 592 policyholders, subscribers, or the public, it may issue an  
 593 emergency cease and desist order requiring the licensee or any  
 594 affiliated party to immediately cease and desist from engaging  
 595 in the conduct complained of and to take corrective and remedial  
 596 action. The emergency order is effective immediately upon  
 597 service of a copy of the order upon the licensee or affiliated  
 598 party named therein and remains effective for 90 days. If the  
 599 department begins nonemergency cease and desist proceedings  
 600 under this subsection, the emergency order remains effective  
 601 until the conclusion of the proceedings under ss. 120.569 and  
 602 120.57.

603 (4) REMOVAL OF AFFILIATED PARTIES.—

604 (a) The department may issue and serve a complaint stating  
 605 charges upon any affiliated party and upon the licensee  
 606 involved, whenever the department has reason to believe that an  
 607 affiliated party is engaging in or has engaged in conduct that  
 608 constitutes:

609 1. An act that demonstrates a lack of fitness or  
 610 trustworthiness to engage in the business of insurance through  
 611 engaging in illegal activity or mismanagement of business  
 612 activities;

613 2. A willful violation of any law relating to the business  
 614 of insurance; however, if the violation constitutes a  
 615 misdemeanor, no complaint shall be served as provided in this  
 616 section until the affiliated party is notified in writing of the

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617 matter of the violation and has been afforded a reasonable  
 618 period of time, as set forth in the notice, to correct the  
 619 violation and has failed to do so;

620 3. A violation of any other law involving fraud or moral  
 621 turpitude that constitutes a felony;

622 4. A willful violation of any rule of the department;

623 5. A willful violation of any order of the department;

624 6. A material misrepresentation of fact, made knowingly  
 625 and willfully or made with reckless disregard for the truth of  
 626 the matter; or

627 7. An act of commission or omission or a practice which is  
 628 a breach of trust or a breach of fiduciary duty.

629 (b) The complaint shall contain a statement of facts and  
 630 notice of opportunity for a hearing pursuant to ss. 120.569 and  
 631 120.57.

632 (c) If no hearing is requested within the time allotted by  
 633 ss. 120.569 and 120.57, or if a hearing is held and the  
 634 department finds that any of the charges in the complaint are  
 635 proven true and that:

636 1. The licensee has suffered or will likely suffer loss or  
 637 other damage;

638 2. The interests of the policyholders, creditors, or  
 639 public are, or could be, seriously prejudiced by reason of the  
 640 violation or act or breach of fiduciary duty;

641 3. The affiliated party has received financial gain by  
 642 reason of the violation, act, or breach of fiduciary duty; or

643 4. The violation, act, or breach of fiduciary duty is one  
 644 involving personal dishonesty on the part of the affiliated

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645 party or the conduct jeopardizes or could reasonably be  
 646 anticipated to jeopardize the financial soundness of the  
 647 licensee,

648  
 649 The department may enter an order removing the affiliated party  
 650 or restricting or prohibiting participation by the person in the  
 651 affairs of that particular licensee or of any other licensee.

652 (d) If the affiliated party fails to respond to the  
 653 complaint within the time allotted by ss. 120.569 and 120.57,  
 654 the failure constitutes a default and justifies the entry of an  
 655 order of removal, suspension, or restriction.

656 (e) A contested or default order of removal, restriction,  
 657 or prohibition is effective when reduced to writing and served  
 658 on the licensee and the affiliated party. An uncontested order  
 659 of removal, restriction, or prohibition is effective as agreed.

660 (f)1. The chief executive officer, or the person holding  
 661 the equivalent office, of a licensee shall promptly notify the  
 662 department that issued the license if she or he has actual  
 663 knowledge that any affiliated party is charged with a felony in  
 664 a state or federal court.

665 2. Whenever any affiliated party is charged with a felony  
 666 in a state or federal court or with the equivalent of a felony  
 667 in the courts of any foreign country with which the United  
 668 States maintains diplomatic relations, and the charge alleges  
 669 violation of any law involving fraud, theft, or moral turpitude,  
 670 the department may enter an emergency order suspending the  
 671 affiliated party or restricting or prohibiting participation by  
 672 the affiliated party in the affairs of the particular licensee

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673 | or of any other licensee upon service of the order upon the  
 674 | licensee and the affiliated party charged. The order shall  
 675 | contain notice of opportunity for a hearing pursuant to ss.  
 676 | 120.569 and 120.57, where the affiliated party may request a  
 677 | postsuspension hearing to show that continued service to or  
 678 | participation in the affairs of the licensee does not pose a  
 679 | threat to the interests of the licensee's policyholders or  
 680 | creditors and does not threaten to impair public confidence in  
 681 | the licensee. In accordance with applicable rules, the  
 682 | department shall notify the affiliated party whether the order  
 683 | suspending or prohibiting the person from participation in the  
 684 | affairs of a licensee will be rescinded or otherwise modified.  
 685 | The emergency order remains in effect, unless otherwise modified  
 686 | by the department, until the criminal charge is disposed of. The  
 687 | acquittal of the person charged, or the final, unappealed  
 688 | dismissal of all charges against the person, dissolves the  
 689 | emergency order, but does not prohibit the department from  
 690 | instituting proceedings under paragraph (a). If the person  
 691 | charged is convicted or pleads guilty or nolo contendere,  
 692 | whether or not an adjudication of guilt is entered by the court,  
 693 | the emergency order shall become final.

694 | (g) Any affiliated party removed from office pursuant to  
 695 | this section is not eligible for reelection or appointment to  
 696 | the position or to any other official position in any licensee  
 697 | in this state except upon the written consent of the department.  
 698 | Any affiliated party who is removed, restricted, or prohibited  
 699 | from participation in the affairs of a licensee pursuant to this  
 700 | section may petition the department for modification or

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701 termination of the removal, restriction, or prohibition.  
 702 (h) Resignation or termination of an affiliated party does  
 703 not affect the department's jurisdiction to proceed under this  
 704 subsection.  
 705 (5) ADMINISTRATIVE FINES; ENFORCEMENT.—  
 706 (a) The department, in a proceeding initiated pursuant to  
 707 chapter 120, may impose an administrative fine against any  
 708 person found in the proceeding to have violated any provision of  
 709 this chapter, a cease and desist order of the department, or any  
 710 written agreement with the department. A proceeding may not be  
 711 initiated and a fine may not accrue until after the person has  
 712 been notified in writing of the nature of the violation and has  
 713 been afforded a reasonable period of time, as set forth in the  
 714 notice, to correct the violation and has failed to do so.  
 715 (b) A fine imposed under this subsection may not exceed  
 716 the amounts specified in s. 637.2021, per violation.  
 717 (c) In addition to the imposition of an administrative  
 718 fine under this subsection, the department may also suspend or  
 719 revoke the license or certificate of authority of the licensee  
 720 fined under this subsection.  
 721 (d) Any administrative fine levied by the department under  
 722 this subsection may be enforced by the department by appropriate  
 723 proceedings in the circuit court of the county in which the  
 724 person resides or in which the principal office of a licensee is  
 725 located, or, in the case of a foreign insurer or person not  
 726 residing in this state, in Leon County. In any administrative or  
 727 judicial proceeding arising under this section, a party may  
 728 elect to correct the violation asserted by the department, and,

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729 upon doing so, any fine shall cease to accrue; however, the  
 730 election to correct the violation does not render any  
 731 administrative or judicial proceeding moot. All fines collected  
 732 under this section shall be paid to the Title Insurance  
 733 Regulatory Trust Fund.

734 (e) In imposing any administrative penalty or remedy  
 735 provided for under this section, the department shall take into  
 736 account the appropriateness of the penalty with respect to the  
 737 size of the financial resources and the good faith of the person  
 738 charged, the gravity of the violation, the history of previous  
 739 violations, and other matters as justice may require.

740 (f) The imposition of an administrative fine under this  
 741 subsection may be in addition to any other penalty or  
 742 administrative fine authorized under this chapter.

743 (6) ADMINISTRATIVE PROCEDURES.—All administrative  
 744 proceedings under subsections (3), (4), and (5) shall be  
 745 conducted in accordance with chapter 120. Any service required  
 746 or authorized to be made by the department under this chapter  
 747 shall be made by certified mail, return receipt requested,  
 748 delivered to the addressee only; by personal delivery; or in  
 749 accordance with chapter 48. The service provided for herein  
 750 shall be effective from the date of delivery.

751 (7) CRIMINAL ENFORCEMENT.—It is unlawful for any  
 752 affiliated party who is removed or prohibited from participation  
 753 in the affairs of a licensee pursuant to this section, or for  
 754 any licensee whose rights or privileges under such license have  
 755 been suspended or revoked pursuant to this chapter, to knowingly  
 756 act as an affiliated party as defined in this section or to

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757 knowingly transact insurance until expressly authorized to do so  
 758 by the department. Such authorization by the department may not  
 759 be provided unless the affiliated party or the licensee has made  
 760 restitution, if applicable, to all parties damaged by the  
 761 actions of the affiliated party or the licensee which served as  
 762 the basis for the removal or prohibition of the affiliated party  
 763 or the suspension or revocation of the rights and privileges of  
 764 the licensee. Any person who violates the provisions of this  
 765 subsection commits a felony of the third degree, punishable as  
 766 provided in s. 775.082, s. 775.083 or s. 775.084.

767 637.1011 Immunity from civil liability for providing  
 768 department with information about condition of insurer.—A  
 769 person, other than a person filing a required report or other  
 770 required information, who provides the department with  
 771 information about the financial condition of an insurer is  
 772 immune from civil liability arising out of the provision of the  
 773 information unless the person acted with knowledge that the  
 774 information was false or with reckless disregard for the truth  
 775 or falsity of the information.

776 637.1012 Records; reproductions; destruction.—

777 (1) Except as provided in this section, the department  
 778 shall each preserve in permanent form records of its  
 779 proceedings, hearings, investigations, and examinations and  
 780 shall file such records in its department.

781 (2) The department may photograph, microphotograph, or  
 782 reproduce on film, or maintain in an electronic recordkeeping  
 783 system, all financial records, financial statements of domestic  
 784 insurers, reports of business transacted in this state by

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785 foreign insurers and alien insurers, reports of examination of  
 786 domestic insurers, and such other records and documents on file  
 787 in the department as the department may in its discretion  
 788 select.

789 (3) To facilitate the efficient use of floor space and  
 790 filing equipment in its offices, the department may destroy the  
 791 following records and documents pursuant to chapter 257:

792 (a) General closed correspondence files over 3 years old.

793 (b) Title insurance and similar license files, over 2  
 794 years old; except that the department shall preserve by  
 795 reproduction or otherwise a copy of the original records upon  
 796 the basis of which each such licensee qualified for her or his  
 797 initial license, except a competency examination, and of any  
 798 disciplinary proceeding affecting the licensee.

799 (c) All title insurance agent and similar license files  
 800 and records, including original license qualification records  
 801 and records of disciplinary proceedings 5 years after a licensee  
 802 has ceased to be qualified for a license.

803 (d) Insurer certificate of authority files over 2 years  
 804 old, except that the department shall preserve by reproduction  
 805 or otherwise a copy of the initial certificate of authority of  
 806 each insurer.

807 (e) All documents and records which have been photographed  
 808 or otherwise reproduced as provided in subsection (2), if such  
 809 reproductions have been filed and an audit of the department has  
 810 been completed for the period embracing the dates of such  
 811 documents and records.

812 (f) All other records, documents, and files not expressly

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813 provided for in paragraphs (a)-(e).

814 637.1013 Reproductions and certified copies of records as  
 815 evidence.-

816 (1) Photographs or microphotographs in the form of film or  
 817 prints, or other reproductions from an electronic recordkeeping  
 818 system, of documents and records made under s. 637.1012(2), or  
 819 made under former s. 624.311(3) before October 1, 1982, shall  
 820 have the same force and effect as the originals thereof and  
 821 shall be treated as originals for the purpose of their  
 822 admissibility in evidence. Duly certified or authenticated  
 823 reproductions of such photographs, microphotographs, or other  
 824 reproductions from an electronic recordkeeping system shall be  
 825 as admissible in evidence as the originals.

826 (2) Upon the request of any person and payment of the  
 827 applicable fee, the department shall give a certified copy of  
 828 any record in its department which is then subject to public  
 829 inspection.

830 (3) Copies of original records or documents in its  
 831 department certified by the department shall be received in  
 832 evidence in all courts as if they were originals.

833 637.1014 Publications.-

834 (1) As early as reasonably possible, the department shall  
 835 annually have printed and made available a statistical report  
 836 which must include all of the following information on either a  
 837 calendar year or fiscal year basis:

838 (a) The total amount of premiums written and earned for  
 839 title insurance.

840 (b) The total amount of losses paid and losses incurred

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841 for title insurance.  
 842 (c) The ratio of premiums written to losses paid by title  
 843 insurance.  
 844 (d) The ratio of premiums earned to losses incurred by  
 845 title insurance.  
 846 (e) The market share of the 10 largest insurers or insurer  
 847 groups of title insurance and of each insurer or insurer group  
 848 that has a market share of at least 1 percent of a line of  
 849 insurance in this state.  
 850 (f) The profitability of title insurance.  
 851 (g) An analysis of the impact of the insurance industry on  
 852 the economy of the state.  
 853 (h) A complaint ratio by line of insurance for the  
 854 insurers referred to in paragraph (e), based upon information  
 855 provided to the department by the department. The department  
 856 shall determine the most appropriate ratio or ratios for  
 857 quantifying complaints.  
 858 (i) A summary of the findings of market examinations  
 859 performed by the department under s. 637.1018 during the  
 860 preceding year.  
 861 (j) Such other information as the department deems  
 862 relevant.  
 863 (2) The department may prepare and have printed and  
 864 published in pamphlet or book form, as needed, questions and  
 865 answers for the use of persons applying for an examination for  
 866 licensing as title insurance agents.  
 867 (3) The department shall sell the publications mentioned  
 868 in subsections (1) and (2) to purchasers at a price fixed by the

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869 department at not less than the cost of printing and binding  
 870 such publications, plus packaging and postage costs for mailing;  
 871 except that the department may deliver copies of such  
 872 publications free of cost to state agencies and officers;  
 873 insurance supervisory authorities of other states and  
 874 jurisdictions; institutions of higher learning located in  
 875 Florida; the Library of Congress; insurance officers of Naval,  
 876 Military, and Air Force bases located in this state; and to  
 877 persons serving as advisers to the department in preparation of  
 878 the publications.

879 (4) The department may contract with outside vendors, in  
 880 accordance with chapter 287, to compile data in an electronic  
 881 data processing format that is compatible with the systems of  
 882 the department.

883 637.1015 Sale of publications; deposit of proceeds.—The  
 884 department shall deposit all moneys received from the sale of  
 885 publications under s. 637.1014 in the Title Insurance Regulatory  
 886 Trust Fund for the purpose of paying costs for the preparation,  
 887 printing, and delivery of the publications required in s.  
 888 637.1014(2), packaging and mailing costs, and banking,  
 889 accounting, and incidental expenses connected with the sale and  
 890 delivery of such publications. All moneys deposited into and all  
 891 funds transferred to the Title Insurance Regulatory Trust Fund  
 892 are appropriated for such uses and purposes.

893 637.1016 Department; annual report.—

894 (1) As early as reasonably possible, the department shall  
 895 annually prepare a report to the Speaker and Minority Leader of  
 896 the House of Representatives, the President and Minority Leader

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897 of the Senate, the chairs of the legislative committees with  
 898 jurisdiction over matters of insurance, and the Governor  
 899 showing, with respect to the preceding calendar year:

900 (a) Names of the authorized insurers transacting insurance  
 901 in this state, with abstracts of their financial statements  
 902 including assets, liabilities, and net worth.

903 (b) Names of insurers whose business was closed during the  
 904 year, the cause thereof, and amounts of assets and liabilities  
 905 as ascertainable.

906 (c) Names of insurers against which delinquency or similar  
 907 proceedings were instituted, and a concise statement of the  
 908 circumstances and results of each such proceeding.

909 (d) The receipts and estimated expenses of the department  
 910 for the year.

911 (e) Such other pertinent information and matters as the  
 912 department deems to be in the public interest.

913 (f) Annually after each regular session of the  
 914 Legislature, a compilation of the laws of this state relating to  
 915 insurance. Any such publication may be printed, revised, or  
 916 reprinted upon the basis of the original low bid.

917 (g) An analysis and summary report of the state of the  
 918 insurance industry in this state evaluated as of the end of the  
 919 most recent calendar year.

920 (2) The department shall maintain the following  
 921 information and make such information available upon request:

922 (a) Calendar year profitability, including investment  
 923 income from loss reserves (Florida and countrywide).

924 (b) Aggregate Florida loss reserves.

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925 (c) Premiums written (Florida and countrywide).  
 926 (d) Premiums earned (Florida and countrywide).  
 927 (e) Incurred losses (Florida and countrywide).  
 928 (f) Paid losses (Florida and countrywide).  
 929 (g) Allocated Florida loss adjustment expenses.  
 930 (h) Variation of premiums charged by the industry as  
 931 compared to rates promulgated by the Insurance Services Office  
 932 (Florida and countrywide).

933 (i) An analysis of policy size limits (Florida and  
 934 countrywide).

935 (j) Trends; emerging trends as exemplified by the  
 936 percentage change in frequency and severity of both paid and  
 937 incurred claims, and pure premium (Florida and countrywide).

938 (3) The department may contract with outside vendors, in  
 939 accordance with chapter 287, to compile data in an electronic  
 940 data processing format that is compatible with the systems of  
 941 the department.

942 637.1017 Examination of insurers.—

943 (1) (a) The department shall examine the affairs,  
 944 transactions, accounts, records, and assets of each authorized  
 945 insurer as to its transactions affecting the insurer as often as  
 946 it deems advisable, except as provided in this section. The  
 947 examination may include examination of the affairs,  
 948 transactions, accounts, and records relating directly or  
 949 indirectly to the insurer and of the assets of the insurer's  
 950 managing general agents and controlling or controlled person, as  
 951 defined in s. 625.012. The examination shall be pursuant to a  
 952 written order of the department. Such order shall expire upon

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953 receipt by the department of the written report of the  
 954 examination.

955 (b) The department shall examine each insurer according to  
 956 accounting procedures designed to fulfill the requirements of  
 957 generally accepted insurance accounting principles and practices  
 958 and good internal control and in keeping with generally accepted  
 959 accounting forms, accounts, records, methods, and practices  
 960 relating to insurers. To facilitate uniformity in examinations,  
 961 the department may adopt, by rule, the Market Conduct Examiners  
 962 Handbook and the Financial Condition Examiners Handbook of the  
 963 National Association of Insurance Commissioners, 2002, and may  
 964 adopt subsequent amendments thereto, if the examination  
 965 methodology remains substantially consistent.

966 (2) (a) Except as provided in paragraph (f), the department  
 967 may examine each insurer as often as may be warranted for the  
 968 protection of the policyholders and in the public interest, and  
 969 shall examine each domestic insurer not less frequently than  
 970 once every 5 years. The examination shall cover the preceding 5  
 971 fiscal years of the insurer and shall be commenced within 12  
 972 months after the end of the most recent fiscal year being  
 973 covered by the examination. The examination may cover any period  
 974 of the insurer's operations since the last previous examination.  
 975 The examination may include examination of events subsequent to  
 976 the end of the most recent fiscal year and the events of any  
 977 prior period that affect the present financial condition of the  
 978 insurer.

979 (b) The department shall examine each insurer applying for  
 980 an initial certificate of authority to transact insurance in

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981 this state before granting the initial certificate.

982 (c) In lieu of making its own examination, the department  
 983 may accept a full report of the last recent examination of a  
 984 foreign insurer, certified to by the insurance supervisory  
 985 official of another state.

986 (d) The examination by the department of an alien insurer  
 987 shall be limited to the alien insurer's insurance transactions  
 988 and affairs in the United States, except as otherwise required  
 989 by the department.

990 (e) The department shall adopt rules providing that an  
 991 examination under this section may be conducted by independent  
 992 certified public accountants, actuaries, investment specialists,  
 993 information technology specialists, and reinsurance specialists  
 994 meeting criteria specified by rule. The rules shall provide:

995 1. That the rates charged to the insurer being examined  
 996 are consistent with rates charged by other firms in a similar  
 997 profession and are comparable with the rates charged for  
 998 comparable examinations.

999 2. That the firm selected by the department to perform the  
 1000 examination has no conflicts of interest that might affect its  
 1001 ability to independently perform its responsibilities on the  
 1002 examination.

1003 3. That the insurer being examined must make payment for  
 1004 the examination pursuant to s. 637.1023(1) in accordance with  
 1005 the rates and terms established by the department and the firm  
 1006 performing the examination.

1007 (f) An examination under this section must be conducted at  
 1008 least once every year with respect to a domestic insurer that

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1009 has continuously held a certificate of authority for less than 3  
 1010 years. The examination must cover the preceding fiscal year or  
 1011 the period since the last examination of the insurer. The  
 1012 department may limit the scope of the examination.

1013 637.1018 Market conduct examinations.-

1014 (1) As often as it deems necessary, the department shall  
 1015 examine each licensed rating organization, each advisory  
 1016 organization, each group, association, carrier, as defined in s.  
 1017 440.02, or other organization of insurers which engages in joint  
 1018 underwriting or joint reinsurance, and each authorized insurer  
 1019 transacting in this state any class of insurance to which the  
 1020 provisions of this chapter are applicable. The examination shall  
 1021 be for the purpose of ascertaining compliance by the person  
 1022 examined with the applicable provisions of this chapter.

1023 (2) In lieu of any such examination, the department may  
 1024 accept the report of a similar examination made by the insurance  
 1025 supervisory official of another state.

1026 (3) The examination may be conducted by an independent  
 1027 professional examiner under contract to the department, in which  
 1028 case payment shall be made directly to the contracted examiner  
 1029 by the insurer examined in accordance with the rates and terms  
 1030 agreed to by the department and the examiner.

1031 (4) The reasonable cost of the examination shall be paid  
 1032 by the person examined, and such person shall be subject, as  
 1033 though an insurer, to the provisions of s. 637.1023.

1034 (5) Such examinations shall also be subject to the  
 1035 applicable provisions of chapter 440 and ss. 637.1021, 637.1022,  
 1036 637.1024, and 637.1025.

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1037           637.1019 Investigation of title insurance agents and  
 1038 others.—If the department has reason to believe that any title  
 1039 insurance agent has violated or is violating any provision of  
 1040 this chapter, or upon the written complaint signed by any  
 1041 interested person indicating that any such violation may exist:  
 1042           (1) The department shall conduct such investigation as it  
 1043 deems necessary of the accounts, records, documents, and  
 1044 transactions pertaining to or affecting the insurance affairs of  
 1045 any title insurance agent, title insurance agency, or other  
 1046 person subject to its jurisdiction.  
 1047           (2) The department shall conduct such investigation as it  
 1048 deems necessary of the accounts, records, documents, and  
 1049 transactions pertaining to or affecting the insurance affairs of  
 1050 any:  
 1051           (a) Person subject to its jurisdiction.  
 1052           (b) Person having a contract or power of attorney under  
 1053 which she or he enjoys in fact the exclusive or dominant right  
 1054 to manage or control an insurer.  
 1055           (c) Person engaged in or proposing to be engaged in the  
 1056 promotion or formation of:  
 1057           1. A domestic insurer;  
 1058           2. An insurance holding corporation; or  
 1059           3. A corporation to finance a domestic insurer or in the  
 1060 production of the domestic insurer's business.  
 1061           (3) In the investigation by the department of the alleged  
 1062 misconduct, the licensee shall, whenever required by the  
 1063 department, cause his or her books and records to be open for  
 1064 inspection for the purpose of such inquiries.

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1065       (4) A complaint against any licensee may be informally  
 1066 alleged and need not be in any language necessary to charge a  
 1067 crime on an indictment or information.

1068       (5) The expense for any hearings or investigations under  
 1069 this section, as well as the fees and mileage of witnesses, may  
 1070 be paid out of the appropriate fund.

1071       (6) If the department, after investigation, has reason to  
 1072 believe that a licensee may have been found guilty of or pleaded  
 1073 guilty or nolo contendere to a felony or a crime related to the  
 1074 business of insurance in this or any other state or jurisdiction,  
 1075 the department or office may require the licensee to file with  
 1076 the department or office a complete set of his or her  
 1077 fingerprints, which shall be accompanied by the fingerprint  
 1078 processing fee set forth in s. 637.2031. The fingerprints shall  
 1079 be taken by an authorized law enforcement agency or other  
 1080 department-approved entity.

1081       637.1021 Conduct of examination or investigation; access  
 1082 to records; correction of accounts; appraisals.-

1083       (1) The examination or investigation may be conducted by  
 1084 the accredited examiners or investigators of the department at  
 1085 the offices wherever located of the person being examined or  
 1086 investigated and at such other places as may be required for  
 1087 determination of matters under examination or investigation. In  
 1088 the case of alien insurers, the examination may be so conducted  
 1089 in the insurer's offices and places in the United States, except  
 1090 as otherwise required by the department.

1091       (2) Every person being examined or investigated, and its  
 1092 officers, attorneys, employees, agents, and representatives,

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1093 shall make freely available to the department or its examiners  
 1094 or investigators the accounts, records, documents, files,  
 1095 information, assets, and matters in their possession or control  
 1096 relating to the subject of the examination or investigation. An  
 1097 agent who provides other products or services or maintains  
 1098 customer information not related to insurance must maintain  
 1099 records relating to insurance products and transactions  
 1100 separately if necessary to give the department access to such  
 1101 records. If records relating to the insurance transactions are  
 1102 maintained by an agent on premises owned or operated by a third  
 1103 party, the agent and the third party must provide access to the  
 1104 records by the department.

1105 (3) If the department finds any accounts or records to be  
 1106 inadequate, or inadequately kept or posted, it may employ  
 1107 experts to reconstruct, rewrite, post, or balance them at the  
 1108 expense of the person being examined if such person has failed  
 1109 to maintain, complete, or correct such records or accounting  
 1110 after the department has given her or him notice and a  
 1111 reasonable opportunity to do so.

1112 (4) If the department deems it necessary to value any  
 1113 asset involved in such an examination of an insurer, it may make  
 1114 written request of the insurer to designate one or more  
 1115 competent appraisers acceptable to the department, who shall  
 1116 promptly make an appraisal of the asset and furnish a copy  
 1117 thereof to the department. If the insurer fails to designate  
 1118 such an appraiser or appraisers within 20 days after the request  
 1119 of the department, the department may designate the appraiser or  
 1120 appraisers. The reasonable expense of any such appraisal shall

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1121 be a part of the expense of examination, to be borne by the  
 1122 insurer.

1123 (5) Neither the department nor any examiner shall remove  
 1124 any record, account, document, file, or other property of the  
 1125 person being examined from the offices of such person except  
 1126 with the written consent of such person given in advance of such  
 1127 removal or pursuant to an order of court duly obtained.

1128 (6) Any individual who willfully obstructs the department  
 1129 or the examiner in the examinations or investigations authorized  
 1130 by this part is guilty of a misdemeanor and upon conviction  
 1131 shall be punished as provided in s. 624.15.

1132 (7) The department or its examiners or investigators may  
 1133 electronically scan accounts, records, documents, files, and  
 1134 information, relating to the subject of the examination or  
 1135 investigation, in the possession or control of the person being  
 1136 examined or investigated.

1137 637.1022 Examination and investigation reports.—

1138 (1) The department or its examiner shall make a full and  
 1139 true written report of each examination. The examination report  
 1140 shall contain only information obtained from examination of the  
 1141 records, accounts, files, and documents of or relative to the  
 1142 insurer examined or from testimony of individuals under oath,  
 1143 together with relevant conclusions and recommendations of the  
 1144 examiner based thereon. The department shall furnish a copy of  
 1145 the examination report to the insurer examined not less than 30  
 1146 days prior to filing the examination report in its office. If  
 1147 such insurer so requests in writing within such 30-day period,  
 1148 the department shall grant a hearing with respect to the

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1149 examination report and shall not so file the examination report  
 1150 until after the hearing and after such modifications have been  
 1151 made therein as the department deems proper.

1152 (2) The examination report when so filed shall be  
 1153 admissible in evidence in any action or proceeding brought by  
 1154 the department against the person examined, or against its  
 1155 officers, employees, or agents. In all other proceedings, the  
 1156 admissibility of the examination report is governed by the  
 1157 evidence code. The department or its examiners may at any time  
 1158 testify and offer other proper evidence as to information  
 1159 secured or matters discovered during the course of an  
 1160 examination, whether or not a written report of the examination  
 1161 has been either made, furnished, or filed with the department.

1162 (3) After the examination report has been filed pursuant  
 1163 to subsection (1), the department may publish the results of any  
 1164 such examination in one or more newspapers published in this  
 1165 state whenever it deems it to be in the public interest.

1166 (4) After the examination report of an insurer has been  
 1167 filed pursuant to subsection (1), an affidavit shall be filed  
 1168 with the department, not more than 30 days after the report has  
 1169 been filed, on a form furnished by the department and signed by  
 1170 the officer of the company in charge of the insurer's business  
 1171 in this state, stating that she or he has read the report and  
 1172 that the recommendations made in the report will be considered  
 1173 within a reasonable time.

1174 637.1023 Examination expenses.-

1175 (1) Each insurer so examined shall pay to the department  
 1176 the expenses of the examination at the rates adopted by the

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1177 department. Such expenses shall include actual travel expenses,  
 1178 reasonable living expense allowance, compensation of the  
 1179 examiner or other person making the examination, and necessary  
 1180 attendant administrative costs of the department directly  
 1181 related to the examination. Such travel expense and living  
 1182 expense allowance shall be limited to those expenses necessarily  
 1183 incurred on account of the examination and shall be paid by the  
 1184 examined insurer together with compensation upon presentation by  
 1185 the department to such insurer of a detailed account of such  
 1186 charges and expenses after a detailed statement has been filed  
 1187 by the examiner and approved by the department.

1188 (2) All moneys collected from insurers for examinations  
 1189 shall be deposited into the Title Insurance Regulatory Trust  
 1190 Fund, and the department may make deposits from time to time  
 1191 into such fund from moneys appropriated for the operation of the  
 1192 department.

1193 (3) Notwithstanding the provisions of s. 112.061, the  
 1194 department may pay to the examiner or person making the  
 1195 examination out of such trust fund the actual travel expenses,  
 1196 reasonable living expense allowance, and compensation in  
 1197 accordance with the statement filed with the department by the  
 1198 examiner or other person, as provided in subsection (1) upon  
 1199 approval by the department.

1200 (4) When not examining an insurer, the travel expenses,  
 1201 per diem, and compensation for the examiners and other persons  
 1202 employed to make examinations, if approved, shall be paid out of  
 1203 moneys budgeted for such purpose as regular employees,  
 1204 reimbursements for such travel expenses and per diem to be at

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1205 rates no more than as provided in s. 112.061.

1206 (5) The department may pay to regular insurance examiners,  
 1207 not residents of Leon County, Florida, per diem for periods not  
 1208 exceeding 30 days for each such examiner while at the Department  
 1209 of Financial Services in Tallahassee, Florida, for the purpose  
 1210 of auditing insurers' annual statements. Such expenses shall be  
 1211 paid out of moneys budgeted for such purpose, as for regular  
 1212 employees at rates provided in s. 112.061.

1213 (6) The provisions of this section shall apply to rate  
 1214 analysts and rate examiners in the discharge of their duties  
 1215 under s. 637.1018.

1216 637.1024 Witnesses and evidence.-

1217 (1) As to any examination, investigation, or hearing being  
 1218 conducted under this chapter, a person designated by the  
 1219 department:

1220 (a) May administer oaths, examine and cross-examine  
 1221 witnesses, receive oral and documentary evidence.

1222 (b) May subpoena witnesses, compel their attendance and  
 1223 testimony, and require by subpoena the production of books,  
 1224 papers, records, files, correspondence, documents, or other  
 1225 evidence which is relevant to the inquiry.

1226 (2) If any person refuses to comply with any such subpoena  
 1227 or to testify as to any matter concerning which she or he may be  
 1228 lawfully interrogated, the Circuit Court of Leon County or of  
 1229 the county wherein such examination, investigation, or hearing  
 1230 is being conducted, or of the county wherein such person  
 1231 resides, may, on the application of the department, issue an  
 1232 order requiring such person to comply with the subpoena and to

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1233 testify.

1234 (3) Subpoenas shall be served, and proof of such service

1235 made, in the same manner as if issued by a circuit court.

1236 Witness fees, cost, and reasonable travel expenses, if claimed,

1237 shall be allowed the same as for testimony in a circuit court.

1238 637.1025 Testimony compelled; immunity from prosecution.-

1239 (1) If any natural person asks to be excused from

1240 attending or testifying or from producing any books, papers,

1241 records, contracts, documents, or other evidence in connection

1242 with any examination, hearing, or investigation being conducted

1243 by the department or its examiner, on the ground that the

1244 testimony or evidence required of her or him may tend to

1245 incriminate the person or subject her or him to a penalty or

1246 forfeiture, and shall notwithstanding be directed to give such

1247 testimony or produce such evidence, the person must, if so

1248 directed by the department and the Department of Legal Affairs,

1249 nonetheless comply with such direction; but she or he shall not

1250 thereafter be prosecuted or subjected to any penalty or

1251 forfeiture for or on account of any transaction, matter, or

1252 thing concerning which she or he may have so testified or

1253 produced evidence; and no testimony so given or evidence

1254 produced shall be received against the person upon any criminal

1255 action, investigation, or proceeding. However, no such person so

1256 testifying shall be exempt from prosecution or punishment for

1257 any perjury committed by her or him in such testimony, and the

1258 testimony or evidence so given or produced shall be admissible

1259 against her or him upon any criminal action, investigation, or

1260 proceeding concerning such perjury. No license or permit

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1261 conferred or to be conferred to such person shall be refused,  
 1262 suspended, or revoked based upon the use of such testimony.

1263 (2) Any such individual may execute, acknowledge, and file  
 1264 with the department, as appropriate, a statement expressly  
 1265 waiving such immunity or privilege in respect to any  
 1266 transaction, matter, or thing specified in such statement; and  
 1267 thereupon the testimony of such individual or such evidence in  
 1268 relation to such transaction, matter, or thing may be received  
 1269 or produced before any judge or justice, court, tribunal, grand  
 1270 jury, or otherwise; and, if so received or produced, such  
 1271 individual shall not be entitled to any immunity or privileges  
 1272 on account of any testimony she or he may so give or evidence so  
 1273 produced.

1274 637.1026 Hearings.—The department may hold hearings for  
 1275 any purpose within the scope of this chapter deemed to be  
 1276 necessary.

1277 637.1027 Authority of Department of Law Enforcement to  
 1278 accept fingerprints of, and exchange criminal history records  
 1279 with respect to, certain persons.—

1280 (1) The Department of Law Enforcement may accept  
 1281 fingerprints of organizers, incorporators, subscribers,  
 1282 officers, stockholders, directors, or any other persons  
 1283 involved, directly or indirectly, in the organization,  
 1284 operation, or management of:

1285 (a) Any insurer or proposed insurer transacting or  
 1286 proposing to transact insurance in this state.

1287 (b) Any other entity which is examined or investigated or  
 1288 which is eligible to be examined or investigated under the

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1289 provisions of this chapter.

1290 (2) The Department of Law Enforcement may accept  
 1291 fingerprints of individuals who apply for a license as a title  
 1292 insurance agent, service representative, or managing general  
 1293 agent or the fingerprints of the majority owner, sole  
 1294 proprietor, partners, officers, and directors of a corporation  
 1295 or other legal entity that applies for licensure with the  
 1296 department under the provisions of this chapter.

1297 (3) The Department of Law Enforcement may, to the extent  
 1298 provided for by federal law, exchange state, multistate, and  
 1299 federal criminal history records with the department for the  
 1300 purpose of the issuance, denial, suspension, or revocation of a  
 1301 certificate of authority, certification, or license to operate  
 1302 in this state.

1303 (4) The Department of Law Enforcement may accept  
 1304 fingerprints of any other person required by statute or rule to  
 1305 submit fingerprints to the department or any applicant or  
 1306 licensee regulated by the department who is required to  
 1307 demonstrate that he or she has not been convicted of or pled  
 1308 guilty or nolo contendere to a felony or a misdemeanor.

1309 (5) The Department of Law Enforcement shall, upon receipt  
 1310 of fingerprints from the department, submit the fingerprints to  
 1311 the Federal Bureau of Investigation to check federal criminal  
 1312 history records.

1313 (6) Statewide criminal records obtained through the  
 1314 Department of Law Enforcement, federal criminal records obtained  
 1315 through the Federal Bureau of Investigation, and local criminal  
 1316 records obtained through local law enforcement agencies shall be

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1317 used by the department for the purpose of issuance, denial,  
 1318 suspension, or revocation of certificates of authority,  
 1319 certifications, or licenses issued to operate in this state.

1320 637.1029 Declaration of purpose.—The purpose of ss.  
 1321 637.1029-637.1049 is to regulate trade practices relating to the  
 1322 business of title insurance in accordance with the intent of  
 1323 Congress as expressed in the Act of Congress of March 9, 1945  
 1324 (Pub. L. No. 15, 79th Congress), by defining, or providing for  
 1325 the determination of, all such practices in this state which  
 1326 constitute unfair methods of competition or unfair or deceptive  
 1327 acts or practices and by prohibiting the trade practices so  
 1328 defined or determined.

1329 637.1031 Definitions.—When used in ss. 637.1029-637.1049,  
 1330 the term "insurance policy" or "insurance contract" means a  
 1331 written contract of, or a written agreement for or effecting,  
 1332 insurance, or the certificate thereof, by whatever name called,  
 1333 and includes all clauses, riders, endorsements, and papers which  
 1334 are a part thereof.

1335 637.1032 Unfair methods of competition and unfair or  
 1336 deceptive acts or practices prohibited; penalties.—

1337 (1) A person may not engage in this state in any trade  
 1338 practice which is defined in ss. 637.1029-637.1049 as, or  
 1339 determined pursuant to s. 637.1029 or s. 637.1035 to be, an  
 1340 unfair method of competition or an unfair or deceptive act or  
 1341 practice involving the business of insurance.

1342 (2) Any person who violates any provision of ss. 637.1029-  
 1343 637.1049 shall be subject to a fine in an amount not greater  
 1344 than \$2,500 for each nonwillful violation and not greater than

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1345 \$20,000 for each willful violation. Fines under this subsection  
 1346 may not exceed an aggregate amount of \$10,000 for all nonwillful  
 1347 violations arising out of the same action or an aggregate amount  
 1348 of \$100,000 for all willful violations arising out of the same  
 1349 action. The fines authorized by this subsection may be imposed  
 1350 in addition to any other applicable penalty.

1351 637.1033 Unfair methods of competition and unfair or  
 1352 deceptive acts or practices defined.—The following are defined  
 1353 as unfair methods of competition and unfair or deceptive acts or  
 1354 practices:

1355 (1) Misrepresentations and false advertising of insurance  
 1356 policies.—Knowingly making, issuing, circulating, or causing to  
 1357 be made, issued, or circulated, any estimate, illustration,  
 1358 circular, statement, sales presentation, omission, or comparison  
 1359 which:

1360 (a) Misrepresents the benefits, advantages, conditions, or  
 1361 terms of any insurance policy.

1362 (b) Uses any name or title of any insurance policy or  
 1363 class of insurance policies misrepresenting the true nature  
 1364 thereof.

1365 (c) Is a misrepresentation for the purpose of inducing, or  
 1366 tending to induce, the lapse, forfeiture, exchange, conversion,  
 1367 or surrender of any insurance policy.

1368 (2) False information and advertising generally.—Knowingly  
 1369 making, publishing, disseminating, circulating, or placing  
 1370 before the public, or causing, directly or indirectly, to be  
 1371 made, published, disseminated, circulated, or placed before the  
 1372 public:

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1373        (a) In a newspaper, magazine, or other publication,  
 1374        (b) In the form of a notice, circular, pamphlet, letter,  
 1375 or poster,  
 1376        (c) Over any radio or television station, or  
 1377        (d) In any other way,  
 1378  
 1379 an advertisement, announcement, or statement containing any  
 1380 assertion, representation, or statement with respect to the  
 1381 business of insurance, which is untrue, deceptive, or  
 1382 misleading.  
 1383        (3) Defamation.—Knowingly making, publishing,  
 1384 disseminating, or circulating, directly or indirectly, or  
 1385 aiding, abetting, or encouraging the making, publishing,  
 1386 disseminating, or circulating of, any oral or written statement,  
 1387 or any pamphlet, circular, article, or literature, which is  
 1388 false or maliciously critical of, or derogatory to, any person  
 1389 and which is calculated to injure such person.  
 1390        (4) Boycott, coercion, and intimidation.—Entering into any  
 1391 agreement to commit, or by any concerted action committing, any  
 1392 act of boycott, coercion, or intimidation resulting in, or  
 1393 tending to result in, unreasonable restraint of, or monopoly in,  
 1394 the business of insurance.  
 1395        (5) False statements and entries.—  
 1396        (a) Knowingly:  
 1397        1. Filing with any supervisory or other public official,  
 1398        2. Making, publishing, disseminating, circulating,  
 1399        3. Delivering to any person,  
 1400        4. Placing before the public,

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1401        5. Causing, directly or indirectly, to be made, published,  
 1402 disseminated, circulated, delivered to any person, or placed  
 1403 before the public,  
 1404  
 1405 any false material statement.

1406        (b) Knowingly making any false entry of a material fact in  
 1407 any book, report, or statement of any person, or knowingly  
 1408 omitting to make a true entry of any material fact pertaining to  
 1409 the business of such person in any book, report, or statement of  
 1410 such person.

1411        (6) Unlawful rebates.-

1412        (a) Except as otherwise expressly provided by law, or in  
 1413 an applicable filing with the department, knowingly:

1414        1. Permitting, or offering to make, or making, any  
 1415 contract or agreement as to such contract other than as plainly  
 1416 expressed in the insurance contract issued thereon; or

1417        2. Paying, allowing, or giving, or offering to pay, allow,  
 1418 or give, directly or indirectly, as inducement to such insurance  
 1419 contract, any unlawful rebate of premiums payable on the  
 1420 contract, any special favor or advantage in the dividends or  
 1421 other benefits thereon, or any valuable consideration or  
 1422 inducement whatever not specified in the contract.

1423        (b)1. A title insurer, or any member, employee, attorney,  
 1424 agent, or agency thereof, may not pay, allow, or give, or offer  
 1425 to pay, allow, or give, directly or indirectly, as inducement to  
 1426 title insurance, or after such insurance has been effected, any  
 1427 rebate or abatement of the premium or any other charge or fee,  
 1428 or provide any special favor or advantage, or any monetary

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1429 consideration or inducement whatever.

1430 2. Nothing in this paragraph shall be construed as  
 1431 prohibiting the payment of fees to attorneys at law duly  
 1432 licensed to practice law in the courts of this state, for  
 1433 professional services, or as prohibiting the payment of earned  
 1434 portions of the premium to duly appointed agents or agencies who  
 1435 actually perform services for the title insurer. Nothing in this  
 1436 paragraph shall be construed as prohibiting a rebate or  
 1437 abatement of an attorney's fee charged for professional services  
 1438 or any other closing charge or fee to the person responsible for  
 1439 paying the closing charge or fee.

1440 3. An insured named in a policy, or any other person  
 1441 directly or indirectly connected with the transaction involving  
 1442 the issuance of such policy, including, but not limited to, any  
 1443 mortgage broker, real estate licensee, builder, or attorney, any  
 1444 employee, agent, agency, or representative thereof, or any other  
 1445 person whatsoever, may not knowingly receive or accept, directly  
 1446 or indirectly, any rebate or abatement of any portion of the  
 1447 title insurance premium or of any other charge or fee or any  
 1448 monetary consideration or inducement whatsoever, except as set  
 1449 forth in subparagraph 2. In no event shall any portion of the  
 1450 attorney's fee, any closing charge or fee, or any other monetary  
 1451 consideration or inducement be paid directly or indirectly for  
 1452 the referral of title insurance business.

1453 (7) Unfair claim settlement practices.—

1454 (a) Attempting to settle claims on the basis of any  
 1455 material document which was altered without notice to, or  
 1456 knowledge or consent of, the insured;

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1457 (b) A material misrepresentation made to an insured or any  
 1458 other person having an interest in the proceeds payable under  
 1459 such contract or policy, for the purpose and with the intent of  
 1460 effecting settlement of such claims, loss, or damage under such  
 1461 contract or policy on less favorable terms than those provided  
 1462 in, and contemplated by, such contract or policy; or

1463 (c) Committing or performing with such frequency as to  
 1464 indicate a general business practice any of the following:

1465 1. Failing to adopt and implement standards for the proper  
 1466 investigation of claims;

1467 2. Misrepresenting pertinent facts or insurance policy  
 1468 provisions relating to coverages at issue;

1469 3. Failing to acknowledge and act promptly upon  
 1470 communications with respect to claims;

1471 4. Denying claims without conducting reasonable  
 1472 investigations based upon available information;

1473 5. Failing to affirm or deny full or partial coverage of  
 1474 claims, and, as to partial coverage, the dollar amount or extent  
 1475 of coverage, or failing to provide a written statement that the  
 1476 claim is being investigated, upon the written request of the  
 1477 insured within 30 days after proof-of-loss statements have been  
 1478 completed;

1479 6. Failing to promptly provide a reasonable explanation in  
 1480 writing to the insured of the basis in the insurance policy, in  
 1481 relation to the facts or applicable law, for denial of a claim  
 1482 or for the offer of a compromise settlement;

1483 7. Failing to promptly notify the insured of any  
 1484 additional information necessary for the processing of a claim;

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1485 or  
 1486 8. Failing to clearly explain the nature of the requested  
 1487 information and the reasons why such information is necessary.  
 1488 (8) Failure to maintain complaint-handling procedures.—  
 1489 Failure of any person to maintain a complete record of all the  
 1490 complaints received since the date of the last examination. For  
 1491 purposes of this subsection, the term "complaint" means any  
 1492 written communication primarily expressing a grievance.  
 1493 (9) Misrepresentation in insurance applications.—Knowingly  
 1494 making a false or fraudulent written or oral statement or  
 1495 representation on, or relative to, an application or negotiation  
 1496 for an insurance policy for the purpose of obtaining a fee,  
 1497 commission, money, or other benefit from any insurer, agent,  
 1498 broker, or individual.  
 1499 (10) Advertising gifts permitted.—No provision of  
 1500 subsection (6) or subsection (7) shall be deemed to prohibit a  
 1501 licensed insurer or its agent from giving to insureds,  
 1502 prospective insureds, and others, for the purpose of  
 1503 advertising, any article of merchandise having a value of not  
 1504 more than \$25.  
 1505 (11) Illegal dealings in premiums; excess or reduced  
 1506 charges for insurance.—  
 1507 (a) Knowingly collecting any sum as a premium or charge  
 1508 for insurance, which is not then provided, or is not in due  
 1509 course to be provided, subject to acceptance of the risk by the  
 1510 insurer, by an insurance policy issued by an insurer as  
 1511 permitted by this chapter.  
 1512 (b) Knowingly collecting as a premium or charge for

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1513 insurance any sum in excess of or less than the premium or  
 1514 charge applicable to such insurance, in accordance with the  
 1515 applicable classifications and rates as filed with and approved  
 1516 by the department, and as specified in the policy; or, in cases  
 1517 when classifications, premiums, or rates are not required by  
 1518 this chapter to be so filed and approved, premiums and charges  
 1519 collected from a resident of this state in excess of or less  
 1520 than those specified in the policy and as fixed by the insurer.

1521 (12) Interlocking ownership and management.—

1522 (a) Any domestic insurer may retain, invest in, or acquire  
 1523 the whole or any part of the capital stock of any other insurer  
 1524 or insurers, or have a common management with any other insurer  
 1525 or insurers, unless such retention, investment, acquisition, or  
 1526 common management is inconsistent with any other provision of  
 1527 this chapter, or unless by reason thereof the business of such  
 1528 insurers with the public is conducted in a manner which  
 1529 substantially lessens competition generally in the insurance  
 1530 business.

1531 (b) Any person otherwise qualified may be a director of  
 1532 two or more domestic insurers which are competitors, unless the  
 1533 effect thereof is substantially to lessen competition between  
 1534 insurers generally or materially tend to create a monopoly.

1535 (c) Any limitation contained in this subsection does not  
 1536 apply to any person who is a director of two or more insurers  
 1537 under common control or management.

1538 (13) Soliciting or accepting new or renewal insurance  
 1539 risks by insolvent or impaired insurer prohibited; penalty.—

1540 (a) Whether or not delinquency proceedings as to the

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1541 insurer have been or are to be initiated, but while such  
 1542 insolvency or impairment exists, a director or officer of an  
 1543 insurer, except with the written permission of the department,  
 1544 may not authorize or permit the insurer to solicit or accept new  
 1545 or renewal insurance risks in this state after such director or  
 1546 officer knew, or reasonably should have known, that the insurer  
 1547 was insolvent or impaired. The term "impaired" includes  
 1548 impairment of capital or surplus, as defined in s. 631.011(12)  
 1549 and (13).

1550 (b) Any such director or officer, upon conviction of a  
 1551 violation of this subsection, is guilty of a felony of the third  
 1552 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1553 775.084.

1554 (14) Refusal to insure.—In addition to other provisions of  
 1555 this chapter, the refusal to insure, or continue to insure, any  
 1556 individual or risk solely because of:

1557 (a) Race, color, creed, marital status, sex, or national  
 1558 origin;

1559 (b) The residence, age, or lawful occupation of the  
 1560 individual or the location of the risk, unless there is a  
 1561 reasonable relationship between the residence, age, or lawful  
 1562 occupation of the individual or the location of the risk and the  
 1563 coverage issued or to be issued; or

1564 (c) The insured's or applicant's failure to agree to place  
 1565 collateral business with any insurer.

1566 (15) Sliding.—Sliding is the act or practice of:

1567 (a) Representing to the applicant that a specific  
 1568 ancillary coverage or product is required by law in conjunction

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1569 with the purchase of insurance when such coverage or product is  
 1570 not required;

1571 (b) Representing to the applicant that a specific  
 1572 ancillary coverage or product is included in the policy applied  
 1573 for without an additional charge when such charge is required;  
 1574 or

1575 (c) Charging an applicant for a specific ancillary  
 1576 coverage or product, in addition to the cost of the insurance  
 1577 coverage applied for, without the informed consent of the  
 1578 applicant.

1579 637.10335 Civil remedies against title insurers.-

1580 (1)(a) Any person may bring a civil action against a title  
 1581 insurer when such person is damaged:

1582 1. By a violation by the insurer of s. 637.1033(7), (11),  
 1583 or (14); or

1584 2. By the commission of any of the following acts by the  
 1585 insurer:

1586 a. Not attempting in good faith to settle claims when,  
 1587 under all the circumstances, it could and should have done so  
 1588 had it acted fairly and honestly toward its insured and with  
 1589 due regard for her or his interests;

1590 b. Making claims payments to insureds or beneficiaries not  
 1591 accompanied by a statement setting forth the coverage under  
 1592 which payments are being made; or

1593 c. Except as to liability coverages, failing to promptly  
 1594 settle claims, when the obligation to settle a claim has become  
 1595 reasonably clear, under one portion of the insurance policy  
 1596 coverage in order to influence settlements under other portions

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1597 of the insurance policy coverage.

1598 (b) Notwithstanding paragraph (a), a person pursuing a  
 1599 remedy under this section need not prove that such act was  
 1600 committed or performed with such frequency as to indicate a  
 1601 general business practice.

1602 (2) Any party may bring a civil action against an  
 1603 unauthorized insurer if such party is damaged by a violation of  
 1604 s. 637.1033 by the unauthorized insurer.

1605 (3) (a) As a condition precedent to bringing an action  
 1606 under this section, the department and the authorized insurer  
 1607 must have been given 60 days' written notice of the violation.  
 1608 If the department returns a notice for lack of specificity, the  
 1609 60-day time period shall not begin until a proper notice is  
 1610 filed.

1611 (b) The notice shall be on a form provided by the  
 1612 department and shall state with specificity the following  
 1613 information, and such other information as the department may  
 1614 require:

1615 1. The statutory provision, including the specific  
 1616 language of the statute, which the authorized insurer allegedly  
 1617 violated.

1618 2. The facts and circumstances giving rise to the  
 1619 violation.

1620 3. The name of any individual involved in the violation.

1621 4. A reference to specific policy language that is  
 1622 relevant to the violation, if any. If the person bringing the  
 1623 civil action is a third-party claimant, she or he shall not be  
 1624 required to reference the specific policy language if the

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1625 authorized insurer has not provided a copy of the policy to the  
 1626 third-party claimant pursuant to written request.

1627 5. A statement that the notice is given in order to  
 1628 perfect the right to pursue the civil remedy authorized by this  
 1629 section.

1630 (c) Within 20 days after receipt of the notice, the  
 1631 department may return any notice that does not provide the  
 1632 specific information required by this section, and the  
 1633 department shall indicate the specific deficiencies contained in  
 1634 the notice. A determination by the department to return a  
 1635 notice for lack of specificity shall be exempt from the  
 1636 requirements of chapter 120.

1637 (d) An action may not lie if, within 60 days after filing  
 1638 notice, the damages are paid or the circumstances giving rise to  
 1639 the violation are corrected.

1640 (e) The authorized insurer that is the recipient of a  
 1641 notice filed pursuant to this section shall report to the  
 1642 department on the disposition of the alleged violation.

1643 (f) The applicable statute of limitations for an action  
 1644 under this section shall be tolled for a period of 65 days by  
 1645 the mailing of the notice required by this subsection or the  
 1646 mailing of a subsequent notice required by this subsection.

1647 (4) Upon adverse adjudication at trial or upon appeal,  
 1648 the authorized insurer shall be liable for damages, together  
 1649 with court costs and reasonable attorney's fees incurred by the  
 1650 plaintiff.

1651 (5) (a) Punitive damages may not be awarded under this  
 1652 section unless the acts giving rise to the violation occur with

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1653 such frequency as to indicate a general business practice and  
 1654 these acts are:

- 1655 1. Willful, wanton, and malicious; or
- 1656 2. In reckless disregard for the rights of any insured.

1657 (b) Any person who pursues a claim under this subsection  
 1658 shall post in advance the costs of discovery. Such costs shall  
 1659 be awarded to the authorized insurer if no punitive damages are  
 1660 awarded to the plaintiff.

1661 (6) The civil remedy specified in this section does not  
 1662 preempt any other remedy or cause of action provided pursuant  
 1663 to any other statute or pursuant to the common law of this  
 1664 state. Any person may obtain a judgment under the common-law  
 1665 remedy of bad faith or the remedy provided under this section  
 1666 but is not entitled to a judgment under both remedies. This  
 1667 section shall not be construed to create a common-law cause of  
 1668 action. The damages recoverable pursuant to this section shall  
 1669 include those damages that are a reasonably foreseeable result  
 1670 of a specified violation of this section by the authorized  
 1671 insurer and may include an award or judgment in an amount  
 1672 that exceeds the policy limits.

1673 637.1034 Favored title insurance agent or title insurer;  
 1674 coercion of debtors.—

1675 (1) A person may not:

- 1676 (a) Require, as a condition precedent or condition  
 1677 subsequent to the lending of money or extension of credit or any  
 1678 renewal thereof, that the person to whom such money or credit is  
 1679 extended, or whose obligation the creditor is to acquire or  
 1680 finance, negotiate any policy or contract of insurance through a

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1681 particular insurer or group of insurers or agent or broker or  
 1682 group of agents or brokers.

1683 (b) Reject an insurance policy solely because the policy  
 1684 has been issued or underwritten by any person who is not  
 1685 associated with a financial institution, or with any subsidiary  
 1686 or affiliate thereof, when such insurance is required in  
 1687 connection with a loan or extension of credit; or unreasonably  
 1688 disapprove the insurance policy provided by a borrower for the  
 1689 protection of the property securing the credit or lien. For  
 1690 purposes of this paragraph, such disapproval shall be deemed  
 1691 unreasonable if it is not based solely on reasonable standards,  
 1692 uniformly applied, relating to the extent of coverage required  
 1693 by such lender or person extending credit and the financial  
 1694 soundness and the services of an insurer. Such standards shall  
 1695 not discriminate against any particular type of insurer, nor  
 1696 shall such standards call for the disapproval of an insurance  
 1697 policy because such policy contains coverage in addition to that  
 1698 required.

1699 (c) Require, directly or indirectly, that any borrower,  
 1700 mortgagor, purchaser, insurer, broker, or agent pay a separate  
 1701 charge in connection with the handling of any insurance policy  
 1702 that is required in connection with a loan or other extension of  
 1703 credit or the provision of another traditional banking product,  
 1704 or pay a separate charge to substitute the insurance policy of  
 1705 one insurer for that of another, unless such charge would be  
 1706 required if the person were providing the insurance. This  
 1707 paragraph does not include the interest which may be charged on  
 1708 premium loans or premium advances in accordance with the

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1709 security instrument.  
 1710 (d) Use or provide to others insurance information  
 1711 required to be disclosed by a customer to a financial  
 1712 institution, or a subsidiary or affiliate thereof, in connection  
 1713 with the extension of credit for the purpose of soliciting the  
 1714 sale of insurance, unless the customer has given express written  
 1715 consent or has been given the opportunity to object to such use  
 1716 of the information. Insurance information means information  
 1717 concerning premiums, terms, and conditions of insurance  
 1718 coverage, insurance claims, and insurance history provided by  
 1719 the customer. The opportunity to object to the use of insurance  
 1720 information must be in writing and must be clearly and  
 1721 conspicuously made.  
 1722 (2) (a) Any person offering the sale of insurance at the  
 1723 time of and in connection with an extension of credit or the  
 1724 sale or lease of goods or services shall disclose in writing  
 1725 that the choice of an insurance provider will not affect the  
 1726 decision regarding the extension of credit or sale or lease of  
 1727 goods or services, except that reasonable requirements may be  
 1728 imposed pursuant to subsection (1).  
 1729 (b) Federally insured or state-insured depository  
 1730 institutions and credit unions shall make clear and conspicuous  
 1731 disclosure in writing prior to the sale of any insurance policy  
 1732 that such policy is not a deposit, is not insured by the Federal  
 1733 Deposit Insurance Corporation or any other entity, is not  
 1734 guaranteed by the insured depository institution or any person  
 1735 soliciting the purchase of or selling the policy; that the  
 1736 financial institution is not obligated to provide benefits under

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1737 the insurance contract; and, where appropriate, that the policy  
 1738 involves investment risk, including potential loss of principal.

1739 (c) All documents constituting policies of insurance shall  
 1740 be separate and shall not be combined with or be a part of other  
 1741 documents. A person may not include the expense of insurance  
 1742 premiums in a primary credit transaction without the express  
 1743 written consent of the customer.

1744 (d) A loan officer of a financial institution who is  
 1745 involved in the application, solicitation, or closing of a loan  
 1746 transaction may not solicit or sell insurance in connection with  
 1747 the same loan, but such loan officer may refer the loan customer  
 1748 to another insurance agent who is not involved in the  
 1749 application, solicitation, or closing of the same loan  
 1750 transaction. This paragraph does not apply to an agent located  
 1751 on premises having only a single person with lending authority,  
 1752 or to a broker or dealer registered under the Federal Securities  
 1753 Exchange Act of 1934 in connection with a margin loan secured by  
 1754 securities.

1755 (3) A person may not make an extension of credit or the  
 1756 sale of any product or service that is the equivalent to an  
 1757 extension of credit or lease or sale of property of any kind, or  
 1758 furnish any services or fix or vary the consideration for any of  
 1759 the foregoing, on the condition or requirement that the customer  
 1760 obtain insurance from that person, or a subsidiary or affiliate  
 1761 of that person, or a particular insurer, agent, or broker;  
 1762 however, this subsection does not prohibit any person from  
 1763 engaging in any activity that if done by a financial institution  
 1764 would not violate s. 106 of the Bank Holding Company Act

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1765 Amendments of 1970, 12 U.S.C. s. 1972, as interpreted by the  
 1766 Board of Governors of the Federal Reserve System.

1767 (4) The department may investigate the affairs of any  
 1768 person to whom this section applies to determine whether such  
 1769 person has violated this section. If a violation of this section  
 1770 is found to have been committed knowingly, the person in  
 1771 violation shall be subject to the same procedures and penalties  
 1772 as provided in ss. 637.1036, 637.1037, 637.1038 and 637.1039.

1773 637.1035 Power of department.—The department may examine  
 1774 and investigate the affairs of every person involved in the  
 1775 business of insurance in this state in order to determine  
 1776 whether such person has been or is engaged in any unfair method  
 1777 of competition or in any unfair or deceptive act or practice  
 1778 prohibited by s. 637.1032, and shall each have the powers and  
 1779 duties specified in ss. 637.1036–637.1039 in connection  
 1780 therewith.

1781 637.1036 Defined practices; hearings, witnesses,  
 1782 appearances, production of books and service of process.—

1783 (1) Whenever the department has reason to believe that any  
 1784 person has engaged, or is engaging, in this state in any unfair  
 1785 method of competition or any unfair or deceptive act or practice  
 1786 as defined in s. 637.1033 or s. 637.1034 or is engaging in the  
 1787 business of insurance without being properly licensed as  
 1788 required by this chapter and that a proceeding by it in respect  
 1789 thereto would be to the interest of the public, it shall conduct  
 1790 or cause to have conducted a hearing in accordance with chapter  
 1791 120.

1792 (2) The department, a duly empowered hearing officer, or

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1793 an administrative law judge shall, during the conduct of such  
 1794 hearing, have those powers enumerated in s. 120.569; however,  
 1795 the penalties for failure to comply with a subpoena or with an  
 1796 order directing discovery shall be limited to a fine not to  
 1797 exceed \$1,000 per violation.

1798 (3) Statements of charges, notices, and orders under this  
 1799 act may be served by anyone duly authorized by the department,  
 1800 in the manner provided by law for service of process in civil  
 1801 actions or by certifying and mailing a copy thereof to the  
 1802 person affected by such statement, notice, order, or other  
 1803 process at his or her or its residence or principal office or  
 1804 place of business. The verified return by the person so serving  
 1805 such statement, notice, order, or other process, setting forth  
 1806 the manner of the service, shall be proof of the same, and the  
 1807 return postcard receipt for such statement, notice, order, or  
 1808 other process, certified and mailed as aforesaid, shall be proof  
 1809 of service of the same.

1810 637.1037 Cease and desist and penalty orders.—After the  
 1811 hearing provided in s. 637.1036, the department shall enter a  
 1812 final order in accordance with s. 120.569. If it is determined  
 1813 that the person charged has engaged in an unfair or deceptive  
 1814 act or practice or the unlawful transaction of insurance, the  
 1815 department shall also issue an order requiring the violator to  
 1816 cease and desist from engaging in such method of competition,  
 1817 act, or practice or the unlawful transaction of insurance.  
 1818 Further, if the act or practice is a violation of s. 637.1033 or  
 1819 s. 637.1034, the department may, at its discretion, order any  
 1820 one or more of the following:

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1821 (1) Suspension or revocation of the person's certificate  
 1822 of authority, license, or eligibility for any certificate of  
 1823 authority or license, if he or she knew, or reasonably should  
 1824 have known, he or she was in violation of this chapter.

1825 (2) Such other relief as may be provided in this chapter.

1826 637.1038 Appeals from the department.—Any person subject  
 1827 to an order of the department under s. 637.1037 or s. 637.1039  
 1828 may obtain a review of such order by filing an appeal therefrom  
 1829 in accordance with the provisions and procedures for appeal from  
 1830 the orders of the department in general under s. 120.68.

1831 637.1039 Penalty for violation of cease and desist  
 1832 orders.—Any person who violates a cease and desist order of the  
 1833 department under s. 637.1037 while such order is in effect,  
 1834 after notice and hearing as provided in s. 637.1036, shall be  
 1835 subject, at the discretion of the department, to any one or more  
 1836 of the following:

1837 (1) A monetary penalty of not more than \$50,000 as to all  
 1838 matters determined in such hearing.

1839 (2) Suspension or revocation of such person's certificate  
 1840 of authority, license, or eligibility to hold such certificate  
 1841 of authority or license.

1842 (3) Such other relief as may be provided in this chapter.

1843 637.1041 Rules.—

1844 (1) The department may, in accordance with chapter 120,  
 1845 adopt reasonable rules as are necessary or proper to identify  
 1846 specific methods of competition or acts or practices which are  
 1847 prohibited by s. 637.1033 or s. 637.1034, but the rules shall  
 1848 not enlarge upon or extend the provisions of ss. 637.1033 and

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1849 | 637.1034.  
 1850 |       (2) The department shall, in accordance with chapter 120,  
 1851 | adopt rules to protect members of the United States Armed Forces  
 1852 | from dishonest or predatory insurance sales practices by  
 1853 | insurers and insurance agents. The rules shall identify specific  
 1854 | false, misleading, deceptive, or unfair methods of competition,  
 1855 | acts, or practices which are prohibited by s. 637.1033 or s.  
 1856 | 637.1034. The rules shall be based upon model rules or model  
 1857 | laws adopted by the National Association of Insurance  
 1858 | Commissioners which identify certain insurance practices  
 1859 | involving the solicitation or sale of insurance and annuities to  
 1860 | members of the United States Armed Forces which are false,  
 1861 | misleading, deceptive, or unfair.

1862 |       637.1042 Provisions of chapter additional to existing  
 1863 | law.—The powers vested in the department by this chapter shall  
 1864 | be additional to any other powers to enforce any penalties,  
 1865 | fines, or forfeitures authorized by law.

1866 |       637.1043 Civil liability.—The provisions of this chapter  
 1867 | are cumulative to rights under the general civil and common law,  
 1868 | and no action of the department, shall abrogate such rights to  
 1869 | damages or other relief in any court.

1870 |       637.10435 Policyholders Bill of Rights.—

1871 |       (1) The principles expressed in the following statements  
 1872 | shall serve as standards to be followed by the department in  
 1873 | exercising its powers and duties, in exercising administrative  
 1874 | discretion, in dispensing administrative interpretations of the  
 1875 | law, and in adopting rules:

1876 |       (a) Policyholders have the right to competitive pricing

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1877 practices and marketing methods that enable them to determine  
 1878 the best value among comparable policies.  
 1879 (b) Policyholders have the right to obtain comprehensive  
 1880 coverage.  
 1881 (c) Policyholders have the right to insurance advertising  
 1882 and other selling approaches that provide accurate and balanced  
 1883 information on the benefits and limitations of a policy.  
 1884 (d) Policyholders have a right to an insurance company  
 1885 that is financially stable.  
 1886 (e) Policyholders have the right to be serviced by a  
 1887 competent, honest insurance agent or broker.  
 1888 (f) Policyholders have the right to a readable policy.  
 1889 (g) Policyholders have the right to an insurance company  
 1890 that provides an economic delivery of coverage and that tries to  
 1891 prevent losses.  
 1892 (h) Policyholders have the right to a balanced and  
 1893 positive regulation by the department.  
 1894 (2) This section shall not be construed as creating a  
 1895 civil cause of action by any individual policyholder against any  
 1896 individual insurer.  
 1897 637.1044 Privacy.—The department shall adopt rules  
 1898 consistent with other provisions of this chapter to govern the  
 1899 use of a consumer's nonpublic personal financial and health  
 1900 information. These rules must be based on, consistent with, and  
 1901 not more restrictive than the Privacy of Consumer Financial and  
 1902 Health Information Regulation, adopted September 26, 2000, by  
 1903 the National Association of Insurance Commissioners. In  
 1904 addition, these rules must be consistent with, and not more

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1905 restrictive than, the standards contained in Title V of the  
 1906 Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.  
 1907 637.10445 Trade secret documents.—  
 1908 (1) If any person who is required to submit documents  
 1909 or other information to the department pursuant to this chapter  
 1910 or by rule or order of the department claims that such  
 1911 submission contains a trade secret, such person may file with  
 1912 the department a notice of trade secret as provided in this  
 1913 section. Failure to do so constitutes a waiver of any claim by  
 1914 such person that the document or information is a trade secret.  
 1915 (a) Each page of such document or specific portion of a  
 1916 document claimed to be a trade secret must be clearly marked  
 1917 "trade secret."  
 1918 (b) All material marked as a trade secret must be  
 1919 separated from all non-trade secret material and be submitted in  
 1920 a separate envelope clearly marked "trade secret."  
 1921 (c) In submitting a notice of trade secret to the  
 1922 department, the submitting party must include an affidavit  
 1923 certifying under oath to the truth of the following  
 1924 statements concerning all documents or information that are  
 1925 claimed to be trade secrets:  
 1926 1. [I consider/My company considers] this information a  
 1927 trade secret that has value and provides an advantage or an  
 1928 opportunity to obtain an advantage over those who do not know or  
 1929 use it.  
 1930 2. [I have/My company has] taken measures to prevent the  
 1931 disclosure of the information to anyone other than those who  
 1932 have been selected to have access for limited purposes, and [I

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1933 intend/my company intends] to continue to take such measures.  
 1934 3. The information is not, and has not been, reasonably  
 1935 obtainable without [my/our] consent by other persons by use of  
 1936 legitimate means.  
 1937 4. The information is not publicly available elsewhere.  
 1938 (d) Any data submitted by a title insurance agent or title  
 1939 insurer pursuant to s. 637.1014 is presumed to be a trade  
 1940 secret under this section whether or not so designated.  
 1941 (2) If the department receives a public records request for  
 1942 a document or information that is marked and certified as a trade  
 1943 secret, the department shall promptly notify the person that  
 1944 certified the document as a trade secret. The notice shall  
 1945 inform such person that he or she or his or her company has 30  
 1946 days after receipt of such notice to file an action in circuit  
 1947 court seeking a determination whether the document in question  
 1948 contains trade secrets and an order barring public disclosure of  
 1949 the document. If that person or company files an action within  
 1950 30 days after receipt of notice of the public records request,  
 1951 the department may not release the documents pending the outcome  
 1952 of the legal action. The failure to file an action within 30  
 1953 days constitutes a waiver of any claim of confidentiality,  
 1954 and the department shall release the document as requested.  
 1955 (3) The department may disclose a trade secret, together  
 1956 with the claim that it is a trade secret, to an officer or  
 1957 employee of another governmental agency whose use of the trade  
 1958 secret is within the scope of his or her employment.  
 1959 637.1045 Financial institutions conducting title insurance  
 1960 transactions.—A financial institution, as defined in s.

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1961 655.005(1)(g), (h), or (p), may conduct title insurance  
 1962 transactions only through Florida-licensed title insurance  
 1963 agents representing Florida-authorized title insurers.

1964 637.1046 Investigation by department or Division of  
 1965 Insurance Fraud; compliance; immunity; confidential information;  
 1966 reports to division; division investigator's power of arrest.-

1967 (1) For the purposes of this section, a person commits a  
 1968 "fraudulent insurance act" if the person knowingly and with  
 1969 intent to defraud presents, causes to be presented, or prepares  
 1970 with knowledge or belief that it will be presented, to or by a  
 1971 title insurer or any title insurance agent, any written  
 1972 statement as part of, or in support of, an application for the  
 1973 issuance of, or the rating of, any insurance policy, or a claim  
 1974 for payment or other benefit pursuant to any insurance policy,  
 1975 which the person knows to contain materially false information  
 1976 concerning any fact material thereto or if the person conceals,  
 1977 for the purpose of misleading another, information concerning  
 1978 any fact material thereto.

1979 (2) If, by its own inquiries or as a result of complaints,  
 1980 the department or its Division of Insurance Fraud has reason to  
 1981 believe that a person has engaged in, or is engaging in, a  
 1982 fraudulent insurance act, an act or practice that violates s.  
 1983 637.1033 or s. 817.234, or an act or practice punishable under  
 1984 s. 637.1008, it may administer oaths and affirmations, request  
 1985 the attendance of witnesses or proffering of matter, and collect  
 1986 evidence. The department shall not compel the attendance of any  
 1987 person or matter in any such investigation except pursuant to  
 1988 subsection (4).

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1989        (3) If matter that the department or its division seeks to  
 1990 obtain by request is located outside the state, the person so  
 1991 requested may make it available to the division or its  
 1992 representative to examine the matter at the place where it is  
 1993 located. The division may designate representatives, including  
 1994 officials of the state in which the matter is located, to  
 1995 inspect the matter on its behalf, and it may respond to similar  
 1996 requests from officials of other states.

1997        (4) (a) The department or the division may request that an  
 1998 individual who refuses to comply with any such request be  
 1999 ordered by the circuit court to provide the testimony or matter.  
 2000 The court shall not order such compliance unless the department  
 2001 or the division has demonstrated to the satisfaction of the  
 2002 court that the testimony of the witness or the matter under  
 2003 request has a direct bearing on the department of a fraudulent  
 2004 insurance act, on a violation of s. 637.1033 or s. 817.234, or  
 2005 on an act or practice punishable under s. 637.1008 or is  
 2006 pertinent and necessary to further such investigation.

2007        (b) Except in a prosecution for perjury, an individual who  
 2008 complies with a court order to provide testimony or matter after  
 2009 asserting a privilege against self-incrimination to which the  
 2010 individual is entitled by law may not be subjected to a criminal  
 2011 proceeding or to a civil penalty with respect to the act  
 2012 concerning which the individual is required to testify or  
 2013 produce relevant matter.

2014        (c) In the absence of fraud or bad faith, a person is not  
 2015 subject to civil liability for libel, slander, or any other  
 2016 relevant tort by virtue of filing reports, without malice, or

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2017 furnishing other information, without malice, required by this  
 2018 section or required by the department or division under the  
 2019 authority granted in this section, and no civil cause of action  
 2020 of any nature shall arise against such person:

2021 1. For any information relating to suspected fraudulent  
 2022 insurance acts or persons suspected of engaging in such acts  
 2023 furnished to or received from law enforcement officials, their  
 2024 agents, or employees;

2025 2. For any information relating to suspected fraudulent  
 2026 insurance acts or persons suspected of engaging in such acts  
 2027 furnished to or received from other persons subject to the  
 2028 provisions of this chapter;

2029 3. For any such information furnished in reports to the  
 2030 department, the division, the National Insurance Crime Bureau,  
 2031 the National Association of Insurance Commissioners, or any  
 2032 local, state, or federal enforcement officials or their agents  
 2033 or employees; or

2034 4. For other actions taken in cooperation with any of the  
 2035 agencies or individuals specified in this paragraph in the  
 2036 lawful investigation of suspected fraudulent insurance acts.

2037 (d) In addition to the immunity granted in paragraph (c),  
 2038 persons identified as designated employees or service providers  
 2039 to insurers whose responsibilities include the investigation and  
 2040 disposition of claims relating to suspected fraudulent insurance  
 2041 acts may share information relating to persons suspected of  
 2042 committing fraudulent insurance acts with other designated  
 2043 employees employed by the same or other insurers or third-party  
 2044 service providers designated by insurers whose responsibilities

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2045 include the investigation and disposition of claims relating to  
 2046 fraudulent insurance acts, provided the department has been  
 2047 given written notice of the names and job titles of such  
 2048 designated employees and service providers prior to such  
 2049 designated employees and service providers sharing information.  
 2050 Unless the designated employees or service providers of the  
 2051 insurer act in bad faith or in reckless disregard for the rights  
 2052 of any insured, the insurer or its designated employees and  
 2053 service providers are not civilly liable for libel, slander, or  
 2054 any other relevant tort, and a civil action does not arise  
 2055 against the insurer or its designated employees and service  
 2056 providers:

2057 1. For any information related to suspected fraudulent  
 2058 insurance acts provided to an insurer; or

2059 2. For any information relating to suspected fraudulent  
 2060 insurance acts provided to the National Insurance Crime Bureau  
 2061 or the National Association of Insurance Commissioners.

2062  
 2063 However, the qualified immunity against civil liability  
 2064 conferred on any insurer or its designated employees and service  
 2065 providers shall be forfeited with respect to the exchange or  
 2066 publication of any defamatory information with third persons not  
 2067 expressly authorized by this paragraph to share in such  
 2068 information.

2069 (e) The Chief Financial Officer and any employee or agent  
 2070 of the department, when acting without malice and in the absence  
 2071 of fraud or bad faith, is not subject to civil liability for  
 2072 libel, slander, or any other relevant tort, and no civil cause

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2073 of action of any nature exists against such person by virtue of  
 2074 the execution of official activities or duties of the department  
 2075 under this section or by virtue of the publication of any report  
 2076 or bulletin related to the official activities or duties of the  
 2077 department under this section.

2078 (f) This section does not abrogate or modify in any way  
 2079 any common-law or statutory privilege or immunity heretofore  
 2080 enjoyed by any person.

2081 (5) Any person, other than an insurer, agent, or other  
 2082 person licensed under this chapter, or an employee thereof,  
 2083 having knowledge or who believes that a fraudulent insurance act  
 2084 or any other act or practice which, upon conviction, constitutes  
 2085 a felony or a misdemeanor under this chapter, or under s.  
 2086 817.234, is being or has been committed may send to the Division  
 2087 of Insurance Fraud a report or information pertinent to such  
 2088 knowledge or belief and such additional information relative  
 2089 thereto as the department may request. Any professional  
 2090 practitioner licensed or regulated by the Department of Business  
 2091 and Professional Regulation, except as otherwise provided by  
 2092 law, any medical review committee as defined in s. 766.101, any  
 2093 title insurer, title insurance agent, or other person licensed  
 2094 under this chapter, or an employee thereof, having knowledge or  
 2095 who believes that a fraudulent insurance act or any other act or  
 2096 practice which, upon conviction, constitutes a felony or a  
 2097 misdemeanor under this chapter, or under s. 817.234, is being or  
 2098 has been committed shall send to the Division of Insurance Fraud  
 2099 a report or information pertinent to such knowledge or belief  
 2100 and such additional information relative thereto as the

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2101 department may require. The Division of Insurance Fraud shall  
 2102 review such information or reports and select such information  
 2103 or reports as, in its judgment, may require further  
 2104 investigation. It shall then cause an independent examination of  
 2105 the facts surrounding such information or report to be made to  
 2106 determine the extent, if any, to which a fraudulent insurance  
 2107 act or any other act or practice which, upon conviction,  
 2108 constitutes a felony or a misdemeanor under this chapter, or  
 2109 under s. 817.234, is being committed. The Division of Insurance  
 2110 Fraud shall report any alleged violations of law which its  
 2111 investigations disclose to the appropriate licensing agency and  
 2112 state attorney or other prosecuting agency having jurisdiction  
 2113 with respect to any such violation, as provided in s. 637.302.  
 2114 If prosecution by the state attorney or other prosecuting agency  
 2115 having jurisdiction with respect to such violation is not begun  
 2116 within 60 days of the division's report, the state attorney or  
 2117 other prosecuting agency having jurisdiction with respect to  
 2118 such violation shall inform the division of the reasons for the  
 2119 lack of prosecution.

2120 (6) Division investigators may make arrests for criminal  
 2121 violations established as a result of investigations. Such  
 2122 investigators shall also be considered state law enforcement  
 2123 officers for all purposes and may execute arrest warrants and  
 2124 search warrants; serve subpoenas issued for the examination,  
 2125 investigation, and trial of all offenses; and arrest upon  
 2126 probable cause without warrant any person found in the act of  
 2127 violating any of the provisions of applicable laws.  
 2128 Investigators empowered to make arrests under this section shall

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2129 be empowered to bear arms in the performance of their duties. In  
 2130 such a situation, the investigator must be certified in  
 2131 compliance with the provisions of s. 943.1395 or must meet the  
 2132 temporary employment or appointment exemption requirements of s.  
 2133 943.131 until certified.

2134 (7) It is unlawful for any person to resist an arrest  
 2135 authorized by this section or in any manner to interfere, either  
 2136 by abetting or assisting such resistance or otherwise  
 2137 interfering, with division investigators in the duties imposed  
 2138 upon them by law or department rule.

2139 637.1047 Insurer anti-fraud investigative units; reporting  
 2140 requirements; penalties for noncompliance.-

2141 (1) (a) Every insurer admitted to do business in this state  
 2142 who in the previous calendar year, at any time during that year,  
 2143 had \$10 million or more in direct premiums written shall:

2144 1. Establish and maintain a unit or division within the  
 2145 company to investigate possible fraudulent claims by insureds;  
 2146 or

2147 2. Contract with others to investigate possible fraudulent  
 2148 claims by insureds.

2149 (b) An insurer subject to this subsection shall file with  
 2150 the Division of Insurance Fraud of the department on or before  
 2151 July 1, 1996, a detailed description of the unit or division  
 2152 established pursuant to subparagraph (a)1. or a copy of the  
 2153 contract specified by subparagraph (a)2.

2154 (2) Every insurer admitted to do business in this state,  
 2155 which in the previous calendar year had less than \$10 million in  
 2156 direct premiums written, must adopt an anti-fraud plan and file

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2157 it with the Division of Insurance Fraud of the department on or  
 2158 before July 1, 1996. An insurer may, in lieu of adopting and  
 2159 filing an anti-fraud plan, comply with the provisions of  
 2160 subsection (1).

2161 (3) Each insurers anti-fraud plans shall include:

2162 (a) A description of the insurer's procedures for  
 2163 detecting and investigating possible fraudulent insurance acts.

2164 (b) A description of the insurer's procedures for the  
 2165 mandatory reporting of possible fraudulent insurance acts to the  
 2166 Division of Insurance Fraud of the department.

2167 (c) A description of the insurer's plan for anti-fraud  
 2168 education and training of its claims adjusters or other  
 2169 personnel.

2170 (d) A written description or chart outlining the  
 2171 organizational arrangement of the insurer's anti-fraud personnel  
 2172 who are responsible for the investigation and reporting of  
 2173 possible fraudulent insurance acts.

2174 (4) Any insurer who obtains a certificate of authority  
 2175 after July 1, 1995, shall have 18 months in which to comply with  
 2176 the requirements of this section.

2177 (5) For purposes of this section, the term "unit or  
 2178 division" includes the assignment of fraud investigation to  
 2179 employees whose principal responsibilities are the investigation  
 2180 and disposition of claims. If an insurer creates a distinct unit  
 2181 or division, hires additional employees, or contracts with  
 2182 another entity to fulfill the requirements of this section, the  
 2183 additional cost incurred must be included as an administrative  
 2184 expense for ratemaking purposes.

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2185 (6) If an insurer fails to timely submit a final  
 2186 acceptable anti-fraud plan or anti-fraud investigative unit  
 2187 description, fails to implement the provisions of a plan or an  
 2188 anti-fraud investigative unit description, or otherwise refuses  
 2189 to comply with the provisions of this section, the department,  
 2190 may:

2191 (a) Impose an administrative fine of not more than \$2,000  
 2192 per day for such failure by an insurer to submit an acceptable  
 2193 anti-fraud plan or anti-fraud investigative unit description,  
 2194 until the department deems the insurer to be in compliance;

2195 (b) Impose an administrative fine for failure by an  
 2196 insurer to implement or follow the provisions of an anti-fraud  
 2197 plan or anti-fraud investigative unit description; or

2198 (c) Impose the provisions of both paragraphs (a) and (b).

2199 (7) The department may adopt rules to administer this  
 2200 section.

2201 637.1048 Anti-Fraud Reward Program; reporting of title  
 2202 insurance fraud.-

2203 (1) The Anti-Fraud Reward Program is hereby established  
 2204 within the department, to be funded from the Title Insurance  
 2205 Regulatory Trust Fund.

2206 (2) The department may pay rewards of up to \$25,000 to  
 2207 persons providing information leading to the arrest and  
 2208 conviction of persons committing crimes investigated by the  
 2209 Division of Insurance Fraud arising from violations of s.  
 2210 440.105, s. 637.1008, s. 637.1033, s. 637.1046, or s. 817.234.

2211 (3) Only a single reward amount may be paid by the  
 2212 department for claims arising out of the same transaction or

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2213 occurrence, regardless of the number of persons arrested and  
 2214 convicted and the number of persons submitting claims for the  
 2215 reward. The reward may be disbursed among more than one person  
 2216 in amounts determined by the department.

2217 (4) The department shall adopt rules which set forth the  
 2218 application and approval process, including the criteria against  
 2219 which claims shall be evaluated, the basis for determining  
 2220 specific reward amounts, and the manner in which rewards shall  
 2221 be disbursed. Applications for rewards authorized by this  
 2222 section must be made pursuant to rules established by the  
 2223 department.

2224 (5) Determinations by the department to grant or deny a  
 2225 reward under this section shall not be considered agency action  
 2226 subject to review under s. 120.569 or s. 120.57.

2227 637.1049 Disposition of revenues; criminal or forfeiture  
 2228 proceedings.-

2229 (1) The Division of Insurance Fraud of the Department of  
 2230 Financial Services may deposit revenues received as a result of  
 2231 criminal proceedings or forfeiture proceedings, other than  
 2232 revenues deposited into the Department of Financial Services'  
 2233 Federal Law Enforcement Trust Fund under s. 17.43, into the  
 2234 Title Insurance Regulatory Trust Fund. Moneys deposited pursuant  
 2235 to this section shall be separately accounted for and shall be  
 2236 used solely for the division to carry out its duties and  
 2237 responsibilities.

2238 (2) Moneys deposited into the Title Insurance Regulatory  
 2239 Trust Fund pursuant to this section shall be appropriated by the  
 2240 Legislature, pursuant to the provisions of chapter 216, for the

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2241 sole purpose of enabling the division to carry out its duties  
 2242 and responsibilities.

2243 (3) Notwithstanding the provisions of s. 216.301 and  
 2244 pursuant to s. 216.351, any balance of moneys deposited into the  
 2245 Title Insurance Regulatory Trust Fund pursuant to this section  
 2246 remaining at the end of any fiscal year shall remain in the  
 2247 trust fund at the end of that year and shall be available for  
 2248 carrying out the duties and responsibilities of the division.

2249 Section 4. Part II of chapter 637, Florida Statutes,  
 2250 consisting of sections 637.2001, 637.2002, 637.2003, 637.20035,  
 2251 637.2004, 637.2005, 637.2006, 637.2007, 637.20073, 637.20075,  
 2252 637.2008, 637.2009, 637.2011, 637.2012, 637.2013, 637.2014,  
 2253 637.2015, 637.2016, 637.2017, 637.2018, 637.2019, 637.2021,  
 2254 637.2022, 637.2023, 637.2024, 637.2025, 637.2026, 637.2027,  
 2255 637.2028, 637.2029, 637.2031, 637.2032, 637.2033, 637.2034,  
 2256 637.2035, 637.2036, 637.2037, 637.2038, 637.2039, 637.2041,  
 2257 637.2042, 637.2043, 637.2046, 637.2047, 637.2048, 637.20485,  
 2258 637.2049, 637.20495, 637.2051, 637.2052, 637.2053, 637.2054,  
 2259 637.2055, 637.2056, 637.2057, 637.2058, 637.2059, 637.2061,  
 2260 637.2063, 637.20635, 637.2064, 637.2065, 637.2066, 637.2067,  
 2261 637.2068, 637.2069, 637.2071, 637.2072, 637.2073, 637.2074,  
 2262 637.2075, 637.2076, 637.2077, 637.2078, 637.2079, 637.2081,  
 2263 637.2082, 637.2083, 637.2084, 637.2085, 637.2086, 637.2087,  
 2264 637.2088, 637.2089, and 637.2091, is created and entitled  
 2265 "ADMINISTRATION OF TITLE INSURERS."

2266 Section 5. Sections 637.2001, 637.2002, 637.2003,  
 2267 637.20035, 637.2004, 637.2005, 637.2006, and 637.2007, Florida  
 2268 Statutes, are created to read:

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2269 | 637.2001 Certificate of authority required.-  
 2270 | (1) A person may not act as a title insurer, and a title  
 2271 | insurer or its agents, attorneys, or representatives may not  
 2272 | directly or indirectly transact title insurance, in this state  
 2273 | except as authorized by a subsisting certificate of authority  
 2274 | issued to the title insurer by the department, except as to such  
 2275 | transactions as are expressly otherwise provided for in this  
 2276 | chapter.  
 2277 | (2) A title insurer may not, from offices or by personnel  
 2278 | or facilities located in this state, solicit title insurance  
 2279 | applications or otherwise transact title insurance in another  
 2280 | state or country unless it holds a subsisting certificate of  
 2281 | authority issued to it by the department authorizing it to  
 2282 | transact the same kind or kinds of title insurance in this  
 2283 | state.  
 2284 | (3) This state hereby preempts the field of regulating  
 2285 | title insurers and their agents and representatives; and a  
 2286 | county, city, municipality, district, school district, or  
 2287 | political subdivision may not require of any title insurer,  
 2288 | title insurance agent, or representative regulated under this  
 2289 | chapter any authorization, permit, or registration of any kind  
 2290 | for conducting transactions lawful under the authority granted  
 2291 | by the state under this chapter.  
 2292 | (4) (a) Any person who acts as a title insurer, transacts  
 2293 | title insurance, or otherwise engages in title insurance  
 2294 | activities in this state without a certificate of authority in  
 2295 | violation of this section commits a felony of the third degree,  
 2296 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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2297 (b) However, any person acting as a title insurer without  
 2298 a valid certificate of authority who violates this section  
 2299 commits insurance fraud, punishable as provided in this  
 2300 paragraph. If the amount of any insurance premium collected with  
 2301 respect to any violation of this section:

2302 1. Is less than \$20,000, the offender commits a felony of  
 2303 the third degree, punishable as provided in s. 775.082, s.  
 2304 775.083, or s. 775.084, and the offender shall be sentenced to a  
 2305 minimum term of imprisonment of 1 year.

2306 2. Is \$20,000 or more, but less than \$100,000, the  
 2307 offender commits a felony of the second degree, punishable as  
 2308 provided in s. 775.082, s. 775.083, or s. 775.084, and the  
 2309 offender shall be sentenced to a minimum term of imprisonment of  
 2310 18 months.

2311 3. Is \$100,000 or more, the offender commits a felony of  
 2312 the first degree, punishable as provided in s. 775.082, s.  
 2313 775.083, or s. 775.084, and the offender shall be sentenced to a  
 2314 minimum term of imprisonment of 2 years.

2315 637.2002 Exceptions, certificate of authority required.—A  
 2316 certificate of authority shall not be required of a title  
 2317 insurer with respect to:

2318 (1) Investigation, settlement, or litigation of claims  
 2319 under its policies lawfully written in this state, or  
 2320 liquidation of assets and liabilities of the insurer (other than  
 2321 collection of new premiums), all as resulting from its former  
 2322 authorized operations in this state.

2323 (2) Transactions involving a policy, subsequent to  
 2324 issuance thereof, covering only subjects of insurance not

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2325 resident, located, or expressly to be performed in this state at  
 2326 the time of issuance, and lawfully solicited, written, or  
 2327 delivered outside this state.

2328 (3) Reinsurance, when transacted as authorized under s.  
 2329 637.2049.

2330 (4) Investment by a foreign insurer of its funds in real  
 2331 estate in this state or in securities secured thereby, if the  
 2332 foreign insurer complies with the laws of this state relating  
 2333 generally to foreign business corporations.

2334 637.2003 General eligibility of title insurers for  
 2335 certificate of authority.—To qualify for and hold authority to  
 2336 transact title insurance in this state, a title insurer must be  
 2337 otherwise in compliance with this chapter and with its charter  
 2338 powers and must be an incorporated stock insurer, an  
 2339 incorporated mutual insurer, or a reciprocal insurer, of the  
 2340 same general type as may be formed as a domestic insurer under  
 2341 this chapter; except that:

2342 (1) A title insurer may not be authorized to transact  
 2343 title insurance in this state which does not maintain reserves  
 2344 as required by part I of chapter 625 applicable to the kind or  
 2345 kinds of insurance transacted by such insurer, wherever  
 2346 transacted in the United States, or which transacts insurance in  
 2347 the United States on the assessment premium plan, stipulated  
 2348 premium plan, cooperative plan, or any similar plan.

2349 (2) A foreign or alien title insurer or exchange may not  
 2350 be authorized to transact title insurance in this state unless  
 2351 it is otherwise qualified therefor under this chapter and has  
 2352 operated satisfactorily for at least 3 years in its state or

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2353 country of domicile; however, the department may waive the 3-  
 2354 year requirement if the foreign or alien insurer or exchange:  
 2355 (a) Has operated successfully and has capital and surplus  
 2356 of \$5 million;  
 2357 (b) Is the wholly owned subsidiary of an insurer which is  
 2358 an authorized insurer in this state; or  
 2359 (c) Is the successor in interest through merger or  
 2360 consolidation of an authorized insurer.  
 2361 (3) (a) The department shall not grant or continue  
 2362 authority to transact title insurance in this state as to any  
 2363 title insurer the management, officers, or directors of which  
 2364 are found by it to be incompetent or untrustworthy; or so  
 2365 lacking in insurance company managerial experience as to make  
 2366 the proposed operation hazardous to the insurance-buying public;  
 2367 or so lacking in insurance experience, ability, and standing as  
 2368 to jeopardize the reasonable promise of successful operation; or  
 2369 which it has good reason to believe are affiliated directly or  
 2370 indirectly through ownership, control, reinsurance transactions,  
 2371 or other insurance or business relations, with any person or  
 2372 persons whose business operations are or have been marked, to  
 2373 the detriment of policyholders or stockholders or investors or  
 2374 creditors or of the public, by manipulation of assets, accounts,  
 2375 or reinsurance or by bad faith.  
 2376 (b) The department shall not grant or continue authority  
 2377 to transact title insurance in this state as to any title  
 2378 insurer if any person, including any subscriber, stockholder, or  
 2379 incorporator, who exercises or has the ability to exercise  
 2380 effective control of the insurer, or who influences or has the

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2381 ability to influence the transaction of the business of the  
 2382 insurer, does not possess the financial standing and business  
 2383 experience for the successful operation of the insurer.

2384 (c) The department may deny, suspend, or revoke the  
 2385 authority to transact title insurance in this state of any title  
 2386 insurer if any person, including any subscriber, stockholder, or  
 2387 incorporator, who exercises or has the ability to exercise  
 2388 effective control of the insurer, or who influences or has the  
 2389 ability to influence the transaction of the business of the  
 2390 insurer, has been found guilty of, or has pleaded guilty or nolo  
 2391 contendere to, any felony or crime punishable by imprisonment of  
 2392 1 year or more under the law of the United States or any state  
 2393 thereof or under the law of any other country which involves  
 2394 moral turpitude, without regard to whether a judgment of  
 2395 conviction has been entered by the court having jurisdiction in  
 2396 such case. However, in the case of an insurer operating under a  
 2397 subsisting certificate of authority, the insurer shall remove  
 2398 any such person immediately upon discovery of the conditions set  
 2399 forth in this paragraph when applicable to such person or upon  
 2400 the order of the department, and the failure to so act by said  
 2401 insurer shall be grounds for revocation or suspension of the  
 2402 insurer's certificate of authority.

2403 (d) The department may deny, suspend, or revoke the  
 2404 authority of a title insurer to transact title insurance in this  
 2405 state if any person, including any subscriber, stockholder, or  
 2406 incorporator, who exercises or has the ability to exercise  
 2407 effective control of the insurer, or who influences or has the  
 2408 ability to influence the transaction of the business of the

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2409 insurer, which person the department has good reason to believe  
 2410 is now or was in the past affiliated directly or indirectly,  
 2411 through ownership interest of 10 percent or more, control, or  
 2412 reinsurance transactions, with any business, corporation, or  
 2413 other entity that has been found guilty of or has pleaded guilty  
 2414 or nolo contendere to any felony or crime punishable by  
 2415 imprisonment for 1 year or more under the laws of the United  
 2416 States, any state, or any other country, regardless of  
 2417 adjudication. However, in the case of an insurer operating under  
 2418 a subsisting certificate of authority, the insurer shall  
 2419 immediately remove such person or immediately notify the  
 2420 department of such person upon discovery of the conditions set  
 2421 forth in this paragraph, either when applicable to such person  
 2422 or upon order of the department; the failure to remove such  
 2423 person, provide such notice, or comply with such order  
 2424 constitutes grounds for suspension or revocation of the  
 2425 insurer's certificate of authority.

2426 (4) (a) An authorized title insurer may not act as a  
 2427 fronting company for any unauthorized insurer which is not an  
 2428 approved reinsurer.

2429 (b) A "fronting company" is an authorized insurer which by  
 2430 reinsurance or otherwise generally transfers more than 50  
 2431 percent to one unauthorized insurer which does not meet the  
 2432 requirements of s. 637.604(3) (a), (b), or (c), or more than 75  
 2433 percent to two or more unauthorized insurers which do not meet  
 2434 the requirements of s. 637.604(3) (a), (b), or (c), of the entire  
 2435 risk of loss on all of the insurance written by it in this  
 2436 state, or on one or more lines of insurance, on all of the

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2437 business produced through one or more agents or agencies, or on  
 2438 all of the business from a designated geographical territory,  
 2439 without obtaining the prior approval of the department.

2440 (c) The department may, in its discretion, approve a  
 2441 transfer of risk in excess of the limits in paragraph (b) upon  
 2442 presentation of evidence, satisfactory to the department, that  
 2443 the transfer would be in the best interests of the financial  
 2444 condition of the insurer and in the best interests of the  
 2445 policyholders.

2446 (5) A title insurer may not be authorized to transact  
 2447 title insurance in this state which, during the 3 years  
 2448 immediately preceding its application for a certificate of  
 2449 authority, has violated any of the insurance laws of this state  
 2450 and after being informed of such violation has failed to correct  
 2451 the same; except that, if all other requirements are met, the  
 2452 department may nevertheless issue a certificate of authority to  
 2453 such an insurer upon the filing by the insurer of a sworn  
 2454 statement of all such insurance so written in violation of law,  
 2455 and upon payment to the department of a sum of money as  
 2456 additional filing fee equivalent to all premium taxes and other  
 2457 state taxes and fees as would have been payable by the insurer  
 2458 if such insurance had been lawfully written by an authorized  
 2459 insurer under the laws of this state. This fee, when collected,  
 2460 shall be deposited to the credit of the Title Insurance  
 2461 Regulatory Trust Fund.

2462 (6) Nothing in this chapter shall be deemed to prohibit  
 2463 the granting and continuance of a certificate of authority to a  
 2464 domestic title insurer organized as a business trust, if the

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2465 declaration of trust of such insurer was filed in the department  
 2466 of the Secretary of State prior to January 1, 1959, and if the  
 2467 insurer otherwise meets the applicable requirements of this  
 2468 chapter. Such an insurer may hereinafter in this chapter be  
 2469 referred to as a "business trust insurer."

2470 (7) For the purpose of satisfying the requirements of ss.  
 2471 637.2004 and 637.2007, the investment portfolio of an insurer  
 2472 applying for an initial certificate of authority to do business  
 2473 in this state shall value its bonds and stocks in accordance  
 2474 with the provisions of the latest edition of the publication  
 2475 "Purposes and Procedures Manual of the NAIC Securities Valuation  
 2476 Office" by the National Association of Insurance Commissioners,  
 2477 July 1, 2002, and subsequent amendments thereto, if the  
 2478 valuation methodology remains substantially unchanged.

2479 637.20035 Structure of title insurers.—Except as to  
 2480 domestic business trust title insurers as referred to in s.  
 2481 637.2003(6) authorized prior to October 1, 2010, a title insurer  
 2482 shall be a stock insurer.

2483 637.2004 Capital funds required; new insurers.—

2484 (1) To receive authority to transact title insurance, an  
 2485 insurer applying for its original certificate of authority in  
 2486 this state after the effective date of this section shall  
 2487 possess surplus as to policyholders not less than the greater of  
 2488 \$2.5 million or 10 percent of the insurer's total liabilities;  
 2489 however, no insurer shall be required under this subsection to  
 2490 have surplus as to policyholders greater than \$100 million.

2491 (2) The requirements of this section shall be based upon  
 2492 all the kinds of insurance actually transacted or to be

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2493 transacted by the insurer in any and all areas in which it  
 2494 operates, whether or not only a portion of such kinds are to be  
 2495 transacted in this state.

2496 (3) As to surplus as to policyholders required for  
 2497 qualification to transact one or more kinds of insurance,  
 2498 domestic mutual insurers are governed by chapter 628, and  
 2499 domestic reciprocal insurers are governed by chapter 629.

2500 (4) For the purposes of this section, liabilities shall  
 2501 not include liabilities required under s. 625.041(4). For  
 2502 purposes of computing minimum surplus as to policyholders  
 2503 pursuant to s. 625.305(1), liabilities shall include liabilities  
 2504 required under s. 625.041(4).

2505 (5) The provisions of this section, as amended by this  
 2506 act, shall apply only to insurers applying for a certificate of  
 2507 authority on or after the effective date of this act.

2508 637.2005 Restrictions on insurers that are wholly owned  
 2509 subsidiaries of insurers to do business in state.—Effective  
 2510 December 31, 2010, and notwithstanding any other provision of  
 2511 law:

2512 (1) A new certificate of authority for the transaction of  
 2513 title insurance may not be issued to any insurer domiciled in  
 2514 this state that is a wholly owned subsidiary of an insurer  
 2515 authorized to do business in any other state.

2516 (2) The rate filings of any insurer domiciled in this  
 2517 state that is a wholly owned subsidiary of an insurer authorized  
 2518 to do business in any other state shall include information  
 2519 relating to the profits of the parent company of the insurer  
 2520 domiciled in this state.

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2521 637.2006 Officers and directors of insolvent insurers.—Any  
 2522 person who was an officer or director of an insurer doing  
 2523 business in this state and who served in that capacity within  
 2524 the 2-year period prior to the date the insurer became  
 2525 insolvent, for any insolvency that occurs on or after July 1,  
 2526 2002, may not thereafter serve as an officer or director of an  
 2527 insurer authorized in this state unless the officer or director  
 2528 demonstrates that his or her personal actions or omissions were  
 2529 not a significant contributing cause to the insolvency.

2530 637.2007 Surplus as to policyholders required; new and  
 2531 existing insurers.—

2532 (1) To maintain a certificate of authority to transact  
 2533 title insurance, an insurer in this state shall at all times  
 2534 maintain surplus as to policyholders not less than the greater  
 2535 of \$1.5 million or 10 percent of the insurer's total  
 2536 liabilities.

2537 (2) For purposes of this section, liabilities shall not  
 2538 include liabilities required under s. 625.041(4). For purposes  
 2539 of computing minimum surplus as to policyholders pursuant to s.  
 2540 625.305(1), liabilities shall include liabilities required under  
 2541 s. 625.041(4).

2542 (3) An insurer may not be required under this section to  
 2543 have surplus as to policyholders greater than \$100 million.

2544 Section 6. Section 625.330, Florida Statutes, is  
 2545 transferred, renumbered as section 627.20073, Florida Statutes,  
 2546 and amended to read:

2547 637.20073 ~~625.330~~ Special investments by title insurer.—

2548 (1) In addition to other investments eligible under this

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2549 part, a title insurer may invest and have invested an amount not  
 2550 exceeding the greater of \$300,000 or 50 percent of that part of  
 2551 its surplus as to policyholders which exceeds the minimum  
 2552 surplus required by s. 637.2007 ~~624.408~~ in its abstract plant  
 2553 and equipment, in loans secured by mortgages on abstract plants  
 2554 and equipment, and, with the consent of the office, in stocks of  
 2555 abstract companies. If the insurer transacts kinds of insurance  
 2556 in addition to title insurance, for the purposes of this section  
 2557 its paid-in capital stock shall be prorated between title  
 2558 insurance and such other insurances upon the basis of the  
 2559 reserves maintained by the insurer for the various kinds of  
 2560 insurance; but the capital so assigned to title insurance may  
 2561 not shall in any ~~no~~ event be less than \$100,000.

2562 (2) Subsection (1) does not apply to a business trust  
 2563 insurer. Such an insurer may invest and have invested not  
 2564 exceeding the greater of \$300,000 or 50 percent of its net trust  
 2565 fund in excess of the reserve provided for under s. 637.20075  
 2566 ~~625.111~~ in abstract plants, stock in abstract companies, or  
 2567 corporations controlled by the business trust and created for  
 2568 developing and servicing abstract plants.

2569 (3) Investments authorized by this section shall not be  
 2570 credited against the insurer's required unearned premium or  
 2571 guaranty fund reserve provided for under s. 637.20075 ~~625.111~~.

2572 Section 7. Section 625.111, Florida Statutes, is  
 2573 transferred, renumbered as section 637.20075, Florida Statutes,  
 2574 and amended to read:

2575 637.20075 ~~625.111~~ Title insurance reserve.—

2576 (1) In addition to an adequate reserve as to outstanding

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2577 losses relating to known claims, as required under s. 625.041, a  
 2578 title insurer shall establish, segregate, and maintain a  
 2579 guaranty fund or unearned premium reserve as provided in this  
 2580 section. The sums required under this section to be reserved for  
 2581 unearned premiums on title guarantees and policies at all times  
 2582 and for all purposes shall be considered and constitute unearned  
 2583 portions of the original premiums and shall be charged as a  
 2584 reserve liability of such insurer in determining its financial  
 2585 condition. While such sums are so reserved, they shall be  
 2586 withdrawn from the use of the insurer for its general purposes,  
 2587 impressed with a trust in favor of the holders of title  
 2588 guarantees and policies, and held available for reinsurance of  
 2589 the title guarantees and policies in the event of the insolvency  
 2590 of the insurer. Nothing contained in this section precludes  
 2591 ~~shall preclude~~ such insurer from investing such reserve in  
 2592 investments authorized by law for such an insurer and the income  
 2593 from such invested reserve shall be included in the general  
 2594 income of the insurer to be used by such insurer for any lawful  
 2595 purpose.

2596 (2)~~(1)~~ For unearned premium reserves established on or  
 2597 after July 1, 1999, such unearned premium reserve shall consist  
 2598 of not less than an amount equal to the sum of:

2599 (a) A reserve with respect to unearned premiums for  
 2600 policies written or title liability assumed in reinsurance  
 2601 before July 1, 1999, equal to the reserve established on June  
 2602 30, 1999, for those unearned premiums with such reserve being  
 2603 subsequently released as provided in subsection (3)~~(2)~~. For  
 2604 domestic title insurers subject to this section, such amounts

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2605 shall be calculated in accordance with provisions of law of this  
 2606 state in effect at the time the associated premiums were written  
 2607 or assumed and as amended prior to July 1, 1999.

2608 (b) A total amount equal to 30 cents for each \$1,000 of  
 2609 net retained liability for policies written or title liability  
 2610 assumed in reinsurance on or after July 1, 1999, with such  
 2611 reserve being subsequently released as provided in subsection  
 2612 (3)~~(2)~~. For the purpose of calculating this reserve, the total  
 2613 of the net retained liability for all simultaneous issue  
 2614 policies covering a single risk shall be equal to the liability  
 2615 for the policy with the highest limit covering that single risk,  
 2616 net of any liability ceded in reinsurance.

2617 (c) An additional amount, if deemed necessary by a  
 2618 qualified actuary, which shall be subsequently released as  
 2619 provided in subsection (3)~~(2)~~. Using financial results as of  
 2620 December 31 of each year, all domestic title insurers shall  
 2621 obtain a Statement of Actuarial Opinion from a qualified actuary  
 2622 regarding the insurer's loss and loss adjustment expense  
 2623 reserves, including reserves for known claims, adverse  
 2624 development on known claims, incurred but not reported claims,  
 2625 and unallocated loss adjustment expenses. The actuarial opinion  
 2626 shall conform to the annual statement instructions for title  
 2627 insurers adopted by the National Association of Insurance  
 2628 Commissioners and shall include the actuary's professional  
 2629 opinion of the insurer's reserves as of the date of the annual  
 2630 statement. If the amount of the reserve stated in the opinion  
 2631 and displayed in Schedule P of the annual statement for that  
 2632 reporting date is greater than the sum of the known claim

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2633 | reserve and unearned premium reserve as calculated under this  
 2634 | section, as of the same reporting date and including any  
 2635 | previous actuarial provisions added at earlier dates, the  
 2636 | insurer shall add to the insurer's unearned premium reserve an  
 2637 | actuarial amount equal to the reserve shown in the actuarial  
 2638 | opinion, minus the known claim reserve and the unearned premium  
 2639 | reserve, as of the current reporting date and calculated in  
 2640 | accordance with this section, but in no event calculated as of  
 2641 | any date prior to December 31, 1999. The comparison shall be  
 2642 | made using that line on Schedule P displaying the Total Net Loss  
 2643 | and Loss Adjustment Expense which is comprised of the Known  
 2644 | Claim Reserve, and any associated Adverse Development Reserve,  
 2645 | the reserve for Incurred But Not Reported Losses, and  
 2646 | Unallocated Loss Adjustment Expenses.

2647 |        (3)~~(2)~~(a) With respect to the reserve established in  
 2648 | accordance with paragraph (2)~~(1)~~(a), the domestic title insurer  
 2649 | shall release the reserve over a period of 20 subsequent years  
 2650 | as provided in this paragraph. The insurer shall release 30  
 2651 | percent of the initial aggregate sum during 1999, with one  
 2652 | quarter of that amount being released on March 31, June 30,  
 2653 | September 30, and December 31, 1999, with the March 31 and June  
 2654 | 30 releases to be retroactive and reflected on the September 30  
 2655 | financial statements. Thereafter, the insurer shall release, on  
 2656 | the same quarterly basis as specified for reserves released  
 2657 | during 1999, a percentage of the initial aggregate sum as  
 2658 | follows: 15 percent during calendar year 2000, 10 percent during  
 2659 | each of calendar years 2001 and 2002, 5 percent during each of  
 2660 | calendar years 2003 and 2004, 3 percent during each of calendar

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2661 | years 2005 and 2006, 2 percent during each of calendar years  
 2662 | 2007-2013, and 1 percent during each of calendar years 2014-  
 2663 | 2018.

2664 |       (b) With respect to reserves established in accordance  
 2665 | with paragraph (2)~~(1)~~(b), the unearned premium for policies  
 2666 | written or title liability assumed during a particular calendar  
 2667 | year shall be earned, and released from reserve, over a period  
 2668 | of 20 subsequent years as provided in this paragraph. The  
 2669 | insurer shall release 30 percent of the initial sum during the  
 2670 | year next succeeding the year the premium was written or  
 2671 | assumed, with one quarter of that amount being released on March  
 2672 | 31, June 30, September 30, and December 31 of such year.  
 2673 | Thereafter, the insurer shall release, on the same quarterly  
 2674 | basis as specified for reserves released during the year first  
 2675 | succeeding the year the premium was written or assumed, a  
 2676 | percentage of the initial sum as follows: 15 percent during the  
 2677 | next succeeding year, 10 percent during each of the next  
 2678 | succeeding 2 years, 5 percent during each of the next succeeding  
 2679 | 2 years, 3 percent during each of the next succeeding 2 years, 2  
 2680 | percent during each of the next succeeding 7 years, and 1  
 2681 | percent during each of the next succeeding 5 years.

2682 |       (c) With respect to reserves established in accordance  
 2683 | with paragraph (2)~~(1)~~(c), any additional amount established in  
 2684 | any calendar year shall be released in the years subsequent to  
 2685 | its establishment as provided in paragraph (b), with the timing  
 2686 | and percentage of releases being in all respects identical to  
 2687 | those of unearned premium reserves that are calculated as  
 2688 | provided in paragraph (b) and established with regard to

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2689 premiums written or liability assumed in reinsurance in the same  
 2690 year as the year in which any additional amount was originally  
 2691 established.

2692 (4)~~(3)~~ At any reporting date, the amount of the required  
 2693 releases of existing unearned premium reserves under subsection  
 2694 (3)~~(2)~~ shall be calculated and deducted from the total unearned  
 2695 premium reserve before any additional amount is established for  
 2696 the current calendar year in accordance with the provisions of  
 2697 paragraph (2)~~(1)~~(c).

2698 (5)~~(4)~~ As used in this section:

2699 (a) "Net retained liability" means the total liability  
 2700 retained by a title insurer for a single risk, after taking into  
 2701 account the deduction for ceded liability, if any.

2702 (b) "Qualified actuary" means a person who is, as detailed  
 2703 in the National Association of Insurance Commissioners' Annual  
 2704 Statement Instructions:

2705 1. A member in good standing of the Casualty Actuarial  
 2706 Society;

2707 2. A member in good standing of the American Academy of  
 2708 Actuaries who has been approved as qualified for signing  
 2709 casualty loss reserve opinions by the Casualty Practice Council  
 2710 of the American Academy of Actuaries; or

2711 3. A person who otherwise has competency in loss reserve  
 2712 evaluation as demonstrated to the satisfaction of the insurance  
 2713 regulatory official of the domiciliary state. In such case, at  
 2714 least 90 days prior to the filing of its annual statement, the  
 2715 insurer must request approval that the person be deemed  
 2716 qualified and that request must be approved or denied. The

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2717 request must include the National Association of Insurance  
 2718 Commissioners' Biographical Form and a list of all loss reserve  
 2719 opinions issued in the last 3 years by this person.

2720 (c) "Single risk" means the insured amount of any title  
 2721 insurance policy, except that where two or more title insurance  
 2722 policies are issued simultaneously covering different estates in  
 2723 the same real property, "single risk" means the sum of the  
 2724 insured amounts of all such title insurance policies. Any title  
 2725 insurance policy insuring a mortgage interest, a claim payment  
 2726 under which reduces the insured amount of a fee or leasehold  
 2727 title insurance policy, shall be excluded in computing the  
 2728 amount of a single risk to the extent that the insured amount of  
 2729 the mortgage title insurance policy does not exceed the insured  
 2730 amount of the fee or leasehold title insurance policy.

2731 Section 8. Sections 637.2008, 637.2009, 637.2011,  
 2732 637.2012, 637.2013, 637.2014, 637.2015, 637.2016, 637.2017,  
 2733 637.2018, 637.2019, 637.2021, 637.2022, 637.2023, 637.2024,  
 2734 637.2025, 637.2026, 637.2027, 637.2028, 637.2029, 637.2031,  
 2735 637.2032, 637.2033, 637.2034, 637.2035, 637.2036, 637.2037,  
 2736 637.2038, 637.2039, 637.2041, 637.2042, 637.2043, 637.2046,  
 2737 637.2047, and 637.2048, Florida Statutes, are created to read:

2738 637.2008 Premiums written; restrictions.-

2739 (1) Whenever a title insurer's ratio of actual or  
 2740 projected annual written premiums as adjusted in accordance with  
 2741 subsection (4) to current or projected surplus as to  
 2742 policyholders as adjusted in accordance with subsection (6)  
 2743 exceeds 10 to 1 for gross written premiums or exceeds 4 to 1 for  
 2744 net written premiums, the department shall suspend the insurer's

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2745 certificate of authority or establish by order maximum gross or  
 2746 net annual premiums to be written by the insurer consistent with  
 2747 maintaining the ratios specified herein unless the insurer  
 2748 demonstrates to the department's satisfaction that exceeding the  
 2749 ratios of this section does not endanger the financial condition  
 2750 of the insurer or endanger the interests of the insurer's  
 2751 policyholders.

2752 (2) Projected annual net or gross premiums shall be based  
 2753 on the actual writings to date for the title insurer's current  
 2754 calendar year or the insurer's writings for the previous  
 2755 calendar year or both. Ratios shall be computed on an annualized  
 2756 basis.

2757 (3) For the purposes of this section, gross premiums  
 2758 written means direct premiums written and reinsurance assumed.

2759 (4) For the purposes of this section, for each calendar  
 2760 year premiums shall be calculated as the product of the actual  
 2761 or projected premiums and 1.00.

2762 637.2009 Deposit requirement; domestic title insurers and  
 2763 foreign title insurers.-

2764 (1) As to domestic title insurers, the department shall  
 2765 not issue or permit to exist a certificate of authority unless  
 2766 such insurer has deposited and maintains deposited in trust for  
 2767 the protection of the insurer's policyholders or its  
 2768 policyholders and creditors with the department securities  
 2769 eligible for such deposit under s. 625.52, having at all times a  
 2770 value of not less than \$100,000.

2771 (2) As to foreign title insurers, the department, upon  
 2772 issuing or permitting to exist a certificate of authority, may

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2773 require for good cause a deposit and maintenance of the deposit  
 2774 in trust for the protection of the insured's policyholders or  
 2775 its policyholders and creditors with the department securities  
 2776 eligible for such deposit under s. 625.52, having at all times a  
 2777 value of not less than \$100,000 A foreign insurer with surplus  
 2778 as to policyholders of more than \$10 million according to its  
 2779 latest annual statement shall not be required to make a deposit  
 2780 under this subsection.

2781 (3) Whenever the department determines that the financial  
 2782 condition of a title insurer has deteriorated or that the  
 2783 policyholders' best interests are not being preserved by the  
 2784 activities of an insurer, the department may require such  
 2785 insurer to deposit and maintain deposited in trust with the  
 2786 department for the protection of the insurer's policyholders or  
 2787 its policyholders and creditors, for such time as the department  
 2788 deems necessary, securities eligible for such deposit under s.  
 2789 625.52, having a market value of not less than the amount which  
 2790 the department determines is necessary, which amount shall be  
 2791 not less than \$100,000, or more than 25 percent of the insurer's  
 2792 obligations in this state, as determined from the latest annual  
 2793 financial statement of the insured. The deposit required under  
 2794 this subsection shall not exceed \$2 million and is in addition  
 2795 to any other deposits required of an insurer pursuant to  
 2796 subsections (1) and (2) or any other provisions of this chapter.

2797 (4) All such deposits in this state are subject to the  
 2798 applicable provisions of part III of chapter 625.

2799 637.2011 Deposit of alien insurers.-

2800 (1) An alien title insurer may not transact insurance in

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2801 this state unless it has and maintains within the United States  
 2802 as trust deposits with public officials having supervision over  
 2803 insurers, or with trustees, public depositories, or trust  
 2804 institutions approved by the department, assets available for  
 2805 discharge of its United States insurance obligations, which  
 2806 assets shall be in amount not less than the outstanding reserves  
 2807 and other liabilities of the insurer arising out of its  
 2808 insurance transactions in the United States together with the  
 2809 amount of surplus as to policyholders required by s. 637.2007 of  
 2810 a domestic stock insurer transacting like kinds of insurance.

2811 (2) Any such deposit made in this state shall be held for  
 2812 the protection of the insurer's policyholders or policyholders  
 2813 and creditors in the United States and shall be subject to the  
 2814 applicable provisions of part III of chapter 625 and chapter  
 2815 630.

2816 637.2012 Application for certificate of authority.-

2817 (1) To apply for a certificate of authority, a title  
 2818 insurer shall file its application therefor with the department,  
 2819 upon a form adopted by the department and furnished by the  
 2820 department, showing its name; location of its home office and,  
 2821 if an alien insurer, its principal office in the United States;  
 2822 kinds of insurance to be transacted; state or country of  
 2823 domicile; and such additional information as the department  
 2824 reasonably requires, together with the following documents:

2825 (a) One copy of its corporate charter, articles of  
 2826 incorporation, existing and proposed nonfacultative reinsurance  
 2827 contracts, declaration of trust, or other charter documents,  
 2828 with all amendments thereto, certified by the public official

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2829 with whom the originals are on file in the state or country of  
 2830 domicile.

2831 (b) If a mutual insurer, a copy of its bylaws, as amended,  
 2832 certified by its secretary or other officer having custody  
 2833 thereof.

2834 (c) If a foreign or alien reciprocal insurer, a copy of  
 2835 the power of attorney of its attorney in fact and of its  
 2836 subscribers' agreement, if any, certified by the attorney in  
 2837 fact; and, if a domestic reciprocal insurer, the declaration  
 2838 provided for in s. 629.081.

2839 (d) A copy of its financial statement as of December 31  
 2840 next preceding, containing information generally included in  
 2841 insurer financial statements prepared in accordance with  
 2842 generally accepted insurance accounting principles and practices  
 2843 and in a form generally utilized by insurers for financial  
 2844 statements, sworn to by at least two executive officers of the  
 2845 insurer, or certified by the public official having supervision  
 2846 of insurance in the insurer's state of domicile or of entry into  
 2847 the United States. To facilitate uniformity in financial  
 2848 statements, the department may by rule adopt the form for  
 2849 financial statements approved by the National Association of  
 2850 Insurance Commissioners in 2002, and may adopt subsequent  
 2851 amendments thereto if the form remains substantially consistent.

2852 (e) Supplemental quarterly financial statements for each  
 2853 calendar quarter since the beginning of the year of its  
 2854 application for the certificate of authority, sworn to by at  
 2855 least two of its executive officers. To facilitate uniformity in  
 2856 financial statements, the department may by rule adopt the form

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2857 for quarterly financial statements approved by the National  
 2858 Association of Insurance Commissioners in 2002, and may adopt  
 2859 subsequent amendments thereto if the form remains substantially  
 2860 consistent.

2861 (f) If a foreign or alien insurer, a copy of the report of  
 2862 the most recent examination of the insurer certified by the  
 2863 public official having supervision of insurance in its state of  
 2864 domicile or of entry into the United States. The end of the most  
 2865 recent year covered by the examination must be within the 3-year  
 2866 period preceding the date of application. In lieu of the  
 2867 certified examination report, the department may accept an  
 2868 audited certified public accountant's report prepared on a basis  
 2869 consistent with the insurance laws of the insurer's state of  
 2870 domicile, certified by the public official having supervision of  
 2871 insurance in its state of domicile or of entry into the United  
 2872 States.

2873 (g) If a foreign or alien insurer, a certificate of  
 2874 compliance from the public official having supervision of  
 2875 insurance in its state or country of domicile showing that it is  
 2876 duly organized and authorized to transact insurance therein and  
 2877 the kinds of insurance it is so authorized to transact.

2878 (h) If a foreign or alien insurer, a certificate of the  
 2879 public official having custody of any deposit maintained by the  
 2880 insurer in another state in lieu of a deposit or part thereof  
 2881 required in this state under s. 637.2009 or s. 637.2011, showing  
 2882 the amount of such deposit and the assets or securities of which  
 2883 comprised.

2884 (i) If an alien insurer, a copy of the appointment and

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2885 authority of its United States manager, certified by its officer  
 2886 having custody of its records.

2887 (2) The application shall be accompanied by the applicable  
 2888 fees and license tax as specified in s. 637.2031.

2889 637.2013 Redomestication.—The department shall adopt rules  
 2890 establishing procedures and forms for a foreign title insurer to  
 2891 apply for a certificate of authority as a domestic title  
 2892 insurer.

2893 637.2014 Issuance or refusal of authority.—The fee for  
 2894 filing application for a certificate of authority shall not be  
 2895 subject to refund. The department shall issue to the applicant  
 2896 title insurer a proper certificate of authority if it finds that  
 2897 the insurer has met the requirements of this chapter, exclusive  
 2898 of the requirements relative to the filing and approval of an  
 2899 insurer's policy forms, riders, endorsements, applications, and  
 2900 rates. If it does not so find, the department shall issue its  
 2901 order refusing the certificate. The certificate, if issued,  
 2902 shall specify the kind or kinds and line or lines of insurance  
 2903 the insurer is authorized to transact in this state. The  
 2904 issuance of a certificate of authority does not signify that an  
 2905 insurer has met the requirements of this chapter relative to the  
 2906 filing and approval of an insurer's policy forms, riders,  
 2907 endorsements, applications, and rates which may be required  
 2908 prior to an insurer actually writing any premiums.

2909 637.2015 Ownership of certificate of authority; return.—  
 2910 Although issued to the insurer, the certificate of authority is  
 2911 at all times the property of this state. Upon any expiration,  
 2912 suspension, or termination thereof, the insurer shall promptly

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2913 deliver the certificate of authority to the department.  
 2914 637.2016 Continuance, expiration, reinstatement, and  
 2915 amendment of certificate of authority.-  
 2916 (1) A certificate of authority issued under this chapter  
 2917 shall continue in force as long as the insurer is entitled  
 2918 thereto under this chapter and until suspended, revoked, or  
 2919 terminated at the request of the insurer; subject, however, to  
 2920 continuance of the certificate by the insurer each year by:  
 2921 (a) Payment prior to June 1 of the annual license tax  
 2922 provided for in s. 637.2031(3);  
 2923 (b) Due filing by the insurer of its annual statement for  
 2924 the calendar year preceding as required under s. 637.2024; and  
 2925 (c) Payment by the insurer of applicable taxes with  
 2926 respect to the preceding calendar year as required under this  
 2927 chapter.  
 2928 (2) If not so continued by the insurer, its certificate of  
 2929 authority shall expire at midnight on the May 31 next following  
 2930 such failure of the insurer so to continue it in force. The  
 2931 department shall promptly notify the insurer of the occurrence  
 2932 of any failure resulting in impending expiration of its  
 2933 certificate of authority.  
 2934 (3) The department may, in its discretion, reinstate a  
 2935 certificate of authority which the insurer has inadvertently  
 2936 permitted to expire, after the insurer has fully cured all its  
 2937 failures which resulted in the expiration, and upon payment by  
 2938 the insurer of the fee for reinstatement, in the amount provided  
 2939 in s. 637.2031(1)(b). Otherwise, the insurer shall be granted  
 2940 another certificate of authority only after filing application

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2941 therefor and meeting all other requirements as for an original  
 2942 certificate of authority in this state.

2943 (4) The department may amend a certificate of authority at  
 2944 any time to accord with changes in the insurer's charter or  
 2945 insuring powers.

2946 637.2017 Suspension, revocation of certificate of  
 2947 authority for violations and special grounds.-

2948 (1) The department shall suspend or revoke a title  
 2949 insurer's certificate of authority if it finds that the insurer:

2950 (a) Is in unsound financial condition.

2951 (b) Is using such methods and practices in the conduct of  
 2952 its business as to render its further transaction of insurance  
 2953 in this state hazardous or injurious to its policyholders or to  
 2954 the public.

2955 (c) Has failed to pay any final judgment rendered against  
 2956 it in this state within 60 days after the judgment became final.

2957 (d) No longer meets the requirements for the authority  
 2958 originally granted.

2959 (2) The department may, in its discretion, suspend or  
 2960 revoke the certificate of authority of an insurer if it finds  
 2961 that the insurer:

2962 (a) Has violated any lawful order or rule of the  
 2963 department or any provision of this chapter.

2964 (b) Has refused to be examined or to produce its accounts,  
 2965 records, and files for examination, or if any of its officers  
 2966 have refused to give information with respect to its affairs or  
 2967 to perform any other legal obligation as to such examination,  
 2968 when required by the department.

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2969        (c) Has for any line, class, or combination thereof, with  
 2970 such frequency as to indicate its general business practice in  
 2971 this state, without just cause refused to pay proper claims  
 2972 arising under its policies, whether any such claim is in favor  
 2973 of an insured or is in favor of a third person with respect to  
 2974 the liability of an insured to such third person, or without  
 2975 just cause compels such insureds or claimants to accept less  
 2976 than the amount due them or to employ attorneys or to bring suit  
 2977 against the insurer or such an insured to secure full payment or  
 2978 settlement of such claims.

2979        (d) Is affiliated with and under the same general  
 2980 management or interlocking directorate or ownership as another  
 2981 insurer which transacts direct insurance in this state without  
 2982 having a certificate of authority therefor, except as permitted  
 2983 as to surplus lines insurers under part VIII of chapter 626.

2984        (e) Has been convicted of, or entered a plea of guilty or  
 2985 nolo contendere to, a felony relating to the transaction of  
 2986 insurance, in this state or in any other state, without regard  
 2987 to whether adjudication was withheld.

2988        (f) Has a ratio of net premiums written to surplus as to  
 2989 policyholders that exceeds 4 to 1, and the department has reason  
 2990 to believe that the financial condition of the insurer endangers  
 2991 the interests of the policyholders. The ratio of net premiums  
 2992 written to surplus as to policyholders shall be on an annualized  
 2993 actual or projected basis. The ratio shall be based on the  
 2994 insurer's current calendar year activities and experience to  
 2995 date or the insurer's previous calendar year activities and  
 2996 experience, or both, and shall be calculated to represent a 12-

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2997 month period. However, the provisions of this paragraph do not  
 2998 apply to any insurance or insurer exempted from s. 637.2008.  
 2999 (g) Is under suspension or revocation in another state.  
 3000 (3) The insolvency or impairment of an insurer constitutes  
 3001 an immediate serious danger to the public health, safety, or  
 3002 welfare; and the department may, at its discretion, without  
 3003 prior notice and the opportunity for hearing immediately suspend  
 3004 the certificate of authority of an insurer upon a determination  
 3005 that:  
 3006 (a) The insurer is impaired or insolvent; or  
 3007 (b) Receivership, conservatorship, rehabilitation, or  
 3008 other delinquency proceedings have been initiated against the  
 3009 insurer by the public insurance supervisory official of any  
 3010 state.  
 3011 637.2018 Order, notice of suspension or revocation of  
 3012 certificate of authority; effect; publication.-  
 3013 (1) Suspension or revocation of a title insurer's  
 3014 certificate of authority shall be by the order of the  
 3015 department. The department shall promptly also give notice of  
 3016 such suspension or revocation to the insurer's agents in this  
 3017 state of record. The insurer shall not solicit or write any new  
 3018 coverages in this state during the period of any such suspension  
 3019 and may renew coverages only upon a finding by the department  
 3020 that the insurer is capable of servicing the renewal coverage.  
 3021 The insurer shall not solicit or write any new or renewal  
 3022 coverages after any such revocation.  
 3023 (2) In its discretion, the department may cause notice of  
 3024 any such suspension or revocation to be published in one or more

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3025 newspapers of general circulation published in this state.  
 3026 637.2019 Duration of suspension; insurer's obligations  
 3027 during suspension period; reinstatement.—  
 3028 (1) Suspension of a title insurer's certificate of  
 3029 authority shall be for:  
 3030 (a) A fixed period of time not to exceed 2 years; or  
 3031 (b) Until the occurrence of a specific event necessary for  
 3032 remedying the reasons for suspension.  
 3033  
 3034 Such suspension may be modified, rescinded, or reversed.  
 3035 (2) During the period of suspension, the insurer shall  
 3036 file with the department all documents and information and pay  
 3037 all license fees and taxes as required under this chapter as if  
 3038 the certificate had continued in full force.  
 3039 (3) If the suspension of the certificate of authority is  
 3040 for a fixed period of time and the certificate of authority has  
 3041 not been otherwise terminated, upon expiration of the suspension  
 3042 period the insurer's certificate of authority shall be  
 3043 reinstated unless the department finds that the insurer is not  
 3044 in compliance with the requirements of this chapter. The  
 3045 department shall promptly notify the insurer of such  
 3046 reinstatement, and the insurer shall not consider its  
 3047 certificate of authority reinstated until so notified by the  
 3048 department. If not reinstated, the certificate of authority  
 3049 shall be deemed to have expired as of the end of the suspension  
 3050 period or upon failure of the insurer to continue the  
 3051 certificate during the suspension period in accordance with  
 3052 subsection (2), whichever event first occurs.

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3053 (4) If the suspension of the certificate of authority was  
 3054 until the occurrence of a specific event or events and the  
 3055 certificate of authority has not been otherwise terminated, upon  
 3056 the presentation of evidence satisfactory to the department that  
 3057 the specific event or events have occurred, the insurer's  
 3058 certificate of authority shall be reinstated unless the  
 3059 department finds that the insurer is otherwise not in compliance  
 3060 with the requirements of this chapter. The department shall  
 3061 promptly notify the insurer of such reinstatement, and the  
 3062 insurer shall not consider its certificate of authority  
 3063 reinstated until so notified by the department. If satisfactory  
 3064 evidence as to the occurrence of the specific event or events  
 3065 has not been presented to the department within 2 years of the  
 3066 date of such suspension, the certificate of authority shall be  
 3067 deemed to have expired as of 2 years from the date of suspension  
 3068 or upon failure of the insurer to continue the certificate  
 3069 during the suspension period in accordance with subsection (2),  
 3070 whichever first occurs.

3071 (5) Upon reinstatement of the insurer's certificate of  
 3072 authority, the authority of its agents in this state to  
 3073 represent the insurer shall likewise reinstate. The department  
 3074 shall promptly notify the insurer of such reinstatement.

3075 637.2021 Administrative fine in lieu of suspension or  
 3076 revocation.—

3077 (1) If the department finds that one or more grounds exist  
 3078 for the discretionary revocation or suspension of a certificate  
 3079 of authority issued under this chapter, the department may, in  
 3080 lieu of such revocation or suspension, impose a fine upon the

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3081 title insurer.  
 3082 (2) With respect to any nonwillful violation, such fine  
 3083 shall not exceed \$2,500 per violation. In no event shall such  
 3084 fine exceed an aggregate amount of \$10,000 for all nonwillful  
 3085 violations arising out of the same action. When an insurer  
 3086 discovers a nonwillful violation, the insurer shall correct the  
 3087 violation and, if restitution is due, make restitution to all  
 3088 affected persons. Such restitution shall include interest at 12  
 3089 percent per year from either the date of the violation or the  
 3090 date of inception of the affected person's policy, at the  
 3091 insurer's option. The restitution may be a credit against future  
 3092 premiums due provided that the interest shall accumulate until  
 3093 the premiums are due. If the amount of restitution due to any  
 3094 person is \$50 or more and the insurer wishes to credit it  
 3095 against future premiums, it shall notify such person that she or  
 3096 he may receive a check instead of a credit. If the credit is on  
 3097 a policy which is not renewed, the insurer shall pay the  
 3098 restitution to the person to whom it is due.  
 3099 (3) With respect to any knowing and willful violation of a  
 3100 lawful order or rule of the department or a provision of this  
 3101 chapter, the department may impose a fine upon the insurer in an  
 3102 amount not to exceed \$20,000 for each such violation. In no  
 3103 event shall such fine exceed an aggregate amount of \$100,000 for  
 3104 all knowing and willful violations arising out of the same  
 3105 action. In addition to such fines, such insurer shall make  
 3106 restitution when due in accordance with the provisions of  
 3107 subsection (2).  
 3108 (4) The failure of an insurer to make restitution when due

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3109 as required under this section constitutes a willful violation  
 3110 of this chapter. However, if an insurer in good faith is  
 3111 uncertain as to whether any restitution is due or as to the  
 3112 amount of such restitution, it shall promptly notify the  
 3113 department of the circumstances; and the failure to make  
 3114 restitution pending a determination thereof shall not constitute  
 3115 a violation of this chapter.

3116 637.2022 Service of process; appointment of Chief  
 3117 Financial Officer as process agent.-

3118 (1) Each licensed title insurer, whether domestic,  
 3119 foreign, or alien, shall be deemed to have appointed the Chief  
 3120 Financial Officer and her or his successors in department as its  
 3121 attorney to receive service of all legal process issued against  
 3122 it in any civil action or proceeding in this state; and process  
 3123 so served shall be valid and binding upon the insurer.

3124 (2) Prior to its authorization to transact insurance in  
 3125 this state, each insurer shall file with the department  
 3126 designation of the name and address of the person to whom  
 3127 process against it served upon the Chief Financial Officer is to  
 3128 be forwarded. The insurer may change the designation at any time  
 3129 by a new filing.

3130 (3) Service of process upon the Chief Financial Officer as  
 3131 the insurer's attorney pursuant to such an appointment shall be  
 3132 the sole method of service of process upon an authorized  
 3133 domestic, foreign, or alien insurer in this state.

3134 637.2023 Serving process.-

3135 (1) Service of process upon the Chief Financial Officer as  
 3136 process agent of the title insurer under s. 637.2022 shall be

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3137 made by serving copies in triplicate of the process upon the  
 3138 Chief Financial Officer or upon her or his assistant, deputy, or  
 3139 other person in charge of her or his office. Upon receiving such  
 3140 service, the Chief Financial Officer shall file one copy in her  
 3141 or his office, return one copy with her or his admission of  
 3142 service, and promptly forward one copy of the process by  
 3143 registered or certified mail to the person last designated by  
 3144 the insurer to receive the same, as provided under s.  
 3145 637.2022(2).

3146 (2) When process is served upon the Chief Financial  
 3147 Officer as an insurer's process agent, the insurer shall not be  
 3148 required to answer or plead except within 20 days after the date  
 3149 upon which the Chief Financial Officer mailed a copy of the  
 3150 process served upon her or him as required by subsection (1).

3151 (3) Process served upon the Chief Financial Officer and  
 3152 copy thereof forwarded as in this section provided shall for all  
 3153 purposes constitute valid and binding service thereof upon the  
 3154 insurer.

3155 637.2024 Annual statement and other information.-

3156 (1) (a) Each authorized title insurer shall file with the  
 3157 department full and true statements of its financial condition,  
 3158 transactions, and affairs. An annual statement covering the  
 3159 preceding calendar year shall be filed on or before March 1, and  
 3160 quarterly statements covering the periods ending on March 31,  
 3161 June 30, and September 30 shall be filed within 45 days after  
 3162 each such date. The department may, for good cause, grant an  
 3163 extension of time for filing of an annual or quarterly  
 3164 statement. The statements shall contain information generally

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3165 included in insurers' financial statements prepared in  
 3166 accordance with generally accepted insurance accounting  
 3167 principles and practices and in a form generally utilized by  
 3168 insurers for financial statements, sworn to by at least two  
 3169 executive officers of the insurer or, if a reciprocal insurer,  
 3170 by the oath of the attorney in fact or its like officer if a  
 3171 corporation. To facilitate uniformity in financial statements  
 3172 and to facilitate department analysis, the department may by  
 3173 rule adopt the form for financial statements approved by the  
 3174 National Association of Insurance Commissioners in 2002, and may  
 3175 adopt subsequent amendments thereto if the methodology remains  
 3176 substantially consistent, and may by rule require each insurer  
 3177 to submit to the department or such organization as the  
 3178 department may designate all or part of the information  
 3179 contained in the financial statement in a computer-readable form  
 3180 compatible with the electronic data processing system specified  
 3181 by the department.

3182 (b) The department may by rule require reports or filings  
 3183 required under this chapter to be submitted by electronic means  
 3184 in a computer-readable form compatible with the electronic data  
 3185 processing equipment specified by the department.

3186 (2) The statement of an alien insurer shall be verified by  
 3187 the insurer's United States manager or other officer duly  
 3188 authorized. It shall be a separate statement, to be known as its  
 3189 general statement, of its transactions, assets, and affairs  
 3190 within the United States unless the department requires  
 3191 otherwise. If the department requires a statement as to the  
 3192 insurer's affairs elsewhere, the insurer shall file such

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3193 statement with the department as soon as reasonably possible.

3194 (3) At the time of filing, the insurer shall pay the fee  
 3195 for filing its annual statement in the amount specified in s.  
 3196 637.2031.

3197 (4) The department may refuse to continue, or may suspend  
 3198 or revoke, the certificate of authority of an insurer failing to  
 3199 file its annual or quarterly statements and accompanying  
 3200 certificates when due.

3201 (5) In addition to information called for and furnished in  
 3202 connection with its annual or quarterly statements, an insurer  
 3203 shall furnish to the department as soon as reasonably possible  
 3204 such information as to its transactions or affairs as the  
 3205 department may from time to time request in writing. All such  
 3206 information furnished pursuant to the department's request shall  
 3207 be verified by the oath of two executive officers of the insurer  
 3208 or, if a reciprocal insurer, by the oath of the attorney in fact  
 3209 or its like officers if a corporation.

3210 (6) The signatures of all such persons when written on  
 3211 annual or quarterly statements or other reports required by this  
 3212 section shall be presumed to have been so written by authority  
 3213 of the person whose signature is affixed thereon. The affixing  
 3214 of any signature by anyone other than the purported signer  
 3215 constitutes a felony of the second degree, punishable as  
 3216 provided in s. 775.082, s. 775.083, or s. 775.084.

3217 (7) (a) All authorized insurers must have conducted an  
 3218 annual audit by an independent certified public accountant and  
 3219 must file an audited financial report with the department on or  
 3220 before June 1 for the preceding year ending December 31. The

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3221 department may require an insurer to file an audited financial  
 3222 report earlier than June 1 upon 90 days' advance notice to the  
 3223 insurer. The department may immediately suspend an insurer's  
 3224 certificate of authority by order if an insurer's failure to  
 3225 file required reports, financial statements, or information  
 3226 required by this subsection or rule adopted pursuant thereto  
 3227 creates a significant uncertainty as to the insurer's continuing  
 3228 eligibility for a certificate of authority.

3229 (b) Any authorized insurer otherwise subject to this  
 3230 section having direct premiums written in this state of less  
 3231 than \$1 million in any calendar year and fewer than 1,000  
 3232 policyholders or certificateholders of directly written policies  
 3233 nationwide at the end of such calendar year is exempt from this  
 3234 section for such year unless the department makes a specific  
 3235 finding that compliance is necessary in order for the department  
 3236 to carry out its statutory responsibilities. However, any  
 3237 insurer having assumed premiums pursuant to contracts or  
 3238 treaties or reinsurance of \$1 million or more is not exempt. Any  
 3239 insurer subject to an exemption must submit by March 1 following  
 3240 the year to which the exemption applies an affidavit sworn to by  
 3241 a responsible officer of the insurer specifying the amount of  
 3242 direct premiums written in this state and number of  
 3243 policyholders or certificateholders.

3244 (c) The board of directors of an insurer shall hire the  
 3245 certified public accountant that prepares the audit required by  
 3246 this subsection and the board shall establish an audit committee  
 3247 of three or more directors of the insurer or an affiliated  
 3248 company. The audit committee shall be responsible for discussing

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3249 audit findings and interacting with the certified public  
 3250 accountant with regard to her or his findings. The audit  
 3251 committee shall be comprised solely of members who are free from  
 3252 any relationship that, in the opinion of its board of directors,  
 3253 would interfere with the exercise of independent judgment as a  
 3254 committee member. The audit committee shall report to the board  
 3255 any findings of adverse financial conditions or significant  
 3256 deficiencies in internal controls that have been noted by the  
 3257 accountant. The insurer may request the department to waive this  
 3258 requirement of the audit committee membership based upon unusual  
 3259 hardship to the insurer.

3260 (d) An insurer may not use the same accountant or partner  
 3261 of an accounting firm responsible for preparing the report  
 3262 required by this subsection for more than 7 consecutive years.  
 3263 Following this period, the insurer may not use such accountant  
 3264 or partner for a period of 2 years, but may use another  
 3265 accountant or partner of the same firm. An insurer may request  
 3266 the department to waive this prohibition based upon an unusual  
 3267 hardship to the insurer and a determination that the accountant  
 3268 is exercising independent judgment that is not unduly influenced  
 3269 by the insurer considering such factors as the number of  
 3270 partners, expertise of the partners or the number of insurance  
 3271 clients of the accounting firm; the premium volume of the  
 3272 insurer; and the number of jurisdictions in which the insurer  
 3273 transacts business.

3274 (e) The department shall adopt rules to implement this  
 3275 subsection, which rules must be in substantial conformity with  
 3276 the 1998 Model Rule Requiring Annual Audited Financial Reports

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3277 adopted by the National Association of Insurance Commissioners,  
 3278 except where inconsistent with the requirements of this  
 3279 subsection. Any exception to, waiver of, or interpretation of  
 3280 accounting requirements of the department must be in writing and  
 3281 signed by an authorized representative of the department. No  
 3282 insurer may raise as a defense in any action, any exception to,  
 3283 waiver of, or interpretation of accounting requirements, unless  
 3284 previously issued in writing by an authorized representative of  
 3285 the department.

3286 637.2025 NAIC filing requirements.—

3287 (1) Each domestic, foreign, and alien title insurer who is  
 3288 authorized to transact title insurance in this state shall file  
 3289 one extra copy of its annual statement convention blank, along  
 3290 with such additional filings as prescribed by the department for  
 3291 the preceding year. Such extra copy shall be for the explicit  
 3292 purpose of allowing the department to forward it to the National  
 3293 Association of Insurance Commissioners.

3294 (2) Coincident with the filing of the documents required  
 3295 in subsection (1), each insurer shall pay to the department a  
 3296 reasonable fee to cover the costs associated with the filing and  
 3297 analysis of the documents by the National Association of  
 3298 Insurance Commissioners and the department.

3299 (3) The provisions of this section shall not apply to any  
 3300 foreign, domestic, or alien insurer which has filed such  
 3301 documents directly with the National Association of Insurance  
 3302 Commissioners if the National Association of Insurance  
 3303 Commissioners has certified receipt of the required documents to  
 3304 the department.

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3305           637.2026 Change in controlling interest of foreign or  
 3306 alien title insurer; report required.—In the event of a change  
 3307 in the controlling capital stock or a change of 50 percent or  
 3308 more of the assets of a foreign or alien title insurer, such  
 3309 insurer shall report such change in writing to the department  
 3310 within 30 days of the effective date thereof. The report shall  
 3311 contain the name and address of the new owner or owners of the  
 3312 controlling stock or assets, the nature and value of the new  
 3313 assets, and such other relevant information as the department  
 3314 may reasonably require. For the purposes of this section, the  
 3315 term "controlling capital stock" means a sufficient number of  
 3316 shares of the issued and outstanding capital stock of such  
 3317 insurer or person so as to give the owner thereof power to  
 3318 exercise a controlling influence over the management or policies  
 3319 of such insurer or person.

3320           637.2027 Withdrawal of title insurer or discontinuance of  
 3321 writing insurance.—

3322           (1) Any title insurer desiring to surrender its  
 3323 certificate of authority, withdraw from this state, or  
 3324 discontinue the writing of title insurance in this state shall  
 3325 give 90 days' notice in writing to the department setting forth  
 3326 its reasons for such action. Any insurer who does not write any  
 3327 premiums within a calendar year shall have title insurance  
 3328 removed from its certificate of authority; however, such line of  
 3329 insurance shall be restored to the insurer's certificate upon  
 3330 the insurer demonstrating that it has available the expertise  
 3331 necessary and meets the other requirements of this chapter to  
 3332 write that line of insurance.

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3333 (2) If the department determines, based upon its review of  
 3334 the notice and other required information, that the plan of an  
 3335 insurer withdrawing from this state makes adequate provision for  
 3336 the satisfaction of the insurer's obligations and is not  
 3337 hazardous to policyholders or the public, the department shall  
 3338 approve the surrender of the insurer's certificate of authority.  
 3339 The department shall, within 45 days from receipt of a complete  
 3340 notice and all required or requested additional information,  
 3341 approve, disapprove, or approve with conditions the plan  
 3342 submitted by the insurer. Failure to timely take action with  
 3343 respect to the notice shall be deemed an approval of the  
 3344 surrender of the certificate of authority.

3345 (3) Any insurer withdrawing from this state or  
 3346 discontinuing the writing of insurance in this state shall  
 3347 surrender its certificate of authority.

3348 (4) This section does not apply to insurers during the  
 3349 calendar year in which they first receive their certificate of  
 3350 authority.

3351 (5) This section does not apply to insurers who have  
 3352 discontinued writing in accordance with an order issued by the  
 3353 department.

3354 (6) Notwithstanding subsection (5), any insurer desiring  
 3355 to surrender its certificate of authority, withdraw from this  
 3356 state, or discontinue the writing of insurance in this state is  
 3357 expected to have availed itself of all reasonably available  
 3358 reinsurance. Reasonably available reinsurance shall include  
 3359 unrealized reinsurance, which is defined as reinsurance  
 3360 recoverable on known losses incurred and due under valid

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3361 reinsurance contracts that have not been identified in the  
 3362 normal course of business and have not been reported in  
 3363 financial statements filed with the department. Within 90 days  
 3364 after surrendering its certificate of authority, withdrawing  
 3365 from this state, or discontinuing the writing of any one or  
 3366 multiple kinds or lines of insurance in this state, the insurer  
 3367 shall certify to the department that the insurer has engaged an  
 3368 independent third party to search for unrealized reinsurance,  
 3369 and that the insurer has made all relevant books and records  
 3370 available to such third party. The compensation to such third  
 3371 party may be a percentage of unrealized reinsurance identified  
 3372 and collected.

3373 (7) The department may adopt rules to administer this  
 3374 section.

3375 637.2028 Assets of title insurers; reporting  
 3376 requirements.-

3377 (1) As used in this section, the term "material  
 3378 acquisition of assets" or "material disposition of assets" means  
 3379 one or more transactions occurring during any 30-day period  
 3380 which are nonrecurring and not in the ordinary course of  
 3381 business and involve more than 5 percent of the reporting title  
 3382 insurer's total admitted assets as reported in its most recent  
 3383 statutory statement filed with the insurance department of the  
 3384 insurer's state of domicile.

3385 (2) Each domestic title insurer shall file a report with  
 3386 the department disclosing a material acquisition of assets, a  
 3387 material disposition of assets, or a material nonrenewal,  
 3388 cancellation, or revision of a ceded reinsurance agreement,

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3389 unless the material acquisition or disposition of assets or the  
 3390 material nonrenewal, cancellation, or revision of a ceded  
 3391 reinsurance agreement has been submitted to the department for  
 3392 review, approval, or informational purposes under another  
 3393 section of this chapter or a rule adopted thereunder. A copy of  
 3394 the report and each exhibit or other attachment must be filed by  
 3395 the insurer with the National Association of Insurance  
 3396 Commissioners. The report required in this section is due within  
 3397 15 days after the end of the calendar month in which the  
 3398 transaction occurs.

3399 (3) An immaterial acquisition or disposition of assets  
 3400 need not be reported under this section.

3401 (4) (a) Acquisitions of assets which are subject to this  
 3402 section include each purchase, lease, exchange, merger,  
 3403 consolidation, succession, or other acquisition of assets. Asset  
 3404 acquisitions for the construction or development of real  
 3405 property by or for the reporting insurer and the acquisition of  
 3406 construction materials for this purpose are not subject to this  
 3407 section.

3408 (b) Dispositions of assets which are subject to this  
 3409 section include each sale, lease, exchange, merger,  
 3410 consolidation, mortgage, hypothecation, assignment for the  
 3411 benefit of a creditor or otherwise, abandonment, destruction, or  
 3412 other disposition of assets.

3413 (5) (a) The following information must be disclosed in any  
 3414 report of a material acquisition or disposition of assets:

- 3415 1. The date of the transaction.
- 3416 2. The manner of acquisition or disposition.

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3417        3. The description of the assets involved.  
 3418        4. The nature and amount of the consideration given or  
 3419 received.  
 3420        5. The purpose of, or reason for, the transaction.  
 3421        6. The manner by which the amount of consideration was  
 3422 determined.  
 3423        7. The gain or loss recognized or realized as a result of  
 3424 the transaction.  
 3425        8. The name of the person from whom the assets were  
 3426 acquired or to whom they were disposed.  
 3427        (b) Insurers must report material acquisitions or  
 3428 dispositions on a nonconsolidated basis unless the insurer is  
 3429 part of a consolidated group of insurers which uses a pooling  
 3430 arrangement or a 100-percent reinsurance agreement that affects  
 3431 the solvency and integrity of the insurer's reserves and the  
 3432 insurer has ceded substantially all of its direct and assumed  
 3433 business to the pool. An insurer is deemed to have ceded  
 3434 substantially all of its direct and assumed business to a pool  
 3435 if the insurer has less than \$1 million in total direct and  
 3436 assumed written premiums during a calendar year which are not  
 3437 subject to a pooling arrangement and if the net income of the  
 3438 business which is not subject to the pooling arrangement  
 3439 represents less than 5 percent of the insurer's capital and  
 3440 surplus.  
 3441        (6) (a) The following information must be disclosed in any  
 3442 report of a material nonrenewal, cancellation, or revision of a  
 3443 ceded reinsurance agreement:  
 3444        1. The effective date of the nonrenewal, cancellation, or

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3445 revision.  
 3446 2. The description of the transaction and the  
 3447 identification of the initiator of the transaction.  
 3448 3. The purpose of, or reason for, the transaction.  
 3449 4. If applicable, the identity of each replacement  
 3450 reinsurer.  
 3451 (b) Insurers shall report the material nonrenewal,  
 3452 cancellation, or revision of a ceded reinsurance agreement on a  
 3453 nonconsolidated basis unless the insurer is part of a  
 3454 consolidated group of insurers which uses a pooling arrangement  
 3455 or a 100-percent reinsurance agreement that affects the solvency  
 3456 and integrity of the insurer's reserves and the insurer has  
 3457 ceded substantially all of its direct and assumed business to  
 3458 the pool. An insurer is deemed to have ceded substantially all  
 3459 of its direct and assumed business to a pool if the insurer has  
 3460 less than \$1 million in total direct and assumed written  
 3461 premiums during a calendar year which are not subject to a  
 3462 pooling arrangement and if the net income of the business not  
 3463 subject to the pooling arrangement represents less than 5  
 3464 percent of the insurer's capital and surplus.  
 3465 637.2029 Participation of financial institutions in  
 3466 reinsurance and in insurance exchanges.—Subject to applicable  
 3467 laws relating to financial institutions and to any other  
 3468 applicable provision of this chapter, any financial institution  
 3469 or aggregation of such institutions may own or control, directly  
 3470 or indirectly, any title insurer which is authorized or approved  
 3471 by the department, which insurer transacts only reinsurance in  
 3472 this state and which actively engages in reinsuring risks

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3473 located in this state. Nothing in this section shall be deemed  
 3474 to prohibit a financial institution from engaging in any  
 3475 presently authorized insurance activity.

3476 637.2031 Filing, license, appointment, and miscellaneous  
 3477 fees.—The department shall collect in advance, and persons so  
 3478 served shall pay to it in advance, fees, licenses, and  
 3479 miscellaneous charges as follows:

3480 (1) Certificate of authority of title insurer.

3481 (a) Filing application for original certificate of  
 3482 authority or modification thereof as a result of a merger,  
 3483 acquisition, or change of controlling interest due to a sale or  
 3484 exchange of stock, including all documents required to be filed  
 3485 therewith, filing fee....\$1,500.00

3486 (b) Reinstatement fee....\$50.00

3487 (2) Charter documents of insurer.

3488 (a) Filing articles of incorporation or other charter  
 3489 documents, other than at time of application for original  
 3490 certificate of authority, filing fee....\$10.00

3491 (b) Filing amendment to articles of incorporation or  
 3492 charter, other than at time of application for original  
 3493 certificate of authority, filing fee....\$5.00

3494 (c) Filing bylaws, when required, or amendments thereof,  
 3495 filing fee....\$5.00

3496 (3) Annual license tax of insurer, each domestic insurer,  
 3497 foreign insurer, and alien insurer (except that, as to fraternal  
 3498 benefit societies insuring less than 200 members in this state  
 3499 and the members of which as a prerequisite to membership possess  
 3500 a physical handicap or disability, such license tax shall be

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3501 \$25)....\$1,000.00  
 3502 (4) Statements of insurer, filing (except when filed as  
 3503 part of application for original certificate of authority),  
 3504 filing fees:  
 3505 (a) Annual statement....\$250.00  
 3506 (b) Quarterly statement....\$250.00  
 3507 (5) All insurance representatives, application for  
 3508 license, each filing, filing fee....\$50.00  
 3509 (6) Examination—Fee to cover actual cost of examination.  
 3510 (7) Temporary license and appointment as agent where  
 3511 expressly provided for, rate of fee for each month of the period  
 3512 for which the license and appointment is issued....\$5.00  
 3513 (8) Issuance, reissuance, reinstatement, modification  
 3514 resulting in a modified license being issued, duplicate copy of  
 3515 any insurance representative license, or an appointment being  
 3516 reinstated....\$5.00  
 3517 (9) Additional appointment continuation fees as prescribed  
 3518 in chapter 626....\$5.00  
 3519 (10) Filing application for permit to form insurer as  
 3520 referred to in chapter 628, filing fee....\$25.00  
 3521 (11) Annual license fee of rating organization, each  
 3522 domestic or foreign organization....\$25.00  
 3523 (12) Miscellaneous services:  
 3524 (a) For copies of documents or records on file with the  
 3525 department,—per page....\$ .50  
 3526 (b) For each certificate of the department, under its  
 3527 seal, authenticating any document or other instrument (other  
 3528 than a license or certificate of authority)....\$5.00

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3529 (c) For preparing lists of agents and other insurance  
 3530 representatives, and for other miscellaneous services, such  
 3531 reasonable charge as may be fixed by the department.

3532 (d) For processing requests for approval of continuing  
 3533 education courses, processing fee....\$100.00

3534 (13) Fingerprint processing—Fee to cover fingerprint  
 3535 processing.

3536 (14) Title insurance agents:

3537 (a) Agent's original appointment or biennial renewal or  
 3538 continuation thereof, each insurer:

3539 Appointment fee....\$42.00

3540 State tax....12.00

3541 County tax....6.00

3542 Total....\$60.00

3543 (b) Agency original appointment or biennial renewal or  
 3544 continuation thereof, each insurer:

3545 Appointment fee....\$42.00

3546 State tax....12.00

3547 County tax....6.00

3548 Total....\$60.00

3549 (c) Filing for title insurance agent's license:

3550 Application for filing, each filing, filing fee....\$10.00

3551 (d) Additional appointment continuation fee as prescribed  
 3552 by s. 637.3015....\$5.00

3553 (e) Title insurer and title insurance agency  
 3554 administrative surcharge:

3555 1. On or before January 30 of each calendar year, each  
 3556 title insurer shall pay to the department for each licensed

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3557 title insurance agency appointed by the title insurer and for  
 3558 each retail office of the insurer on January 1 of that calendar  
 3559 year an administrative surcharge of \$200.00.

3560 2. On or before January 30 of each calendar year, each  
 3561 licensed title insurance agency shall remit to the department an  
 3562 administrative surcharge of \$200.00.

3563  
 3564 The administrative surcharge may be used solely to defray the  
 3565 costs to the department in their examination or audit of title  
 3566 insurance agencies and retail offices of title insurers and to  
 3567 gather title insurance data for statistical purposes to be  
 3568 furnished to and used by the department in its regulation of  
 3569 title insurance.

3570 (15) Late filing of appointment renewals for agents,  
 3571 adjusters, and other insurance representatives, each  
 3572 appointment....\$20.00

3573 637.2032 Advance collection of fees and taxes; title  
 3574 insurers not to pay without reimbursement.-

3575 (1) The department shall collect in advance from the  
 3576 applicant or licensee fees and taxes as provided in s. 637.2031.

3577 (2) A title insurer shall not pay directly or indirectly  
 3578 without reimbursement from a title insurance agent any  
 3579 appointment fee required under this section. The failure of a  
 3580 title insurance agent to make reimbursement is not a ground for  
 3581 cancellation of the title insurance agent's appointment by the  
 3582 title insurer.

3583 637.2033 Service of process fee.-In all instances as  
 3584 provided in any section of this chapter and s. 48.151(3) in

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3585 which service of process is authorized to be made upon the Chief  
 3586 Financial Officer , the plaintiff shall pay to the department a  
 3587 fee of \$15 for such service of process, which fee shall be  
 3588 deposited into the Title Insurance Regulatory Trust Fund.

3589 637.2034 Liability for state, county tax.—Each authorized  
 3590 title insurer that uses insurance agents in this state shall be  
 3591 liable for and shall pay the state and county taxes required  
 3592 therefor under s. 637.2031 or s. 637.2035.

3593 637.2035 County tax; determination; additional offices;  
 3594 nonresident agents.—

3595 (1) The county tax provided for under s. 637.2031 as to an  
 3596 agent shall be paid by each title insurer for each agent only  
 3597 for the county where the agent resides, or if such agent's place  
 3598 of business is located in a county other than that of her or his  
 3599 residence, then for the county wherein is located such place of  
 3600 business. If an agent maintains an office or place of business  
 3601 in more than one county, the tax shall be paid for her or him by  
 3602 each such insurer for each county wherein the agent represents  
 3603 such insurer and has a place of business. When under this  
 3604 subsection an insurer is required to pay county tax for an agent  
 3605 for a county or counties other than the agent's county of  
 3606 residence, the insurer shall designate the county or counties  
 3607 for which the taxes are paid.

3608 (2) A county tax of \$3 per year shall be paid by each  
 3609 insurer for each county in this state in which an agent who  
 3610 resides outside of this state represents and engages in person  
 3611 in the activities of an agent for the insurer. This provision  
 3612 shall not be deemed to authorize any activities by an agent

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3613 which are otherwise prohibited under this chapter.  
 3614 637.2036 County tax; deposit and remittance.—  
 3615 (1) The department shall deposit in the Agents County Tax  
 3616 Trust Fund all moneys accepted as county tax under this chapter.  
 3617 She or he shall keep a separate account for all moneys so  
 3618 collected for each county and, after deducting therefrom the  
 3619 service charges provided for in s. 215.20, shall remit the  
 3620 balance to the counties.  
 3621 (2) The payment and collection of county tax under this  
 3622 chapter shall be in lieu of collection thereof by the respective  
 3623 county tax collectors.  
 3624 (3) The Chief Financial Officer shall annually, as of  
 3625 January 1 following the date of collection, and thereafter at  
 3626 such other times as she or he may elect, draw her or his  
 3627 warrants on the State Treasury payable to the respective  
 3628 counties entitled to receive the same for the full net amount of  
 3629 such taxes to each county.  
 3630 637.2037 Municipal tax.—Municipal corporations may require  
 3631 a tax of title insurance agents not to exceed 50 percent of the  
 3632 state tax specified as to such agents under this chapter, and  
 3633 unless otherwise authorized by law. Such a tax may be required  
 3634 only by a municipal corporation within the boundaries of which  
 3635 is located the agent's business office, or if no such office is  
 3636 required under this chapter, by the municipal corporation of the  
 3637 agent's place of residence.  
 3638 637.2038 Insurer's license tax; when payable.—  
 3639 (1) The title insurer's license tax provided for in s.  
 3640 637.2031(3) shall be paid by an insurer newly applying for a

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3641 certificate of authority to transact insurance in this state  
 3642 prior to and contingent upon the issuance of its original  
 3643 certificate of authority. If the certificate of authority is not  
 3644 issued, the license tax payment shall be refunded to the  
 3645 insurer. The license tax so paid by a newly authorized insurer  
 3646 shall cover the period expiring on the June 1 following the date  
 3647 of its original certificate of authority.

3648 (2) Each authorized title insurer shall pay the license  
 3649 tax annually on or before June 1.

3650 637.2039 Premium tax; rate and computation.—

3651 (1) In addition to the license taxes provided for in this  
 3652 chapter, each title insurer shall also annually, and on or  
 3653 before March 1 in each year, pay to the Department of Revenue a  
 3654 tax on premiums for title insurance received during the  
 3655 preceding calendar year an amount equal to 1.75 percent of the  
 3656 gross amount of such receipts on account of all policies and  
 3657 covering property, subjects, or risks located, resident, or to  
 3658 be performed in this state, omitting premiums on reinsurance  
 3659 accepted, and less return premiums or assessments, but without  
 3660 deductions:

3661 (a) For reinsurance ceded to other insurers;

3662 (b) For moneys paid upon surrender of policies or  
 3663 certificates for cash surrender value.

3664 (2) Payment by the insurer of the license taxes and  
 3665 premium receipts taxes provided for in this chapter is a  
 3666 condition precedent to doing business within this state.

3667 (3) Notwithstanding other provisions of law, the  
 3668 distribution of the premium tax and any penalties or interest

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3669 collected thereunder shall be made to the General Revenue Fund  
 3670 in accordance with rules adopted by the Department of Revenue  
 3671 and approved by the Administration Commission.

3672 (4) The income tax imposed under chapter 220 and the  
 3673 emergency excise tax imposed under chapter 221 which are paid by  
 3674 any insurer shall be credited against, and to the extent thereof  
 3675 shall discharge, the liability for tax imposed by this section  
 3676 for the annual period in which such tax payments are made. For  
 3677 purposes of this subsection, payments of estimated income tax  
 3678 under chapter 220 and of estimated emergency excise tax under  
 3679 chapter 221 shall be deemed paid at the time the insurer  
 3680 actually files its annual returns under chapter 220 or at the  
 3681 time such returns are required to be filed, whichever first  
 3682 occurs, and not at such earlier time as such payments of  
 3683 estimated tax are actually made.

3684 (5) (a) 1. There shall be allowed a credit against the net  
 3685 tax imposed by this section equal to 15 percent of the amount  
 3686 paid by an insurer in salaries to employees located or based  
 3687 within this state and who are covered by the provisions of  
 3688 chapter 443.

3689 2. As an alternative to the credit allowed in subparagraph  
 3690 1., an affiliated group of corporations which includes at least  
 3691 one insurance company writing premiums in this state may elect  
 3692 to take a credit against the net tax imposed by this section in  
 3693 an amount that may not exceed 15 percent of the salary of the  
 3694 employees of the affiliated group of corporations who perform  
 3695 insurance-related activities, are located or based within this  
 3696 state, and are covered by chapter 443. For purposes of this

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3697 subparagraph, the term "affiliated group of corporations" means  
 3698 two or more corporations that are entirely owned directly or  
 3699 indirectly by a single corporation and that constitute an  
 3700 affiliated group as defined in s. 1504(a) of the Internal  
 3701 Revenue Code. The amount of credit allowed under this  
 3702 subparagraph is limited to the combined Florida salary tax  
 3703 credits allowed for all insurance companies that were members of  
 3704 the affiliated group of corporations for the tax year ending  
 3705 December 31, 2002, divided by the combined Florida taxable  
 3706 premiums written by all insurance companies that were members of  
 3707 the affiliated group of corporations for the tax year ending  
 3708 December 31, 2002, multiplied by the combined Florida taxable  
 3709 premiums of the affiliated group of corporations for the current  
 3710 year. An affiliated group of corporations electing this  
 3711 alternative calculation method must make such election on or  
 3712 before August 1, 2005. The election of this alternative  
 3713 calculation method is irrevocable and binding upon successors  
 3714 and assigns of the affiliated group of corporations electing  
 3715 this alternative. However, if a member of an affiliated group of  
 3716 corporations acquires or merges with another insurance company  
 3717 after the date of the irrevocable election, the acquired or  
 3718 merged company is not entitled to the affiliated group election  
 3719 and shall only be entitled to calculate the tax credit under  
 3720 subparagraph 1.

3721  
 3722 In no event shall the salary paid to an employee by an  
 3723 affiliated group of corporations be claimed as a credit by more  
 3724 than one insurer or be counted more than once in an insurer's

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3725 calculation of the credit as described in subparagraph 1. or  
 3726 subparagraph 2. Only the portion of an employee's salary paid  
 3727 for the performance of insurance-related activities may be  
 3728 included in the calculation of the premium tax credit in this  
 3729 subsection.

3730 (b) For purposes of this subsection:

3731 1. The term "salaries" does not include amounts paid as  
 3732 commissions.

3733 2. The term "employees" does not include independent  
 3734 contractors or any person whose duties require that the person  
 3735 hold a valid license under the Florida Insurance Code, except  
 3736 adjusters, managing general agents, and service representatives,  
 3737 as defined in s. 626.015.

3738 3. The term "net tax" means the tax imposed by this  
 3739 section after applying the calculations and credits set forth in  
 3740 subsection (4).

3741 4. An affiliated group of corporations that created a  
 3742 service company within its affiliated group on July 30, 2002,  
 3743 shall allocate the salary of each service company employee  
 3744 covered by contracts with affiliated group members to the  
 3745 companies for which the employees perform services. The salary  
 3746 allocation is based on the amount of time during the tax year  
 3747 that the individual employee spends performing services or  
 3748 otherwise working for each company over the total amount of time  
 3749 the employee spends performing services or otherwise working for  
 3750 all companies. The total amount of salary allocated to an  
 3751 insurance company within the affiliated group shall be included  
 3752 as that insurer's employee salaries for purposes of this

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3753 section.  
 3754 a. Except as provided in subparagraph (a)2., the term  
 3755 "affiliated group of corporations" means two or more  
 3756 corporations that are entirely owned by a single corporation and  
 3757 that constitute an affiliated group of corporations as defined  
 3758 in s. 1504(a) of the Internal Revenue Code.  
 3759 b. The term "service company" means a separate corporation  
 3760 within the affiliated group of corporations whose employees  
 3761 provide services to affiliated group members and which are  
 3762 treated as service company employees for unemployment  
 3763 compensation and common law purposes. The holding company of an  
 3764 affiliated group may not qualify as a service company. An  
 3765 insurance company may not qualify as a service company.  
 3766 c. If an insurance company fails to substantiate, whether  
 3767 by means of adequate records or otherwise, its eligibility to  
 3768 claim the service company exception under this section, or its  
 3769 salary allocation under this section, no credit shall be  
 3770 allowed.  
 3771 5. A service company that is a subsidiary of a mutual  
 3772 insurance holding company, which mutual insurance holding  
 3773 company was in existence on or before January 1, 2000, shall  
 3774 allocate the salary of each service company employee covered by  
 3775 contracts with members of the mutual insurance holding company  
 3776 system to the companies for which the employees perform  
 3777 services. The salary allocation is based on the ratio of the  
 3778 amount of time during the tax year which the individual employee  
 3779 spends performing services or otherwise working for each company  
 3780 to the total amount of time the employee spends performing

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3781 services or otherwise working for all companies. The total  
 3782 amount of salary allocated to an insurance company within the  
 3783 mutual insurance holding company system shall be included as  
 3784 that insurer's employee salaries for purposes of this section.  
 3785 However, this subparagraph does not apply for any tax year  
 3786 unless funds sufficient to offset the anticipated salary credits  
 3787 have been appropriated to the General Revenue Fund prior to the  
 3788 due date of the final return for that year.

3789 a. The term "mutual insurance holding company system"  
 3790 means two or more corporations that are subsidiaries of a mutual  
 3791 insurance holding company and in compliance with part IV of  
 3792 chapter 628.

3793 b. The term "service company" means a separate corporation  
 3794 within the mutual insurance holding company system whose  
 3795 employees provide services to other members of the mutual  
 3796 insurance holding company system and are treated as service  
 3797 company employees for unemployment compensation and common-law  
 3798 purposes. The mutual insurance holding company may not qualify  
 3799 as a service company.

3800 c. If an insurance company fails to substantiate, whether  
 3801 by means of adequate records or otherwise, its eligibility to  
 3802 claim the service company exception under this section, or its  
 3803 salary allocation under this section, no credit shall be  
 3804 allowed.

3805 (c) The department may adopt rules pursuant to ss.  
 3806 120.536(1) and 120.54 to administer this subsection.

3807 (6) (a) The total of the credit granted for the taxes paid  
 3808 by the insurer under chapters 220 and 221 and the credit granted

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3809 by subsection (5) shall not exceed 65 percent of the tax due  
 3810 under subsection (1) after deducting therefrom the taxes paid by  
 3811 the insurer under ss. 175.101 and 185.08 and any assessments  
 3812 pursuant to s. 440.51.

3813 (b) To the extent that any credits granted by subsection  
 3814 (5) remain as a result of the limitation set forth in paragraph  
 3815 (a), such excess credits related to salaries and wages of  
 3816 employees whose place of employment is located within an  
 3817 enterprise zone created pursuant to chapter 290 may be  
 3818 transferred, in an aggregate amount not to exceed 25 percent of  
 3819 such excess salary credits, to any insurer that is a member of  
 3820 an affiliated group of corporations, as defined in sub-  
 3821 paragraph (5)(b)4.a., that includes the original insurer  
 3822 qualifying for the credits under subsection (5). The amount of  
 3823 such excess credits to be transferred shall be calculated by  
 3824 multiplying the amount of such excess credits by a fraction, the  
 3825 numerator of which is the sum of the salaries qualifying for the  
 3826 credit allowed by subsection (5) of employees whose place of  
 3827 employment is located in an enterprise zone and the denominator  
 3828 of which is the sum of the salaries qualifying for the credit  
 3829 allowed by subsection (5). Any such transferred credits shall be  
 3830 subject to the same provisions and limitations set forth within  
 3831 this chapter. The provisions of this paragraph do not apply to  
 3832 an affiliated group of corporations that participate in a common  
 3833 paymaster arrangement as defined in s. 443.1216.

3834 (7) Credits and deductions against the tax imposed by this  
 3835 section shall be taken in the following order: deductions for  
 3836 assessments made pursuant to s. 440.51; credits for taxes paid

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3837 under ss. 175.101 and 185.08; credits for income taxes paid  
 3838 under chapter 220, the emergency excise tax paid under chapter  
 3839 221 and the credit allowed under subsection (5), as these  
 3840 credits are limited by subsection (6); all other available  
 3841 credits and deductions.

3842 (8) As used in this section "insurer" includes any entity  
 3843 subject to the tax imposed by this section.

3844 637.2041 Retaliatory provision, insurers.-

3845 (1) (a) When by or pursuant to the laws of any other state  
 3846 or foreign country any taxes, licenses, and other fees, in the  
 3847 aggregate, and any fines, penalties, deposit requirements, or  
 3848 other material obligations, prohibitions, or restrictions are or  
 3849 would be imposed upon title insurers in this state or upon the  
 3850 agents or representatives of such insurers, which are in excess  
 3851 of such taxes, licenses, and other fees, in the aggregate, or  
 3852 which are in excess of the fines, penalties, deposit  
 3853 requirements, or other obligations, prohibitions, or  
 3854 restrictions directly imposed upon similar insurers, or upon the  
 3855 agents or representatives of such insurers, of such other state  
 3856 or country under the statutes of this state, so long as such  
 3857 laws of such other state or country continue in force or are so  
 3858 applied, the same taxes, licenses, and other fees, in the  
 3859 aggregate, or fines, penalties, deposit requirements, or other  
 3860 material obligations, prohibitions, or restrictions of whatever  
 3861 kind shall be imposed by the Department of Revenue upon the  
 3862 insurers, or upon the agents or representatives of such  
 3863 insurers, of such other state or country doing business or  
 3864 seeking to do business in this state. In determining the taxes

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3865 to be imposed under this section, 80 percent and a portion of  
 3866 the remaining 20 percent as provided in paragraph (b) of the  
 3867 credit provided by s. 637.2039(5), as limited by s. 637.2039(6)  
 3868 and further determined by s. 637.2039(7), shall not be taken  
 3869 into consideration.

3870 (b) As used in this subsection, the term "portion of the  
 3871 remaining 20 percent" shall be calculated by multiplying the  
 3872 remaining 20 percent by a fraction, the numerator of which is  
 3873 the sum of the salaries qualifying for the credit allowed by s.  
 3874 637.2039(5) of employees whose place of employment is located in  
 3875 an enterprise zone created pursuant to chapter 290 and the  
 3876 denominator of which is the sum of the salaries qualifying for  
 3877 the credit allowed by s. 637.2039(5).

3878 (2) Any tax, license, or other obligation imposed by any  
 3879 city, county, or other political subdivision or agency of a  
 3880 state, jurisdiction, or foreign country on Florida title  
 3881 insurers or their agents or representatives shall be deemed to  
 3882 be imposed by such state, jurisdiction, or foreign country  
 3883 within the meaning of subsection (1).

3884 (3) This section does not apply as to personal income  
 3885 taxes, nor as to sales or use taxes, nor as to ad valorem taxes  
 3886 on real or personal property, nor as to reimbursement premiums  
 3887 paid to the Florida Hurricane Catastrophe Fund, nor as to  
 3888 emergency assessments paid to the Florida Hurricane Catastrophe  
 3889 Fund, nor as to special purpose obligations or assessments  
 3890 imposed in connection with particular kinds of insurance other  
 3891 than property insurance, except that deductions, from premium  
 3892 taxes or other taxes otherwise payable, allowed on account of

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3893 real estate or personal property taxes paid shall be taken into  
 3894 consideration by the department in determining the propriety and  
 3895 extent of retaliatory action under this section.

3896 (4) For the purposes of this section, a "similar insurer"  
 3897 is an insurer with identical premiums, personnel, and property  
 3898 to that of the alien or foreign insurer's Florida premiums,  
 3899 personnel, and property. The similar insurer's premiums,  
 3900 personnel, and property shall be used to calculate any taxes,  
 3901 licenses, other fees, in the aggregate, or any fines, penalties,  
 3902 deposit requirements, or other material obligations,  
 3903 prohibitions, or restrictions that are or would be imposed under  
 3904 the laws of this state and under the law of the foreign or alien  
 3905 insurer's state of domicile.

3906 (5) The excess amount of all fees, licenses, and taxes  
 3907 collected by the Department of Revenue under this section over  
 3908 the amount of similar fees, licenses, and taxes provided for in  
 3909 this part, together with all fines, penalties, or other monetary  
 3910 obligations collected under this section exclusive of such fees,  
 3911 licenses, and taxes, shall be deposited by the Department of  
 3912 Revenue to the credit of the Title Insurance Regulatory Trust  
 3913 Fund; provided that such excess amount shall not exceed \$125,000  
 3914 for 1992, and for any subsequent year shall not exceed \$125,000  
 3915 adjusted annually by the lesser of 20 percent or the growth in  
 3916 the total of such excess amount. The remainder of such excess  
 3917 amount shall be deposited into the General Revenue Fund.

3918 637.2042 Administration of taxes; payments.—

3919 (1) The Department of Revenue shall administer, audit, and  
 3920 enforce the assessment and collection of those taxes to which

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3921 this section is applicable. The department and division may  
 3922 share information with the Department of Revenue as necessary to  
 3923 verify premium tax or other tax liability arising under such  
 3924 taxes and credits which may apply thereto.

3925 (2) (a) Installments of the taxes to which this section is  
 3926 applicable shall be due and payable on April 15, June 15, and  
 3927 October 15 in each year, based upon the estimated gross amount  
 3928 of receipts of insurance premiums or assessments received during  
 3929 the immediately preceding calendar quarter. A final payment of  
 3930 tax due for the year shall be made at the time the taxpayer  
 3931 files her or his return for such year. On or before March 1 in  
 3932 each year, an annual return shall be filed showing, by quarters,  
 3933 the gross amount of receipts taxable for the preceding year and  
 3934 the installment payments made during that year.

3935 (b) Any taxpayer who fails to report and timely pay any  
 3936 installment of tax, who estimates any installment of tax to be  
 3937 less than 90 percent of the amount finally shown to be due in  
 3938 any quarter, or who fails to report and timely pay any tax due  
 3939 with the final return is in violation of this section and is  
 3940 subject to a penalty of 10 percent on any underpayment of taxes  
 3941 or delinquent taxes due and payable for that quarter or on any  
 3942 delinquent taxes due and payable with the final return. Any  
 3943 taxpayer paying, for each installment required in this section,  
 3944 27 percent of the amount of the net tax due as reported on her  
 3945 or his return for the preceding year shall not be subject to the  
 3946 penalty provided by this section for underpayment of estimated  
 3947 taxes.

3948 (c) When any taxpayer fails to pay any amount due under

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3949 this section, or any portion thereof, on or before the day when  
 3950 such tax or installment of tax is required by law to be paid,  
 3951 there shall be added to the amount due interest at the rate of  
 3952 12 percent per year from the date due until paid.

3953 (d) All penalties and interest imposed on those taxes to  
 3954 which this section is applicable shall be payable to and  
 3955 collectible by the Department of Revenue in the same manner as  
 3956 if they were a part of the tax imposed.

3957 (e) The Department of Revenue may settle or compromise any  
 3958 such interest or penalties imposed on those taxes to which this  
 3959 section is applicable pursuant to s. 213.21.

3960 (3) This section is applicable to taxes imposed by ss.  
 3961 629.5100, 637.2039, and 637.2046.

3962 637.2043 Adjustments.—

3963 (1) If a taxpayer is required to amend its corporate  
 3964 income tax liability under chapter 220, or the taxpayer receives  
 3965 a refund of its workers' compensation administrative assessment  
 3966 paid under chapter 440, the taxpayer shall file an amended  
 3967 insurance premium tax return not later than 60 days after such  
 3968 an occurrence.

3969 (2) If an amended insurance premium tax return is required  
 3970 under subsection (1), notwithstanding any other provision of s.  
 3971 95.091(3):

3972 (a) A notice of deficiency may be issued at any time  
 3973 within 3 years after the date the amended insurance premium tax  
 3974 return is given; or

3975 (b) If a taxpayer fails to file an amended insurance  
 3976 premium tax return, a notice of deficiency may be issued at any

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3977 | time.  
 3978 |  
 3979 | The amount of any proposed assessment set forth in such a notice  
 3980 | of deficiency shall be limited to the amount of any deficiency  
 3981 | resulting under this chapter from recomputation of the  
 3982 | taxpayer's insurance premium tax and retaliatory tax for the  
 3983 | taxable year after giving effect only to the change in corporate  
 3984 | income tax paid and the change in the amount of the workers'  
 3985 | compensation administrative assessment paid. Interest in  
 3986 | accordance with s. 637.2042 is due on the amount of any  
 3987 | deficiency from the date fixed for filing the original insurance  
 3988 | premium tax return for the taxable year until the date of  
 3989 | payment of the deficiency.

3990 |       (3) If an amended insurance premium tax return is required  
 3991 | by subsection (1), a claim for refund may be filed within 2  
 3992 | years after the date on which the amended insurance premium tax  
 3993 | return was due, regardless of whether such notice was given,  
 3994 | notwithstanding any other provision of s. 215.26. However, the  
 3995 | amount recoverable pursuant to such a claim shall be limited to  
 3996 | the amount of any overpayment resulting under this chapter from  
 3997 | recomputation of the taxpayer's insurance premium tax and  
 3998 | retaliatory tax for the taxable year after giving effect only to  
 3999 | the change in corporate income tax paid and the change in the  
 4000 | amount of the workers' compensation administrative assessment  
 4001 | paid.

4002 |       637.2046 Tax statement; overpayments.-

4003 |       (1) Tax returns as to taxes mentioned in s. 637.2039 shall  
 4004 | be made by insurers on forms to be prescribed by the Department

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4005 of Revenue and shall be sworn to by one or more of the executive  
 4006 officers or attorney, if a reciprocal insurer, of the insurer  
 4007 making the returns.

4008 (2) Notwithstanding the provisions of s. 215.26(1), if any  
 4009 insurer makes an overpayment on account of taxes due under s.  
 4010 637.2039, a refund of the overpayment of taxes shall be made out  
 4011 of the General Revenue Fund. Overpayment of taxes due under s.  
 4012 637.2039 shall be refunded no sooner than the first day of the  
 4013 state fiscal year following the date the tax was due.

4014 (3) (a) If it appears, upon examination of an insurance  
 4015 premium tax return made under this chapter, that an amount of  
 4016 insurance premium tax has been paid in excess of the amount due,  
 4017 the Department of Revenue may refund the amount of the  
 4018 overpayment to the taxpayer by a warrant of the Chief Financial  
 4019 Officer. The Department of Revenue may refund the overpayment  
 4020 without regard to whether the taxpayer has filed a written claim  
 4021 for a refund; however, the Department of Revenue may request  
 4022 that the taxpayer file a statement affirming that the taxpayer  
 4023 made the overpayment.

4024 (b) Notwithstanding paragraph (a), a refund of the  
 4025 insurance premium tax may not be made, and a taxpayer is not  
 4026 entitled to bring an action for a refund of the insurance  
 4027 premium tax, after the period specified in s. 215.26(2) has  
 4028 elapsed.

4029 (c) If a refund issued by the Department of Revenue under  
 4030 this subsection is found to exceed the amount of refund legally  
 4031 due to the taxpayer, the provisions of s. 637.2042 concerning  
 4032 penalties and interest do not apply if the taxpayer reimburses

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4033 the department for any overpayment within 60 days after the  
 4034 taxpayer is notified that the overpayment was made.

4035 637.2047 Preemption by state.—

4036 (1) This state hereby preempts the field of imposing  
 4037 excise, privilege, franchise, income, license, permit,  
 4038 registration, and similar taxes and fees, measured by premiums,  
 4039 income, or volume of transactions, upon insurers and their  
 4040 agents and other representatives; and a county, city,  
 4041 municipality, district, school district, or other political  
 4042 subdivision or agency in this state may not impose, levy,  
 4043 charge, or require the same, subject however to the provisions  
 4044 of subsection (2).

4045 (2) This section shall not be construed to limit or modify  
 4046 the power of any incorporated city or town to levy the taxes  
 4047 authorized by ss. 175.101 and 185.08 or the power of any special  
 4048 fire control district to levy the taxes authorized by s.  
 4049 175.101.

4050 637.2048 Deposit of certain tax receipts; refund of  
 4051 improper payments.—

4052 (1) The Department of Financial Services shall promptly  
 4053 deposit in the State Treasury to the credit of the Title  
 4054 Insurance Regulatory Trust Fund all "state tax" portions of  
 4055 agents' licenses collected under s. 637.2031. All moneys  
 4056 received by the department not in accordance with the provisions  
 4057 of this chapter or not in the exact amount as specified by the  
 4058 applicable provisions of this chapter shall be returned to the  
 4059 remitter. The records of the department shall show the date and  
 4060 reason for such return.

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4061           (2) The Department of Revenue shall promptly deposit into  
 4062 the Department of Revenue Premium Tax Clearing Trust Fund all  
 4063 premium taxes collected according to s. 637.2039. Such taxes  
 4064 shall be distributed on an estimated basis within 15 days after  
 4065 receipt by the Department of Revenue. Such distribution shall be  
 4066 adjusted pursuant to an audit by the Department of Revenue.

4067           Section 9. Section 627.778, Florida Statutes, is  
 4068 transferred, renumbered as section 637.20485, Florida Statutes,  
 4069 and subsection (2) of that section is amended to read:

4070           637.20485 ~~627.778~~ Limit of risk.—

4071           (2) Surplus as to policyholders shall be determined from  
 4072 the last annual statement of the insurer filed under s. 637.2024  
 4073 ~~624.424~~.

4074           Section 10. Sections 637.2049, 637.20495, 637.2051,  
 4075 637.2053, 637.2054, 637.2055, 637.2056, and 637.2057, Florida  
 4076 Statutes, are created to read:

4077           637.2049 Reinsurance.—

4078           (1) The purpose of this section is to protect the  
 4079 interests of insureds, claimants, ceding insurers, assuming  
 4080 insurers, and the public. It is the intent of the Legislature to  
 4081 ensure adequate regulation of insurers and reinsurers and  
 4082 adequate protection for those to whom they owe obligations. In  
 4083 furtherance of that state interest, the Legislature requires  
 4084 that upon the insolvency of a non-United States insurer or  
 4085 reinsurer which provides security to fund its United States  
 4086 obligations in accordance with this section, such security shall  
 4087 be maintained in the United States and claims shall be filed  
 4088 with and valued by the state insurance regulator with regulatory

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4089 oversight, and the assets shall be distributed in accordance  
 4090 with the insurance laws of the state in which the trust is  
 4091 domiciled that are applicable to the liquidation of domestic  
 4092 United States insurance companies. The Legislature declares that  
 4093 the matters contained in this section are fundamental to the  
 4094 business of insurance in accordance with 15 U.S.C. ss. 1011-  
 4095 1012.

4096 (2) Credit for reinsurance must be allowed a ceding  
 4097 insurer as either an asset or a deduction from liability on  
 4098 account of reinsurance ceded only when the reinsurer meets the  
 4099 requirements of paragraph (3) (a), paragraph (3) (b), or paragraph  
 4100 (3) (c). Credit must be allowed under paragraph (3) (a) or  
 4101 paragraph (3) (b) only for cessions of those kinds or lines of  
 4102 business that the assuming insurer is licensed, authorized, or  
 4103 otherwise permitted to write or assume in its state of domicile  
 4104 or, in the case of a United States branch of an alien assuming  
 4105 insurer, in the state through which it is entered and licensed  
 4106 or authorized to transact insurance or reinsurance.

4107 (3) (a) Credit must be allowed when the reinsurance is  
 4108 ceded to an assuming insurer that is authorized to transact  
 4109 insurance or reinsurance in this state.

4110 (b)1. Credit must be allowed when the reinsurance is ceded  
 4111 to an assuming insurer that is accredited as a reinsurer in this  
 4112 state. An accredited reinsurer is one that:

4113 a. Files with the department evidence of its submission to  
 4114 this state's jurisdiction.

4115 b. Submits to this state's authority to examine its books  
 4116 and records.

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4117 c. Is licensed or authorized to transact insurance or  
 4118 reinsurance in at least one state or, in the case of a United  
 4119 States branch of an alien assuming insurer, is entered through,  
 4120 licensed, or authorized to transact insurance or reinsurance in  
 4121 at least one state.

4122 d. Files annually with the department a copy of its annual  
 4123 statement filed with the insurance department of its state of  
 4124 domicile any quarterly statements if required by its state of  
 4125 domicile or such quarterly statements if specifically requested  
 4126 by the department, and a copy of its most recent audited  
 4127 financial statement.

4128 (I) Maintains a surplus as regards policyholders in an  
 4129 amount not less than \$20 million and whose accreditation has not  
 4130 been denied by the department within 90 days after its  
 4131 submission; or

4132 (II) Maintains a surplus as regards policyholders in an  
 4133 amount not less than \$20 million and whose accreditation has  
 4134 been approved by the department.

4135 2. The department may deny or revoke an assuming insurer's  
 4136 accreditation if the assuming insurer does not submit the  
 4137 required documentation pursuant to subparagraph 1., if the  
 4138 assuming insurer fails to meet all of the standards required of  
 4139 an accredited reinsurer, or if the assuming insurer's  
 4140 accreditation would be hazardous to the policyholders of this  
 4141 state. In determining whether to deny or revoke accreditation,  
 4142 the department may consider the qualifications of the assuming  
 4143 insurer with respect to all the following subjects:

4144 a. Its financial stability.

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4145        b. The lawfulness and quality of its investments.  
 4146        c. The competency, character, and integrity of its  
 4147 management.  
 4148        d. The competency, character, and integrity of persons who  
 4149 own or have a controlling interest in the assuming insurer.  
 4150        e. Whether claims under its contracts are promptly and  
 4151 fairly adjusted and are promptly and fairly paid in accordance  
 4152 with the law and the terms of the contracts.  
 4153        3. Credit must not be allowed a ceding insurer if the  
 4154 assuming insurer's accreditation has been revoked by the  
 4155 department after notice and the opportunity for a hearing.  
 4156        4. The actual costs and expenses incurred by the  
 4157 department to review a reinsurer's request for accreditation and  
 4158 subsequent reviews must be charged to and collected from the  
 4159 requesting reinsurer. If the reinsurer fails to pay the actual  
 4160 costs and expenses promptly when due, the department may refuse  
 4161 to accredit the reinsurer or may revoke the reinsurer's  
 4162 accreditation.  
 4163        (c)1. Credit must be allowed when the reinsurance is ceded  
 4164 to an assuming insurer that maintains a trust fund in a  
 4165 qualified United States financial institution, as defined in  
 4166 paragraph (5) (b), for the payment of the valid claims of its  
 4167 United States ceding insurers and their assigns and successors  
 4168 in interest. To enable the department to determine the  
 4169 sufficiency of the trust fund, the assuming insurer shall report  
 4170 annually to the department information substantially the same as  
 4171 that required to be reported on the NAIC Annual Statement form  
 4172 by authorized insurers. The assuming insurer shall submit to

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4173 examination of its books and records by the department and bear  
 4174 the expense of examination.

4175 2.a. Credit for reinsurance must not be granted under this  
 4176 subsection unless the form of the trust and any amendments to  
 4177 the trust have been approved by:

4178 (I) The insurance regulator of the state in which the  
 4179 trust is domiciled; or

4180 (II) The insurance regulator of another state who,  
 4181 pursuant to the terms of the trust instrument, has accepted  
 4182 principal regulatory oversight of the trust.

4183 b. The form of the trust and any trust amendments must be  
 4184 filed with the insurance regulator of every state in which the  
 4185 ceding insurer beneficiaries of the trust are domiciled. The  
 4186 trust instrument must provide that contested claims are valid  
 4187 and enforceable upon the final order of any court of competent  
 4188 jurisdiction in the United States. The trust must vest legal  
 4189 title to its assets in its trustees for the benefit of the  
 4190 assuming insurer's United States ceding insurers and their  
 4191 assigns and successors in interest. The trust and the assuming  
 4192 insurer are subject to examination as determined by the  
 4193 insurance regulator.

4194 c. The trust remains in effect for as long as the assuming  
 4195 insurer has outstanding obligations due under the reinsurance  
 4196 agreements subject to the trust. No later than February 28 of  
 4197 each year, the trustee of the trust shall report to the  
 4198 insurance regulator in writing the balance of the trust and list  
 4199 the trust's investments at the preceding year end, and shall  
 4200 certify that the trust will not expire prior to the following

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4201 December 31.

4202 3. The following requirements apply to the following

4203 categories of assuming insurer:

4204 a. The trust fund for a single assuming insurer consists

4205 of funds in trust in an amount not less than the assuming

4206 insurer's liabilities attributable to reinsurance ceded by

4207 United States ceding insurers, and, in addition, the assuming

4208 insurer shall maintain a trusteed surplus of not less than \$20

4209 million. Not less than 50 percent of the funds in the trust

4210 covering the assuming insurer's liabilities attributable to

4211 reinsurance ceded by United States ceding insurers and trusteed

4212 surplus shall consist of assets of a quality substantially

4213 similar to that required in part II of chapter 625. Clean,

4214 irrevocable, unconditional, and evergreen letters of credit,

4215 issued or confirmed by a qualified United States financial

4216 institution, as defined in paragraph (5) (a), effective no later

4217 than December 31 of the year for which the filing is made and in

4218 the possession of the trust on or before the filing date of its

4219 annual statement, may be used to fund the remainder of the trust

4220 and trusteed surplus.

4221 b.(I) In the case of a group including incorporated and

4222 individual unincorporated underwriters:

4223 (A) For reinsurance ceded under reinsurance agreements

4224 with an inception, amendment, or renewal date on or after August

4225 1, 1995, the trust consists of a trusteed account in an amount

4226 not less than the group's several liabilities attributable to

4227 business ceded by United States domiciled ceding insurers to any

4228 member of the group.

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4229        (B) For reinsurance ceded under reinsurance agreements  
 4230 with an inception date on or before July 31, 1995, and not  
 4231 amended or renewed after that date, notwithstanding the other  
 4232 provisions of this section, the trust consists of a trustee  
 4233 account in an amount not less than the group's several insurance  
 4234 and reinsurance liabilities attributable to business written in  
 4235 the United States.

4236        (C) In addition to these trusts, the group shall maintain  
 4237 in trust a trustee surplus of which \$100 million must be held  
 4238 jointly for the benefit of the United States domiciled ceding  
 4239 insurers of any member of the group for all years of account.

4240        (II) The incorporated members of the group must not be  
 4241 engaged in any business other than underwriting of a member of  
 4242 the group, and are subject to the same level of regulation and  
 4243 solvency control by the group's domiciliary regulator as the  
 4244 unincorporated members.

4245        (III) Within 90 days after its financial statements are  
 4246 due to be filed with the group's domiciliary regulator, the  
 4247 group shall provide to the insurance regulator an annual  
 4248 certification by the group's domiciliary regulator of the  
 4249 solvency of each underwriter member or, if a certification is  
 4250 unavailable, financial statements, prepared by independent  
 4251 public accountants, of each underwriter member of the group.

4252        (d) Credit must be allowed when the reinsurance is ceded  
 4253 to an assuming insurer not meeting the requirements of paragraph  
 4254 (a), paragraph (b), or paragraph (c), but only as to the  
 4255 insurance of risks located in jurisdictions in which the  
 4256 reinsurance is required to be purchased by a particular entity

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4257 by applicable law or regulation of that jurisdiction.  
 4258 (e) If the reinsurance is ceded to an assuming insurer not  
 4259 meeting the requirements of paragraph (a), paragraph (b),  
 4260 paragraph (c), or paragraph (d), the department may allow  
 4261 credit, but only if the assuming insurer holds surplus in excess  
 4262 of \$100 million and has a secure financial strength rating from  
 4263 at least two nationally recognized statistical rating  
 4264 organizations deemed acceptable by the department. In  
 4265 determining whether credit should be allowed, the department  
 4266 shall consider the following:  
 4267 1. The domiciliary regulatory jurisdiction of the assuming  
 4268 insurer.  
 4269 2. The structure and authority of the domiciliary  
 4270 regulator with regard to solvency regulation requirements and  
 4271 the financial surveillance of the reinsurer.  
 4272 3. The substance of financial and operating standards for  
 4273 reinsurers in the domiciliary jurisdiction.  
 4274 4. The form and substance of financial reports required to  
 4275 be filed by the reinsurers in the domiciliary jurisdiction or  
 4276 other public financial statements filed in accordance with  
 4277 generally accepted accounting principles.  
 4278 5. The domiciliary regulator's willingness to cooperate  
 4279 with United States regulators in general and the department in  
 4280 particular.  
 4281 6. The history of performance by reinsurers in the  
 4282 domiciliary jurisdiction.  
 4283 7. Any documented evidence of substantial problems with  
 4284 the enforcement of valid United States judgments in the

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4285 domiciliary jurisdiction.

4286 8. Any other matters deemed relevant by the department.

4287 The department shall give appropriate consideration to insurer  
 4288 group ratings that may have been issued. The department may, in  
 4289 lieu of granting full credit under this subsection, reduce the  
 4290 amount required to be held in trust under paragraph (c).

4291 (f) If the assuming insurer is not authorized or  
 4292 accredited to transact insurance or reinsurance in this state  
 4293 pursuant to paragraph (a) or paragraph (b), the credit permitted  
 4294 by paragraph (c) or paragraph (d) must not be allowed unless the  
 4295 assuming insurer agrees in the reinsurance agreements:

4296 1.a. That in the event of the failure of the assuming  
 4297 insurer to perform its obligations under the terms of the  
 4298 reinsurance agreement, the assuming insurer, at the request of  
 4299 the ceding insurer, shall submit to the jurisdiction of any  
 4300 court of competent jurisdiction in any state of the United  
 4301 States, will comply with all requirements necessary to give the  
 4302 court jurisdiction, and will abide by the final decision of the  
 4303 court or of any appellate court in the event of an appeal.

4304 b. To designate the Chief Financial Officer, pursuant to  
 4305 s. 48.151, or a designated attorney as its true and lawful  
 4306 attorney upon whom may be served any lawful process in any  
 4307 action, suit, or proceeding instituted by or on behalf of the  
 4308 ceding company.

4309 2. This paragraph is not intended to conflict with or  
 4310 override the obligation of the parties to a reinsurance  
 4311 agreement to arbitrate their disputes, if this obligation is  
 4312 created in the agreement.

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4313 (g) If the assuming insurer does not meet the requirements  
 4314 of paragraph (a) or paragraph (b), the credit permitted by  
 4315 paragraph (c) or paragraph (d) is not allowed unless the  
 4316 assuming insurer agrees in the trust agreements, in substance,  
 4317 to the following conditions:

4318 1. Notwithstanding any other provisions in the trust  
 4319 instrument, if the trust fund is inadequate because it contains  
 4320 an amount less than the amount required by paragraph (c), or if  
 4321 the grantor of the trust has been declared insolvent or placed  
 4322 into receivership, rehabilitation, liquidation, or similar  
 4323 proceedings under the laws of its state or country of domicile,  
 4324 the trustee shall comply with an order of the insurance  
 4325 regulator with regulatory oversight over the trust or with an  
 4326 order of a United States court of competent jurisdiction  
 4327 directing the trustee to transfer to the insurance regulator  
 4328 with regulatory oversight all of the assets of the trust fund.

4329 2. The assets must be distributed by and claims must be  
 4330 filed with and valued by the insurance regulator with regulatory  
 4331 oversight in accordance with the laws of the state in which the  
 4332 trust is domiciled which are applicable to the liquidation of  
 4333 domestic insurance companies.

4334 3. If the insurance regulator with regulatory oversight  
 4335 determines that the assets of the trust fund or any part thereof  
 4336 are not necessary to satisfy the claims of the United States  
 4337 ceding insurers of the grantor of the trust, the assets or part  
 4338 thereof must be returned by the insurance regulator with  
 4339 regulatory oversight to the trustee for distribution in  
 4340 accordance with the trust agreement.

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4341 4. The grantor shall waive any right otherwise available  
 4342 to it under United States law which is inconsistent with this  
 4343 provision.

4344 (4) An asset allowed or a deduction from liability taken  
 4345 for the reinsurance ceded by an insurer to an assuming insurer  
 4346 not meeting the requirements of subsections (2) and (3) is  
 4347 allowed in an amount not exceeding the liabilities carried by  
 4348 the ceding insurer. The deduction must be in the amount of funds  
 4349 held by or on behalf of the ceding insurer, including funds held  
 4350 in trust for the ceding insurer, under a reinsurance contract  
 4351 with the assuming insurer as security for the payment of  
 4352 obligations thereunder, if the security is held in the United  
 4353 States subject to withdrawal solely by, and under the exclusive  
 4354 control of, the ceding insurer, or, in the case of a trust, held  
 4355 in a qualified United States financial institution, as defined  
 4356 in paragraph (5) (b). This security may be in the form of:

4357 (a) Cash in United States dollars;

4358 (b) Securities listed by the Securities Valuation Office  
 4359 of the National Association of Insurance Commissioners and  
 4360 qualifying as admitted assets pursuant to part II of chapter  
 4361 625;

4362 (c) Clean, irrevocable, unconditional letters of credit,  
 4363 issued or confirmed by a qualified United States financial  
 4364 institution, as defined in paragraph (5) (a), effective no later  
 4365 than December 31 of the year for which the filing is made, and  
 4366 in the possession of, or in trust for, the ceding company on or  
 4367 before the filing date of its annual statement; or

4368 (d) Any other form of security acceptable to the

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4369 department.

4370 (5) (a) For purposes of paragraph (4) (c) regarding letters  
 4371 of credit, a "qualified United States financial institution"  
 4372 means an institution that:

4373 1. Is organized or, in the case of a United States  
 4374 department of a foreign banking organization, is licensed under  
 4375 the laws of the United States or any state thereof;

4376 2. Is regulated, supervised, and examined by United States  
 4377 or state authorities having regulatory authority over banks and  
 4378 trust companies; and

4379 3. Has been determined by either the department or the  
 4380 Securities Valuation Office of the National Association of  
 4381 Insurance Commissioners to meet such standards of financial  
 4382 condition and standing as are considered necessary and  
 4383 appropriate to regulate the quality of financial institutions  
 4384 whose letters of credit will be acceptable to the department.

4385 (b) For purposes of those provisions of this law which  
 4386 specify institutions that are eligible to act as a fiduciary of  
 4387 a trust, a "qualified United States financial institution" means  
 4388 an institution that is a member of the Federal Reserve System or  
 4389 that has been determined by the department to meet the following  
 4390 criteria:

4391 1. Is organized or, in the case of a United States branch  
 4392 or agency department of a foreign banking organization, is  
 4393 licensed under the laws of the United States or any state  
 4394 thereof and has been granted authority to operate with fiduciary  
 4395 powers; and

4396 2. Is regulated, supervised, and examined by federal or

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4397 state authorities having regulatory authority over banks and  
 4398 trust companies.

4399 (6) After notice and an opportunity for a hearing, the  
 4400 department may disallow any credit that it finds would be  
 4401 contrary to the proper interests of the policyholders or  
 4402 stockholders of a ceding domestic insurer.

4403 (7) Credit must be allowed to any ceding insurer for  
 4404 reinsurance otherwise complying with this section only when the  
 4405 reinsurance is payable by the assuming insurer on the basis of  
 4406 the liability of the ceding insurer under the contract or  
 4407 contracts reinsured without diminution because of the insolvency  
 4408 of the ceding insurer. Such credit must be allowed to the ceding  
 4409 insurer for reinsurance otherwise complying with this section  
 4410 only when the reinsurance agreement provides that payments by  
 4411 the assuming insurer will be made directly to the ceding insurer  
 4412 or its receiver, except when:

4413 (a) The reinsurance contract specifically provides payment  
 4414 to the named insured, assignee, or named beneficiary of the  
 4415 policy issued by the ceding insurer in the event of the  
 4416 insolvency of the ceding insurer; or

4417 (b) The assuming insurer, with the consent of the named  
 4418 insured, has assumed the policy obligations of the ceding  
 4419 insurer as direct obligations of the assuming insurer in  
 4420 substitution for the obligations of the ceding insurer to the  
 4421 named insured.

4422 (8) No person, other than the ceding insurer, has any  
 4423 rights against the reinsurer which are not specifically set  
 4424 forth in the contract of reinsurance or in a specific written,

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4425 signed agreement between the reinsurer and the person.  
 4426 (9) An authorized insurer may not knowingly accept as  
 4427 assuming reinsurer any risk covering subject of insurance which  
 4428 is resident, located, or to be performed in this state and which  
 4429 is written directly by any insurer not then authorized to  
 4430 transact such insurance in this state, other than as to surplus  
 4431 lines insurance lawfully written under part VIII of chapter 626.  
 4432 (10) (a) Any domestic or commercially domiciled insurer  
 4433 ceding directly written risks of loss under this section shall,  
 4434 within 30 days after receipt of a cover note or similar  
 4435 confirmation of coverage, or, without exception, no later than 6  
 4436 months after the effective date of the reinsurance treaty, file  
 4437 with the department one copy of a summary statement containing  
 4438 the following information about each treaty:  
 4439 1. The contract period.  
 4440 2. The nature of the reinsured's business.  
 4441 3. An indication as to whether the treaty is proportional,  
 4442 nonproportional, coinsurance, modified coinsurance, or  
 4443 indemnity, as applicable.  
 4444 4. The ceding company's loss retention per risk.  
 4445 5. The reinsured limits.  
 4446 6. Any special contract restrictions.  
 4447 7. A schedule of reinsurers assuming the risks of loss.  
 4448 8. An indication as to whether payments to the assuming  
 4449 insurer are based on written premiums or earned premiums.  
 4450 9. Identification of any intermediary or broker used in  
 4451 obtaining the reinsurance and the department paid to such  
 4452 intermediary or broker if known.

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4453 |       10. Ceding commissions and allowances.  
 4454 |       (b) The summary statement must be signed and attested to  
 4455 | by either the chief executive officer or the chief financial  
 4456 | officer of the reporting insurer. In addition to the summary  
 4457 | statement, the department may require the filing of any  
 4458 | supporting information relating to the ceding of such risks as  
 4459 | it deems necessary. If the summary statement prepared by the  
 4460 | ceding insurer discloses that the net effect of a reinsurance  
 4461 | treaty or treaties, or series of treaties with one or more  
 4462 | affiliated reinsurers entered into for the purpose of avoiding  
 4463 | the following threshold amount, at any time results in an  
 4464 | increase of more than 25 percent to the insurer's surplus as to  
 4465 | policyholders, then the insurer shall certify in writing to the  
 4466 | department that the relevant reinsurance treaty or treaties  
 4467 | comply with the accounting requirements contained in any rule  
 4468 | adopted by the department under subsection (13). If such  
 4469 | certificate is filed after the summary statement of such  
 4470 | reinsurance treaty or treaties, the insurer shall refile the  
 4471 | summary statement with the certificate. In any event, the  
 4472 | certificate must state that a copy of the certificate was sent  
 4473 | to the reinsurer under the reinsurance treaty.

4474 |       (c) This subsection applies to cessions of directly  
 4475 | written risk or loss. This subsection does not apply to  
 4476 | contracts of facultative reinsurance or to any ceding insurer  
 4477 | with surplus as to policyholders that exceeds \$100 million as of  
 4478 | the immediately preceding December 31. Additionally, any ceding  
 4479 | insurer otherwise subject to this section with less than  
 4480 | \$500,000 in direct premiums written in this state during the

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4481 preceding calendar year or with less than 1,000 policyholders at  
 4482 the end of the preceding calendar year is exempt from the  
 4483 requirements of this subsection. However, any ceding insurer  
 4484 otherwise subject to this section with more than \$250,000 in  
 4485 direct premiums written in this state during the preceding  
 4486 calendar quarter is not exempt from the requirements of this  
 4487 subsection.

4488 (d) An authorized insurer not otherwise exempt from the  
 4489 provisions of this subsection shall provide the information  
 4490 required by this subsection with underlying and supporting  
 4491 documentation upon written request of the department.

4492 (e) The department may, upon a showing of good cause,  
 4493 waive the requirements of this subsection.

4494 (11) If the department finds that a reinsurance agreement  
 4495 creates a substantial risk of insolvency to either insurer  
 4496 entering into the reinsurance agreement, the department may by  
 4497 order require a cancellation of the reinsurance agreement.

4498 (12) No credit shall be allowed for reinsurance with  
 4499 regard to which the reinsurance agreement does not create a  
 4500 meaningful transfer of risk of loss to the reinsurer.

4501 (13) The department may adopt rules implementing the  
 4502 provisions of this section. Rules are authorized to protect the  
 4503 interests of insureds, claimants, ceding insurers, assuming  
 4504 insurers, and the public. These rules shall be in substantial  
 4505 compliance with:

4506 (a) The National Association of Insurance Commissioners  
 4507 model regulations relating to credit for reinsurance.

4508 (b) The National Association of Insurance Commissioners

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4509 Accounting Practices and Procedures Manual as of March 2002 and  
 4510 subsequent amendments thereto if the methodology remains  
 4511 substantially consistent.

4512  
 4513 The department may further adopt rules to provide for transition  
 4514 from existing requirements for the approval of reinsurers to the  
 4515 accreditation of reinsurers pursuant to this section.

4516 637.20495 Insurer defined.—As used in ss. 637.2051,  
 4517 637.2053, 637.2054, and 637.2055, the term "insurer" means and  
 4518 includes every person as defined in s. 637.1004(15) and title  
 4519 insurer as defined in s. 637.1004(22) as limited to any domestic  
 4520 or commercially domiciled insurer who is doing business as an  
 4521 insurer or who has transacted insurance in this state and  
 4522 against whom claims arising from that transaction may exist now  
 4523 or in the future.

4524 637.2051 Notice to comply with written requirements of  
 4525 department; noncompliance.—

4526 (1) If the department determines that the conditions set  
 4527 forth in subsection (2) exist, the department shall issue an  
 4528 order placing the title insurer in administrative supervision,  
 4529 setting forth the reasons giving rise to the determination, and  
 4530 specifying that the department is applying and effectuating the  
 4531 provisions of this chapter. An order issued by the department  
 4532 pursuant to this subsection entitles the insurer to request a  
 4533 proceeding under ss. 120.569 and 120.57, and such a request  
 4534 shall stay the action pending such proceeding.

4535 (2) A title insurer shall be subject to administrative  
 4536 supervision by the department if upon examination or at any

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4537 other time the department determines that:  
 4538 (a) The insurer is in unsound condition;  
 4539 (b) The insurer's methods or practices render the  
 4540 continuance of its business hazardous to the public or to its  
 4541 insureds; or  
 4542 (c) The insurer has exceeded its powers granted under its  
 4543 certificate of authority and applicable law.  
 4544 (3) Within 15 days after receipt of notice of the  
 4545 department's determination to proceed under this chapter, an  
 4546 insurer shall submit to the department a plan to correct the  
 4547 conditions set forth in the notice. For good cause shown, the  
 4548 department may extend the 15-day time period for submission of  
 4549 the plan. If the department and the insurer agree on a  
 4550 corrective plan, a written agreement shall be entered into to  
 4551 carry out the plan.  
 4552 (4) If a title insurer fails to timely submit a plan, the  
 4553 department may specify the requirements of a plan to address the  
 4554 conditions giving rise to imposition of administrative  
 4555 supervision under this chapter. In addition, failure of the  
 4556 insurer to timely submit a plan is a violation of the provisions  
 4557 of this chapter punishable in accordance with s. 637.2017.  
 4558 (5) The plan shall address, but shall not be limited to,  
 4559 each of the activities of the insurer's business which are set  
 4560 forth in s. 637.2053.  
 4561 (6) Any insurer subject to administrative supervision is  
 4562 expected to avail itself of all reasonably available  
 4563 reinsurance. Reasonably available reinsurance shall include  
 4564 unrealized reinsurance, which is defined as reinsurance

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4565 recoverable on known losses incurred and due under valid  
 4566 reinsurance contracts that have not been identified in the  
 4567 normal course of business and have not been reported in  
 4568 financial statements filed with the department. Within 90 days  
 4569 after being placed under administrative supervision, the insurer  
 4570 shall certify to the Chief Financial Officer that the insurer  
 4571 has engaged an independent third party to search for unrealized  
 4572 reinsurance, and that the insurer has made all relevant books  
 4573 and records available to the third party. The compensation to  
 4574 the third party may be a percentage of unrealized reinsurance  
 4575 identified and collected.

4576 (7) If the department and the insurer are unable to agree  
 4577 on the provisions of the plan, the department may require the  
 4578 insurer to take such corrective action as may be reasonably  
 4579 necessary to remove the causes and conditions giving rise to the  
 4580 need for administrative supervision.

4581 (8) The insurer shall have 60 days, or a longer period of  
 4582 time as designated by the department but not to exceed 120 days,  
 4583 after the date of the written agreement or the receipt of the  
 4584 department's plan within which to comply with the requirements  
 4585 of the department. At the conclusion of the initial period of  
 4586 supervision, the department may extend the supervision in  
 4587 increments of 60 days or longer, not to exceed 120 days, if  
 4588 conditions justifying supervision exist. Each extension of  
 4589 supervision shall provide the insurer with a point of entry  
 4590 pursuant to chapter 120.

4591 (9) The initiation or pendency of administrative  
 4592 proceedings arising from actions taken under this section shall

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4593 not preclude the department from initiating judicial proceedings  
 4594 to place an insurer in conservation, rehabilitation, or  
 4595 liquidation or initiating other delinquency proceedings however  
 4596 designated under the laws of this state.

4597 (10) If it is determined that the conditions giving rise  
 4598 to administrative supervision have been remedied so that the  
 4599 continuance of its business is no longer hazardous to the public  
 4600 or to its insureds, the department shall release the insurer  
 4601 from supervision.

4602 (11) The department may adopt rules to define standards of  
 4603 hazardous financial condition and corrective action  
 4604 substantially similar to that indicated in the National  
 4605 Association of Insurance Commissioners' 1997 "Model Regulation  
 4606 to Define Standards and Commissioner's Authority for Companies  
 4607 Deemed to be in Hazardous Financial Condition," which are  
 4608 necessary to implement the provisions of this part.

4609 637.2053 Prohibited acts during period of supervision.—The  
 4610 department may provide that the title insurer may not conduct  
 4611 the following activities during the period of supervision,  
 4612 without prior approval by the department:

4613 (1) Dispose of, convey, or encumber any of its assets or  
 4614 its business in force;

4615 (2) Withdraw any of its bank accounts;

4616 (3) Lend any of its funds;

4617 (4) Invest any of its funds;

4618 (5) Transfer any of its property;

4619 (6) Incur any debt, obligation, or liability;

4620 (7) Merge or consolidate with another company;

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4621        (8) Enter into any new reinsurance contract or treaty;  
 4622        (9) Terminate, surrender, forfeit, convert, or lapse any  
 4623 insurance policy, certificate, or contract of insurance, except  
 4624 for nonpayment of premiums due;  
 4625        (10) Release, pay, or refund premium deposits, accrued  
 4626 cash or loan values, unearned premiums, or other reserves on any  
 4627 insurance policy or certificate; or  
 4628        (11) Make any material change in management.  
 4629        637.2054 Review.—During the period of supervision, the  
 4630 title insurer may contest an action taken or proposed to be  
 4631 taken by the supervisor, specifying the manner wherein the  
 4632 action complained of would not result in improving the condition  
 4633 of the insurer. Such request shall not stay the action specified  
 4634 pending reconsideration of the action by the department. Denial  
 4635 of the insurer's request upon reconsideration entitles the  
 4636 insurer to request a proceeding under ss. 120.569 and 120.57.  
 4637        637.2055 Administrative election of proceedings.—If the  
 4638 department determines to act under authority of this chapter,  
 4639 the sequence of its acts and proceedings shall be as set forth  
 4640 herein. However, it is a purpose and substance of this chapter  
 4641 to allow the department administrative discretion in the event  
 4642 of insurer delinquencies and, in furtherance of that purpose,  
 4643 the department may, in respect to insurer delinquencies or  
 4644 suspected delinquencies, proceed and administer under the  
 4645 provisions of this chapter or any other applicable law, or under  
 4646 the provisions of this chapter in conjunction with other  
 4647 applicable law, and it is so provided. Nothing contained in this  
 4648 part or in any other provision of law shall preclude the

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4649 department from initiating judicial proceedings to place an  
 4650 insurer in conservation, rehabilitation, or liquidation  
 4651 proceedings or other delinquency proceedings however designated  
 4652 under the laws of this state, regardless of whether the  
 4653 department has previously initiated administrative supervision  
 4654 proceedings under this part against the insurer. The entry of an  
 4655 order of seizure, rehabilitation, or liquidation pursuant to  
 4656 chapter 631 shall terminate all proceedings pending pursuant to  
 4657 this part.

4658 637.2056 Other laws; conflicts; meetings between the  
 4659 department and the supervisor.—During the period of  
 4660 administrative supervision, the department may meet with a  
 4661 supervisor appointed under this chapter and with the attorney or  
 4662 other representative of the supervisor and such meetings are  
 4663 exempt from the provisions of s. 286.011.

4664 637.2057 Administrative supervision; expenses.—

4665 (1) During the period of supervision the department by  
 4666 contract or otherwise may appoint a deputy supervisor to  
 4667 supervise the title insurer.

4668 (2) Each insurer which is subject to administrative  
 4669 supervision by the department shall pay to the department the  
 4670 expenses of its administrative supervision at the rates adopted  
 4671 by the department. Expenses shall include actual travel  
 4672 expenses, a reasonable living expense allowance, compensation of  
 4673 the deputy supervisor or other person employed or appointed by  
 4674 the department for purposes of the supervision, and necessary  
 4675 attendant administrative costs of the department directly  
 4676 related to the supervision. The travel expense and living

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4677 expense allowance shall be limited to those expenses necessarily  
 4678 incurred on account of the administrative supervision and shall  
 4679 be paid by the insurer together with compensation upon  
 4680 presentation by the department to the insurer of a detailed  
 4681 account of the charges and expenses after a detailed statement  
 4682 has been filed by the deputy supervisor or other person employed  
 4683 or appointed by the department and approved by the department.

4684 (3) All moneys collected from insurers for the expenses of  
 4685 administrative supervision shall be deposited into the Title  
 4686 Insurance Regulatory Trust Fund, and the department is  
 4687 authorized to make deposits from time to time into this fund  
 4688 from moneys appropriated for the operation of the department.

4689 (4) Notwithstanding the provisions of s. 112.061, the  
 4690 department is authorized to pay to the deputy supervisor or  
 4691 person employed or appointed by the department for purposes of  
 4692 the supervision out of such trust fund the actual travel  
 4693 expenses, reasonable living expense allowance, and compensation  
 4694 in accordance with the statement filed with the department by  
 4695 the deputy supervisor or other person, as provided in subsection  
 4696 (2), upon approval by the department.

4697 (5) The department may in whole or in part defer payment  
 4698 of expenses due from the insurer pursuant to this section upon a  
 4699 showing that payment would adversely impact on the financial  
 4700 condition of the insurer and jeopardize its rehabilitation. The  
 4701 payment shall be made by the insurer when the condition is  
 4702 removed and the payment would no longer jeopardize the insurer's  
 4703 financial condition.

4704 Section 11. Section 627.777, Florida Statutes, is

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4705 transferred, renumbered as section 637.2058, Florida Statutes,  
 4706 and amended to read:

4707 637.2058 ~~627.777~~ Approval of forms.-

4708 (1) A title insurer may not issue or agree to issue any  
 4709 form of title insurance commitment, title insurance policy,  
 4710 other contract of title insurance, or related form until it is  
 4711 filed with and approved by the department ~~office~~. The department  
 4712 ~~office~~ may not disapprove a title guarantee or policy form on  
 4713 the ground that it has on it a blank form for an attorney's  
 4714 opinion on the title.

4715 (2) If a form filed for approval is a form recommended by  
 4716 the American Land Title Association at the time of the filing,  
 4717 the department shall approve or disapprove the form within 180  
 4718 days. If a form filed for approval is a form not recommended by  
 4719 the American Land Title Association at the time of the filing,  
 4720 the department shall approve or disapprove the form within 1  
 4721 year.

4722 (3) At the time of the approval of any form, the  
 4723 department shall determine if a rate in effect at that time  
 4724 applies or if the coverages require adoption of a rule pursuant  
 4725 to s. 637.2064.

4726 (4) The department may revoke approval of any form upon  
 4727 180 days' notice.

4728 (5) An insurer may not achieve any competitive advantage  
 4729 over any other insurer or agent as to forms.

4730 Section 12. Section 627.7773, Florida Statutes, is  
 4731 transferred, renumbered as section 637.2059, Florida Statutes,  
 4732 and amended to read:

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4733 |        637.2059 ~~627.7773~~ Accounting and auditing of forms by  
 4734 | title insurers.—

4735 |        (1) Each title insurer authorized to do business in this  
 4736 | state shall, at least once during each calendar year, require of  
 4737 | each of its title insurance agents or agencies accountings of  
 4738 | all outstanding forms in the agent's or agency's possession ~~of~~  
 4739 | ~~the types that are specified in s. 627.777.~~

4740 |        (2) If the department ~~office~~ has reason to believe that an  
 4741 | audit of outstanding forms should be required of any title  
 4742 | insurer as to a title insurance agent or agency, the department  
 4743 | ~~office~~ may require the title insurer to make a special audit of  
 4744 | the forms. The title insurer shall complete the audit not later  
 4745 | than 60 days after the request is received from the department  
 4746 | ~~office~~, and shall report the results of the special audit to the  
 4747 | department ~~office~~ no later than 90 days after the request is  
 4748 | received.

4749 |        Section 13. Section 627.7776, Florida Statutes, is  
 4750 | transferred, renumbered as section 637.2061, Florida Statutes,  
 4751 | and subsection (1) of that section is amended to read:

4752 |        637.2061 ~~627.7776~~ Furnishing of supplies; civil  
 4753 | liability.—

4754 |        (1) A title insurer may not furnish to any person any  
 4755 | blank forms, applications, stationery, or other supplies to be  
 4756 | used in soliciting, negotiating, or effecting contracts of title  
 4757 | insurance on its behalf until that person has received from the  
 4758 | insurer a contract to act as a title insurance agent or agency  
 4759 | and has been licensed by the department, if required by s.  
 4760 | 637.3006 ~~626.8417~~.

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4761 Section 14. Section 627.780, Florida Statutes, is  
 4762 transferred, renumbered as section 637.2063, Florida Statutes,  
 4763 and subsection (1) of that section is amended to read:

4764 637.2063 ~~627.780~~ Illegal dealings in premium.—

4765 (1) A person may not knowingly quote, charge, accept,  
 4766 collect, or receive a premium for title insurance other than the  
 4767 premium adopted by the department ~~commission~~, except as provided  
 4768 in s. 637.1033(7)(b). ~~626.9541(1)(h)3.b.~~

4769 Section 15. Section 637.20635, Florida Statutes, is  
 4770 created to read:

4771 637.20635 Rebating; prohibited.—A title insurer, title  
 4772 insurance agency, or title insurance agent may not rebate any  
 4773 portion of the premium.

4774 Section 16. Section 627.782, Florida Statutes, is  
 4775 transferred, renumbered as section 637.2064, Florida Statutes,  
 4776 and amended to read:

4777 637.2064 ~~627.782~~ Adoption of rates.—

4778 (1) Subject to the rating provisions of this chapter ~~code~~,  
 4779 the department ~~commission~~ must adopt a rule specifying the  
 4780 premium to be charged in this state by title insurers for the  
 4781 respective types of title insurance contracts and, for policies  
 4782 issued through agents or agencies, the percentage of such  
 4783 premium required to be retained by the title insurer which shall  
 4784 not be less than 30 percent. However, in a transaction subject  
 4785 to the Real Estate Settlement Procedures Act of 1974, 12 U.S.C.  
 4786 ss. 2601 et seq., as amended, no portion of the premium  
 4787 attributable to providing a primary title service shall be paid  
 4788 to or retained by any person who does not actually perform or is

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4789 | not liable for the performance of such service.  
 4790 |       (2) In adopting premium rates, the department ~~commission~~  
 4791 | must give due consideration to the following:  
 4792 |       (a) The title insurers' loss experience and prospective  
 4793 | loss experience under closing protection letters and policy  
 4794 | liabilities.  
 4795 |       (b) A reasonable margin for underwriting profit and  
 4796 | contingencies, including contingent liability under s. 637.2075  
 4797 | ~~627.7865~~, sufficient to allow title insurers, agents, and  
 4798 | agencies to earn a rate of return on their capital that will  
 4799 | attract and retain adequate capital investment in the title  
 4800 | insurance business and maintain an efficient title insurance  
 4801 | delivery system.  
 4802 |       (c) Past expenses and prospective expenses for  
 4803 | administration and handling of risks.  
 4804 |       (d) Liability for defalcation.  
 4805 |       (e) Other relevant factors.  
 4806 |       (3) Rates may be grouped by classification or schedule and  
 4807 | may differ as to class of risk assumed.  
 4808 |       (4) Rates may not be excessive, inadequate, or unfairly  
 4809 | discriminatory.  
 4810 |       (5) The premium applies to each \$100 of insurance issued  
 4811 | to an insured.  
 4812 |       (6) The premium rates apply throughout this state.  
 4813 |       (7) The department ~~commission~~ shall, in accordance with  
 4814 | the standards provided in subsection (2), review the premium as  
 4815 | needed, but not less frequently than once every 3 years, and  
 4816 | shall, based upon the review required by this subsection, revise

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4817 the premium if the results of the review so warrant.

4818 (8) The department ~~commission~~ may, by rule, require  
 4819 licensees under this part to annually submit statistical  
 4820 information, including loss and expense data, as the department  
 4821 determines to be necessary to analyze premium rates, retention  
 4822 rates, and the condition of the title insurance industry.

4823 Section 17. Section 627.783, Florida Statutes, is  
 4824 transferred, renumbered as section 637.2065, Florida Statutes,  
 4825 and amended to read:

4826 637.2065 ~~627.783~~ Rate deviation.—

4827 (1) A title insurer may petition the department ~~office~~ for  
 4828 an order authorizing a specific deviation from the adopted  
 4829 premium. The petition shall be in writing and sworn to and shall  
 4830 set forth allegations of fact upon which the petitioner will  
 4831 rely, including the petitioner's reasons for requesting the  
 4832 deviation. Any authorized title insurer, agent, or agency may  
 4833 join in the petition for like authority to deviate or may file a  
 4834 separate petition praying for like authority or opposing the  
 4835 deviation. The department ~~office~~ shall rule on all such  
 4836 petitions simultaneously.

4837 (2) If, in the judgment of the department ~~office~~, the  
 4838 requested deviation is not justified, the department ~~office~~ may  
 4839 enter an order denying the petition. An order granting a  
 4840 petition constitutes an amendment to the adopted premium as to  
 4841 the petitioners named in the order, and is subject to s.  
 4842 637.2064 ~~627.782~~.

4843 Section 18. Section 627.7831, Florida Statutes, is  
 4844 transferred and renumbered as section 637.2066, Florida

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4845 Statutes.  
 4846 Section 19. Section 627.784, Florida Statutes, is  
 4847 transferred and renumbered as section 637.2067, Florida  
 4848 Statutes.  
 4849 Section 20. Section 627.7841, Florida Statutes, is  
 4850 transferred and renumbered as section 637.2068, Florida  
 4851 Statutes.  
 4852 Section 21. Section 627.7842, Florida Statutes, is  
 4853 transferred and renumbered as section 637.2069, Florida  
 4854 Statutes.  
 4855 Section 22. Section 627.7843, Florida Statutes, is  
 4856 transferred and renumbered as section 637.2071, Florida  
 4857 Statutes.  
 4858 Section 23. Section 627.7845, Florida Statutes, is  
 4859 transferred, renumbered as section 637.2072, Florida Statutes,  
 4860 and amended to read:  
 4861 637.2072 ~~627.7845~~ Determination of insurability required;  
 4862 preservation of evidence of title search and examination.-  
 4863 (1) A title insurer may not issue a title insurance  
 4864 commitment, endorsement, or title insurance policy until the  
 4865 title insurer has caused to be made a determination of  
 4866 insurability based upon the evaluation of a reasonable title  
 4867 search or a search of the records of a Uniform Commercial Code  
 4868 filing department ~~office~~, as applicable, has examined such other  
 4869 information as may be necessary, and has caused to be made a  
 4870 determination of insurability of title or the existence,  
 4871 attachments, perfection, and priority of a Uniform Commercial  
 4872 Code security interest, including endorsement coverages, in

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4873 | accordance with sound underwriting practices.

4874 |       (2) The title insurer shall cause the evidence of the

4875 | determination of insurability and the reasonable title search or

4876 | search of the records of a Uniform Commercial Code filing

4877 | department ~~office~~ to be preserved and retained in its files or

4878 | in the files of its title insurance agent or agency for a period

4879 | of not less than 7 years after the title insurance commitment,

4880 | title insurance policy, or guarantee of title was issued. The

4881 | title insurer or agent or agency must produce the evidence

4882 | required to be maintained by this subsection at its departments

4883 | ~~offices~~ upon the demand of the department ~~office~~. Instead of

4884 | retaining the original evidence, the title insurer or the title

4885 | insurance agent or agency may, in the regular course of

4886 | business, establish a system under which all or part of the

4887 | evidence is recorded, copied, or reproduced by any photographic,

4888 | photostatic, microfilm, microcard, miniature photographic, or

4889 | other process which accurately reproduces or forms a durable

4890 | medium for reproducing the original.

4891 |       (3) The title insurer or its agent or agency must maintain

4892 | a record of the actual premium charged for issuance of the

4893 | policy and any endorsements in its files for a period of not

4894 | less than 7 years. The title insurer, agent, or agency must

4895 | produce the record at its department ~~office~~ upon demand of the

4896 | department ~~office~~.

4897 |       (4) This section does not apply to an insurer assuming no

4898 | primary liability in a contract of reinsurance or to an insurer

4899 | acting as a coinsurer if any other coinsuring insurer has

4900 | complied with this section.

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4901 Section 24. Section 627.785, Florida Statutes, is  
 4902 transferred and renumbered as section 637.2073, Florida  
 4903 Statutes.

4904 Section 25. Section 627.786, Florida Statutes, is  
 4905 transferred, renumbered as section 637.2074, Florida Statutes,  
 4906 and subsection (3) of that section is amended to read:

4907 637.2074 ~~627.786~~ Transaction of title insurance and any  
 4908 other kind of insurance prohibited.—

4909 (3) Subsection (1) does not preclude a title insurer from  
 4910 providing instruments to any prospective insured, in the form  
 4911 and content approved by the department ~~office~~, under which the  
 4912 title insurer assumes liability for loss due to the fraud of,  
 4913 dishonesty of, misappropriation of funds by, or failure to  
 4914 comply with written closing instructions by, its contract  
 4915 agents, agencies, or approved attorneys in connection with a  
 4916 real property transaction for which the title insurer is to  
 4917 issue a title insurance policy.

4918 Section 26. Section 627.7865, Florida Statutes, is  
 4919 transferred, renumbered as section 637.2075, Florida Statutes,  
 4920 and amended to read:

4921 637.2075 ~~627.7865~~ Title insurer assessments.—

4922 (1) As a condition of doing business in this state, each  
 4923 title insurer shall be liable for an assessment to pay all  
 4924 unpaid title insurance claims and expenses of administering and  
 4925 settling such claims on real property in this state for any  
 4926 title insurer that is ordered into liquidation under chapter 631  
 4927 ~~which is liquidated with unpaid outstanding claims. The office~~  
 4928 ~~shall assess all title insurers on a pro rata basis determined~~

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4929 ~~by their writings in this state for amounts necessary to pay the~~  
 4930 ~~claims. A title insurer is not required to pay an amount in~~  
 4931 ~~excess of one-tenth of its surplus as to policyholders.~~

4932 (2) The receiver or any title insurer may apply to the  
 4933 court for an order of liquidation if it appears that  
 4934 rehabilitation is not viable.

4935 (3) The following provisions apply upon issuance of a  
 4936 court order directing liquidation of an insurer:

4937 (a) The policies issued by the title insurer in  
 4938 liquidation shall remain in force.

4939 (b) The department shall order an assessment upon a  
 4940 judicially approved request by the receiver on an annual basis  
 4941 in an amount that the receiver deems sufficient, together with  
 4942 other assets of the estate, including available reinsurance, for  
 4943 the payment of known claims, loss adjustment expenses, and the  
 4944 cost of administration of the liquidation expenses.

4945 (c) Each title insurer doing business in this state shall  
 4946 be assessed pro rata based upon the total title insurance  
 4947 premiums written in this state, excluding premiums on  
 4948 reinsurance, as reported to the department for the most recent  
 4949 calendar year.

4950 (d) Assessments shall be paid to the receiver within 45  
 4951 days after notice of the assessment or pursuant to an approved  
 4952 quarterly installment plan. Any insurer that elects to pay an  
 4953 assessment on an installment plan shall also pay a financing  
 4954 charge to be determined by the receiver.

4955 (e) The department shall order an emergency assessment  
 4956 upon a judicially approved request by the receiver. The total of

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4957 any emergency assessment, when added to any annual assessment in  
 4958 a single calendar year, may not exceed the limitation in  
 4959 paragraph (f).

4960 (f) A title insurer may not be required to pay an  
 4961 assessment or multiple assessments in any 1 year that exceeds 4  
 4962 percent of its surplus to policyholders as of the end of the  
 4963 previous calendar year or more than 10 percent of its surplus to  
 4964 policyholders during a 60-month period. The 10-percent  
 4965 limitation shall be calculated as the sum of the percentages of  
 4966 surplus to policyholders assessed over such 60-month period. The  
 4967 department may exempt or limit the assessment of a title insurer  
 4968 if such assessment would result in a reduction to surplus as to  
 4969 policyholders below the minimum required to maintain the  
 4970 insurer's certificate of authority in this state.

4971 (g) Once ordered by the department, assessments and  
 4972 emergency assessments shall be considered assets of the estate  
 4973 and subject to the provisions of s. 631.154.

4974 (4) The receiver shall enter into one or more contracts  
 4975 with a title insurer licensed in this state for the purposes of  
 4976 servicing as the point of contact for policyholders of the  
 4977 insolvent insurer and the administration and settlement of  
 4978 claims. The receiver shall make available information regarding  
 4979 unpaid claims on a quarterly basis. The department shall appoint  
 4980 an oversight committee consisting of representatives from the  
 4981 assessed title insurers to review material claims settlements  
 4982 prior to payment and such other actions as the department shall  
 4983 deem appropriate.

4984 (5) Unless ordered into liquidation, the title insurer in

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4985 rehabilitation may not be released from rehabilitation until all  
 4986 assessments have been repaid.

4987 Section 27. Section 627.791, Florida Statutes, is  
 4988 transferred, renumbered as section 637.2076, Florida Statutes,  
 4989 and amended to read:

4990 637.2076 ~~627.791~~ Penalties against title insurers for  
 4991 violations by persons or entities not licensed.—A title insurer  
 4992 is subject to the penalties in ss. 637.2017(2) and 637.2021  
 4993 ~~624.418(2)~~ and ~~624.4211~~ for any violation of a lawful order or  
 4994 rule of the department ~~office or commission~~, or for any  
 4995 violation of this chapter ~~code~~, committed by:

4996 (1) A person, firm, association, corporation, cooperative,  
 4997 joint-stock company, or other legal entity not licensed under  
 4998 this part when issuing and countersigning commitments or  
 4999 policies of title insurance on behalf of the title insurer.

5000 (2) An attorney when issuing and countersigning  
 5001 commitments or policies of title insurance on behalf of the  
 5002 title insurer.

5003 Section 28. Section 627.792, Florida Statutes, is  
 5004 transferred, renumbered as section 637.2077, Florida Statutes,  
 5005 and amended to read:

5006 637.2077 ~~627.792~~ Liability of title insurers for  
 5007 defalcation by title insurance agents or agencies.—A title  
 5008 insurer is liable for the defalcation, conversion, or  
 5009 misappropriation by a licensed title insurance agent or agency  
 5010 of funds held in trust by the agent or agency pursuant to s.  
 5011 637.3029 ~~626.8473~~. If the agent or agency is an agent or agency  
 5012 for two or more title insurers, any liability shall be borne by

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5013 the title insurer upon which a title insurance commitment or  
 5014 policy was issued prior to the illegal act. If no commitment or  
 5015 policy was issued, each title insurer represented by the agent  
 5016 or agency at the time of the illegal act shares in the liability  
 5017 in the same proportion that the premium remitted to it by the  
 5018 agent or agency during the 1-year period before the illegal act  
 5019 bears to the total premium remitted to all title insurers by the  
 5020 agent or agency during the same time period.

5021 Section 29. Section 627.793, Florida Statutes, is  
 5022 transferred, renumbered as section 637.2078, Florida Statutes,  
 5023 and amended to read:

5024 637.2078 ~~627.793~~ Rulemaking authority.—The department  
 5025 ~~commission~~ may adopt rules implementing the provisions of this  
 5026 chapter ~~part~~.

5027 Section 30. Section 627.796, Florida Statutes, is  
 5028 transferred and renumbered as section 637.2079, Florida  
 5029 Statutes.

5030 Section 31. Section 627.797, Florida Statutes, is  
 5031 transferred, renumbered as section 637.2081, Florida Statutes,  
 5032 and subsection (1) of that section is amended to read:

5033 637.2081 ~~627.797~~ Exempt title insurance agent list.—

5034 (1) Every insurer shall file with the department a list  
 5035 containing the name and address of each appointed agent who is  
 5036 exempt from licensure under s. 637.3006(4) ~~626.8417(4)~~ and who  
 5037 issues or countersigns binders, commitments, title insurance  
 5038 policies, or guarantees of title.

5039 Section 32. Section 627.798, Florida Statutes, is  
 5040 transferred, renumbered as section 637.2082, Florida Statutes,

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5041 and amended to read:

5042 637.2082 ~~627.798~~ Rulemaking authority.—The department  
 5043 ~~commission~~ shall ~~by rule~~ adopt a form to be used to provide  
 5044 notice to a purchaser-mortgagor that the purchaser-mortgagor is  
 5045 not protected by the title policy of the mortgagee.

5046 Section 33. Sections 637.2083, 637.2084, 637.2085,  
 5047 637.2086, 637.2087, 637.2088, 637.2089, and 637.2091, Florida  
 5048 Statutes, are created to read:

5049 637.2083 Assets not allowed.—In addition to assets  
 5050 impliedly excluded by the provisions of s. 625.012, the  
 5051 following expressly shall not be allowed as assets in any  
 5052 determination of the financial condition of a title insurer:

5053 (1) Trade names, patents, agreements not to compete, and  
 5054 other like intangible assets.

5055 (2) Advances (other than policy loans) to officers and  
 5056 directors, whether secured or not, and advances to employees,  
 5057 agents, and other persons on personal security only.

5058 (3) Stock of such insurer, owned by it, or any material  
 5059 equity therein or loans secured thereby, or any material  
 5060 proportionate interest in such stock acquired or held through  
 5061 the ownership by such insurer of an interest in another firm,  
 5062 corporation, or business unit.

5063 (4) Furniture, fixtures, furnishings, safes, vehicles,  
 5064 libraries, stationery, literature, and supplies, other than data  
 5065 processing and accounting systems authorized under s.  
 5066 625.012(11), except in the case of title insurers such materials  
 5067 and plants as the insurer is expressly authorized to invest in  
 5068 under s. 637.20073 and except, in the case of any insurer, such

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5069 personal property as the insurer is permitted to hold pursuant  
 5070 to part II of this chapter, or which is acquired through  
 5071 foreclosure of chattel mortgages acquired pursuant to s.  
 5072 625.329, or which is reasonably necessary for the maintenance  
 5073 and operation of real estate lawfully acquired and held by the  
 5074 insurer other than real estate used by it for home office,  
 5075 branch office, and similar purposes.

5076 (5) The amount, if any, by which the aggregate book value  
 5077 of investments as carried in the ledger assets of the insurer  
 5078 exceeds the aggregate value thereof as determined under this  
 5079 code.

5080 (6) Bonds, notes, or other evidences of indebtedness which  
 5081 are secured by mortgages or deeds of trust which are in default.

5082 (7) Prepaid and deferred expenses.

5083 637.2084 Power to contract; purchase of title insurance by  
 5084 or for minor.-

5085 (1) Any person of competent legal capacity may contract  
 5086 for title insurance.

5087 (2) Any minor of the age of 15 years or more, as  
 5088 determined by the nearest birthday, may, notwithstanding his or  
 5089 her minority, contract for title insurance on his or her own  
 5090 property.

5091 (3) If any minor mentioned in subsection (2) is possessed  
 5092 of an estate that is being administered by a guardian or  
 5093 curator, such contract shall not be binding upon such estate as  
 5094 to payment of premiums, except as and when consented to by the  
 5095 guardian or curator and approved by the probate court of the  
 5096 county in which the administration of the estate is pending; and

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5097 such consent and approval shall be required as to each premium  
 5098 payment.

5099 637.2085 Charter, bylaw provisions.—A title insurance  
 5100 policy may not contain any provision purporting to make any  
 5101 portion of the charter, bylaws, or other constituent document of  
 5102 the title insurer a part of the contract unless such portion is  
 5103 set forth in full in the policy. Any policy provision in  
 5104 violation of this section is invalid.

5105 637.2086 Execution of policies.—

5106 (1) Every title insurance policy shall be executed in the  
 5107 name of and on behalf of the insurer by its officer, attorney in  
 5108 fact, employee, or representative duly authorized by the title  
 5109 insurer.

5110 (2) A facsimile signature of any such executing individual  
 5111 may be used in lieu of an original signature.

5112 (3) A title insurance contract that is otherwise valid may  
 5113 not be rendered invalid by reason of the apparent execution  
 5114 thereof on behalf of the title insurer by the imprinted  
 5115 facsimile signature of an individual not authorized so to  
 5116 execute as of the date of the policy.

5117 637.2087 Construction of policies.—

5118 (1) Every title insurance contract shall be construed  
 5119 according to the entirety of its terms and conditions as set  
 5120 forth in the policy and as amplified, extended, or modified by  
 5121 any application therefor or any rider or endorsement thereto.

5122 (2) If a title insurer or licensee advertises title  
 5123 insurance policy in a language other than English, the  
 5124 advertisements shall not be construed to modify or change the

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5125 insurance policy written in English. The advertisement must  
 5126 disclose that the policy written in English controls in the  
 5127 event of a dispute and that statements contained in the  
 5128 advertisement do not necessarily, as a result of possible  
 5129 linguistic differences, reflect the contents of the policy  
 5130 written in English. Nothing in this subsection shall affect the  
 5131 provisions of s. 637.1033 relating to misrepresentations and  
 5132 false advertising of insurance policies.

5133 637.2088 Payment of judgment by title insurer; penalty for  
 5134 failure.-

5135 (1) Every judgment or decree for the recovery of money  
 5136 entered in any of the courts of this state against any  
 5137 authorized title insurer shall be fully satisfied within 60 days  
 5138 after the entry thereof or, in the case of an appeal from such  
 5139 judgment or decree, within 60 days after the affirmance of the  
 5140 same by the appellate court.

5141 (2) If the judgment or decree is not satisfied as required  
 5142 under subsection (1), and proof of such failure to satisfy is  
 5143 made by filing with the department a certified transcript of the  
 5144 docket of the judgment or decree together with a certificate by  
 5145 the clerk of the court wherein the judgment or decree was  
 5146 entered that the judgment or decree remains unsatisfied, in  
 5147 whole or in part, after the time aforesaid, the department shall  
 5148 forthwith revoke the title insurer's certificate of authority.  
 5149 The department shall not issue to such insurer any new  
 5150 certificate of authority until the judgment or decree is wholly  
 5151 paid and satisfied and proof thereof filed with the department  
 5152 under the official certificate of the clerk of the court wherein

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5153 the judgment was recovered, showing that the same is satisfied  
 5154 of record, and until the expenses and fees incurred in the case  
 5155 are also paid by the insurer.

5156 637.2089 Attorney's fee.—

5157 (1) Upon the rendition of a judgment or decree by any of  
 5158 the courts of this state against a title insurer and in favor of  
 5159 any named or omnibus insured or the named beneficiary under a  
 5160 policy or contract executed by the title insurer, the trial  
 5161 court or, in the event of an appeal in which the insured or  
 5162 beneficiary prevails, the appellate court shall adjudge or  
 5163 decree against the title insurer and in favor of the insured or  
 5164 beneficiary a reasonable sum as fees or compensation for the  
 5165 insured's or beneficiary's attorney prosecuting the suit in  
 5166 which the recovery is had.

5167 (2) When so awarded, compensation or fees of the attorney  
 5168 shall be included in the judgment or decree rendered in the  
 5169 case.

5170 637.2091 Title insurance business exclusive.—

5171 (1) A domestic title insurer may not engage directly or  
 5172 indirectly in any business other than the title insurance  
 5173 business and business activities reasonably and necessarily  
 5174 incidental to such title insurance business.

5175 (2) Notwithstanding subsection (1), a title insurer may  
 5176 engage in business as an escrow agent.

5177 (3) A business trust whose declaration of trust was filed  
 5178 with the Secretary of State prior to January 1, 1959, and which,  
 5179 at the time of the adoption of the Florida Insurance Code, held  
 5180 a certificate of authority as a title insurer may qualify as an

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5181 insurer for lawyers' professional liability insurance by  
 5182 complying with the applicable provisions of the code.

5183 Section 34. Part III of chapter 637, Florida Statutes,  
 5184 consisting of sections 637.3001, 637.3002, 637.3003, 637.30041,  
 5185 637.30042, 637.30043, 637.30044, 637.30045, 637.30046,  
 5186 637.30047, 637.30048, 637.30049, 637.3005, 637.3006, 637.3007,  
 5187 637.3008, 637.3009, 637.30093, 637.30094, 637.30095, 637.30096,  
 5188 637.30097, 637.3011, 637.3012, 637.30125, 637.3013, 637.30133,  
 5189 637.30135, 637.3014, 637.30142, 637.30143, 637.30144, 637.30145,  
 5190 637.30146, 637.30147, 637.3015, 637.3016, 637.3017, 637.3018,  
 5191 637.3019, 637.3021, 637.3022, 637.3023, 637.3024, 637.3025,  
 5192 637.3026, 637.3027, 637.3028, 637.3029, and 637.30295, is  
 5193 created and entitled "TITLE INSURANCE AGENT AND AGENCY LICENSING  
 5194 AND ADMINISTRATION."

5195 Section 35. Section 626.8412, Florida Statutes, is  
 5196 transferred, renumbered as section 637.3001, Florida Statutes,  
 5197 and amended to read:

5198 637.3001 ~~626.8412~~ License and appointments required.—

5199 (1) Except as otherwise provided in this part:

5200 (a) Title insurance business may be conducted ~~sold~~ only by  
 5201 a title insurer or a licensed title insurance agent employed by  
 5202 a licensed and appointed title insurance agency ~~or employed by a~~  
 5203 ~~title insurer.~~

5204 (b) A title insurance agent may not provide ~~sell~~ a title  
 5205 insurance policy for ~~issued by~~ an insurer for which the agent  
 5206 and agency does not hold a current appointment.

5207 (2) Except as otherwise provided in this part, a person,  
 5208 other than a title insurance agency or an employee of a title

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5209 insurance agency, may not perform any of the functions of a  
 5210 title insurance agency without a title insurance agency license.

5211 (3) Each title insurance agency shall annually remit the  
 5212 administrative surcharge required in s. 637.2031(14) (e) prior to  
 5213 January 30 of each year.

5214 (a) Noncompliance with the payment of the fees as required  
 5215 in s. 637.2031(14) (e) shall result in the immediate suspension  
 5216 of the title insurance agency's appointments to represent an  
 5217 insurer.

5218 (b) Absent other cause for suspension, the appointments of  
 5219 a title insurance agency may be reinstated upon receipt of the  
 5220 amount due for the administrative surcharge plus any penalties  
 5221 imposed.

5222 (c) A penalty may be imposed to reinstate the appointments  
 5223 of an agency.

5224 Section 36. Section 626.8413, Florida Statutes, is  
 5225 transferred, renumbered as section 637.3002, Florida Statutes,  
 5226 and amended to read:

5227 637.3002 ~~626.8413~~ Title insurance agents; certain names  
 5228 prohibited. ~~After October 1, 1985,~~ A title insurance agent ~~as~~  
 5229 ~~defined in s. 626.841~~ shall not adopt a name which contains the  
 5230 words "title insurance," "title guaranty," or "title guarantee,"  
 5231 unless such words are followed by the word "agent" or "agency"  
 5232 in the same size and type as the words preceding them. This  
 5233 section does not apply to a title insurer acting as an agent for  
 5234 another title insurer.

5235 Section 37. Sections 637.3003, 637.30041, 637.30042,  
 5236 637.30043, 637.30044, 637.30045, 637.30046, 637.30047,

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5237 637.30048, and 637.30049, Florida Statutes, are created to read:  
 5238 637.3003 Firm, corporate, and business names; officers;  
 5239 associates; notice of changes.—

5240 (1) Any licensed title agent doing business under a firm  
 5241 or corporate name or under any business name other than his or  
 5242 her own individual name shall, within 30 days after the initial  
 5243 transaction of insurance under such business name, file with the  
 5244 department, on forms adopted and furnished by the department, a  
 5245 written statement of the firm, corporate, or business name being  
 5246 used, the address of any office or offices or places of business  
 5247 making use of such name, and the name and social security number  
 5248 of each officer and director of the corporation and of each  
 5249 individual associated in such firm or corporation as to the  
 5250 insurance transactions of such firm or corporation or in the  
 5251 use of such business name.

5252 (2) In the event of any change of such name, a change of  
 5253 any of the officers or directors, a change of any of such  
 5254 addresses, or a change in the personnel associated with such  
 5255 firm or corporation, written notice of such change shall be  
 5256 filed with the department within 30 days by or on behalf of  
 5257 those licensees terminating any such firm, corporation, or  
 5258 business name or continuing to operate under such name.

5259 (3) Within 30 days after a change, any licensed title  
 5260 insurance agency shall notify the department of any change in  
 5261 the information contained in the application filed pursuant to s.  
 5262 637.3007.

5263 637.30041 Insurance agency names; disapproval.—The  
 5264 department may disapprove the use of any true or fictitious

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5265 name, other than the bona fide natural name of an individual, by  
 5266 any title insurance agency on any of the following grounds:

5267 (1) The name interferes with or is too similar to a  
 5268 name already filed and in use by another title insurance agency  
 5269 or title insurer.

5270 (2) The use of the name may mislead the public in any  
 5271 respect.

5272 (3) The name states or implies that the title insurance  
 5273 agency is an insurer, motor club, hospital service plan, state  
 5274 or federal agency, charitable organization, or entity that  
 5275 primarily provides advice and counsel rather than sells or  
 5276 solicits title insurance, or is entitled to engage in title  
 5277 insurance activities not permitted under licenses held or  
 5278 applied for. This subsection does not prohibit the use of the  
 5279 word "state" or "states" in the name of the agency. The use of  
 5280 the word "state" or "states" in the name of an agency does not  
 5281 imply that the agency is a state agency.

5282 637.30042 Examination requirement; exemptions.—The  
 5283 department may not issue any license as a title insurance agent  
 5284 to any individual who has not qualified for, taken, and  
 5285 passed to the satisfaction of the department a written  
 5286 examination of the scope prescribed in s. 637.30044.

5287 637.30043 Eligibility; application for examination.—

5288 (1) A person may not be permitted to take an  
 5289 examination for license until his or her application for  
 5290 examination or application for the license has been approved  
 5291 and the required fees have been received by the department  
 5292 or a person designated by the department to administer the

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5293 examination.  
 5294 (2) A person required to take an examination for a license  
 5295 may be permitted to take an examination prior to submitting an  
 5296 application for licensure pursuant to s. 637.3006 by submitting  
 5297 an application for examination through the department's  
 5298 Internet website. In the application, the applicant shall set  
 5299 forth:  
 5300 (a) His or her full name, age, social security number,  
 5301 residence address, business address, and mailing address.  
 5302 (b) The type of license that the applicant intends to  
 5303 apply for.  
 5304 (c) The name of any required pre-licensing course he or  
 5305 she has completed or is in the process of completing.  
 5306 (d) The method by which the applicant intends to qualify  
 5307 for the type of license if other than by completing a pre-  
 5308 licensing course.  
 5309 (e) The applicant's gender.  
 5310 (f) The applicant's native language.  
 5311 (g) The highest level of education achieved by the  
 5312 applicant.  
 5313 (h) The applicant's race or ethnicity. However, the  
 5314 application must contain a statement that an applicant is not  
 5315 required to disclose his or her race or ethnicity, gender, or  
 5316 native language, that he or she will not be penalized for not  
 5317 making such disclosure, and that the department will use this  
 5318 information exclusively for research and statistical purposes  
 5319 and to improve the quality and fairness of the examinations.  
 5320 (3) Each application shall be accompanied by payment of

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5321 the applicable examination fee.  
 5322 637.30044 Scope of examination.-  
 5323 (1) Each examination for a license as a title insurance  
 5324 agent, shall be of such scope as is deemed by the department to  
 5325 be reasonably necessary to test the applicant's ability and  
 5326 competence and knowledge of title insurance and real property  
 5327 transactions of the duties and responsibilities of such a  
 5328 licensee, and of the pertinent provisions of the laws of this  
 5329 state.  
 5330 (2) Examinations must cover title insurance, abstracting,  
 5331 title searches, examination of title, closing procedures, and  
 5332 escrow handling.  
 5333 (3) This section applies to any person who submits an  
 5334 application for license and to any person who submits an  
 5335 application for examination prior to filing an application  
 5336 for license.  
 5337 637.30045 Time and place of examination; notice.-  
 5338 (1) The department or a person designated by the  
 5339 department shall mail written notice of the time and place of  
 5340 the examination to each applicant for examination and each  
 5341 applicant for license required to take an examination who is  
 5342 eligible to take the examination as of the examination date. The  
 5343 notice shall be mailed, postage prepaid, and addressed to the  
 5344 applicant at his or her address shown on the application for  
 5345 license or at such other address as requested by the applicant  
 5346 in writing filed with the department prior to the mailing of the  
 5347 notice. Notice shall be deemed given when mailed.  
 5348 (2) The examination shall be held in an adequate and

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5349 designated examination center in this state.

5350 (3) The department shall make an examination available to  
 5351 the applicant, to be taken as soon as reasonably possible after  
 5352 the applicant is eligible to take the examination. Any  
 5353 examination required under this part shall be available in this  
 5354 state at a designated examination center.

5355 637.30046 Conduct of examination.—

5356 (1) The applicant for license or the applicant for  
 5357 examination shall appear in person and personally take the  
 5358 examination for license at the time and place specified by  
 5359 the department or by a person designated by the department.

5360 (2) The examination shall be conducted by an employee of  
 5361 the department or a person designated by the department for that  
 5362 purpose.

5363 (3) The questions propounded shall be as prepared by the  
 5364 department, or by a person designated by the department for that  
 5365 purpose, consistent with the applicable provisions of this code.

5366 (4) All examinations shall be given and graded in a  
 5367 fair and impartial manner and without unfair discrimination in  
 5368 favor of or against any particular applicant.

5369 637.30047 Printing of examinations or related materials to  
 5370 preserve examination security.—A contract let for the  
 5371 development, administration, or grading of examinations or  
 5372 related materials by the department pursuant to the agent,  
 5373 customer representative, or adjuster licensing and examination  
 5374 provisions of this code may include the printing or furnishing  
 5375 of such examinations or related materials in order to preserve  
 5376 security. Any such contract shall be let as a contract for a

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5377 contractual service pursuant to s. 287.057.

5378 637.30048 Examination fee; determination, refund.—

5379 (1) Prior to being permitted to take an examination, each  
 5380 applicant who is subject to examination shall pay an examination  
 5381 fee to the department or a person designated by the department.

5382 A separate and additional examination fee shall be payable for  
 5383 each separate class of license applied for, notwithstanding that  
 5384 all such examinations are taken on the same date and at the same  
 5385 place.

5386 (2) The fee for examination is not refundable.

5387 637.30049 Reexamination.—

5388 (1) Any applicant for license or applicant for examination  
 5389 who has taken an examination and failed to make a passing grade,  
 5390 or failed to appear for the examination or to take or complete  
 5391 the examination at the time and place specified in the  
 5392 notice of the department, may take additional examinations  
 5393 after filing with the department an application for  
 5394 reexamination together with applicable fees. The failure of an  
 5395 applicant to pass an examination or the failure to appear for  
 5396 the examination or to take or complete the examination does not  
 5397 preclude the applicant from taking subsequent examinations.

5398 (2) The department may require any individual whose  
 5399 license as an agent has expired or has been suspended to pass  
 5400 an examination prior to reinstating or relicensing the  
 5401 individual as to any class of license. The examination fee  
 5402 shall be paid as to each examination.

5403 Section 38. Section 626.8414, Florida Statutes, is  
 5404 transferred and renumbered as section 637.3005, Florida

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5405 Statutes.  
 5406 Section 39. Section 626.8417, Florida Statutes, is  
 5407 transferred, renumbered as section 637.3006, Florida Statutes,  
 5408 and amended to read:  
 5409 637.3006 ~~626.8417~~ Title insurance agent licensure;  
 5410 exemptions.-  
 5411 (1) A person may not act as or hold himself or herself out  
 5412 to be a title insurance agent as defined in s. 626.841 until a  
 5413 valid title insurance agent's license has been issued to that  
 5414 person by the department.  
 5415 (2) An application for license as a title insurance agent  
 5416 shall be filed with the department on ~~printed~~ forms furnished by  
 5417 the department.  
 5418 (3) The department shall not grant or issue a license as  
 5419 title agent to any individual found by it to be untrustworthy or  
 5420 incompetent, who does not meet the qualifications for  
 5421 examination specified in s. 637.3005 ~~626.8414~~, or who does not  
 5422 meet the following qualifications:  
 5423 (a) Within the 4 years immediately preceding the date of  
 5424 the application for license, the applicant must have completed a  
 5425 40-hour classroom course in title insurance, 3 hours of which  
 5426 shall be on the subject matter of ethics, as approved by the  
 5427 department, or must have had at least 12 months of experience in  
 5428 responsible title insurance duties, while working in the title  
 5429 insurance business as a substantially full-time, bona fide  
 5430 employee of a title agency, title agent, title insurer, or  
 5431 attorney who conducts real estate closing transactions and  
 5432 issues title insurance policies but who is exempt from licensure

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5433 pursuant to paragraph (4) (a). If an applicant's qualifications  
 5434 are based upon the periods of employment at responsible title  
 5435 insurance duties, the applicant must submit, with the  
 5436 application for license on a form prescribed by the department,  
 5437 the affidavit of the applicant and of the employer setting forth  
 5438 the period of such employment, that the employment was  
 5439 substantially full time, and giving a brief abstract of the  
 5440 nature of the duties performed by the applicant.

5441 (b) The applicant must have passed an ~~any~~ examination for  
 5442 licensure ~~required under s. 626.221.~~

5443 (4) (a) Title insurers or attorneys duly admitted to  
 5444 practice law in this state and in good standing with The Florida  
 5445 Bar, or law firms employing such attorneys, are exempt from the  
 5446 provisions of this chapter with regard to title insurance  
 5447 licensing and appointment requirements.

5448 (b) An insurer may designate a corporate officer of the  
 5449 insurer to occasionally issue and countersign binders,  
 5450 commitments, title insurance policies, or guarantees of title. A  
 5451 designated officer is exempt from the provisions of this chapter  
 5452 with regard to title insurance licensing and appointment  
 5453 requirements while the officer is acting within the scope of the  
 5454 designation.

5455 (c) If an attorney or attorneys own a corporation or other  
 5456 legal entity which is doing business as a title insurance agency  
 5457 other than an entity engaged in the active practice of law, the  
 5458 agency must be licensed and appointed as a title insurance  
 5459 agency with an agent in charge or an attorney designated for the  
 5460 agency agent.

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5461 Section 40. Section 626.8418, Florida Statutes, is  
 5462 transferred, renumbered as section 637.3007, Florida Statutes,  
 5463 and subsection (1) of that section is amended to read:

5464 637.3007 ~~626.8418~~ Application for title insurance agency  
 5465 license.—Prior to doing business in this state as a title  
 5466 insurance agency, a title insurance agency must meet all of the  
 5467 following requirements:

5468 (1) The applicant must file with the department an  
 5469 application for a license as a title insurance agency, on  
 5470 printed forms furnished by the department, that includes all of  
 5471 the following:

5472 (a) The name of each majority owner, partner, officer, and  
 5473 director of the agency.

5474 (b) The residence address of each person required to be  
 5475 listed under paragraph (a).

5476 (c) The name of the agency and its principal business  
 5477 address.

5478 (d) The location of each title insurance agency ~~office~~ and  
 5479 the name under which each title insurance agency ~~office~~ conducts  
 5480 or will conduct business.

5481 (e) The name of each title insurance agent to be in full-  
 5482 time charge of a title insurance ~~an~~ agency ~~office~~ and  
 5483 specification of which title insurance agency ~~office~~.

5484 (f) Such additional information as the department requires  
 5485 by rule to ascertain the trustworthiness and competence of  
 5486 persons required to be listed on the application and to  
 5487 ascertain that such persons meet the requirements of this  
 5488 chapter ~~code~~.

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5489           Section 41. Section 626.8419, Florida Statutes, is  
 5490 transferred and renumbered as section 637.3008, Florida  
 5491 Statutes.

5492           Section 42. Section 626.842, Florida Statutes, is  
 5493 transferred and renumbered as section 637.3009, Florida  
 5494 Statutes.

5495           Section 43. Sections 637.30093, 637.30094, 637.30095,  
 5496 637.30096, and 637.30097, Florida Statutes, are created to read:  
 5497 637.30093 Continuing education required; application;  
 5498 exceptions; requirements; penalties.-

5499           (1) The purpose of this section is to establish  
 5500 requirements and standards for continuing education courses for  
 5501 persons licensed to solicit or sell title insurance in this  
 5502 state.

5503           (2) (a) Each person subject to the provisions of this  
 5504 section must complete a minimum of 10 hours of continuing  
 5505 education courses every 2 years in title insurance courses  
 5506 approved by this state. Each person subject to the provisions  
 5507 of this section must complete, as part of his or her required  
 5508 number of continuing education hours, 2 hours of continuing  
 5509 education, approved by the department, every 2 years on the  
 5510 subject matter of ethics, rules, or state and federal regulatory  
 5511 compliance matters relating to title insurance and closing  
 5512 services.

5513           (b) Any person who holds a license as a title agent must  
 5514 complete 10 hours of continuing education courses every 2 years.

5515           (c) Except as provided in paragraph (d), compliance with  
 5516 continuing education requirements is a condition precedent to

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5517 the issuance, continuation, reinstatement, or renewal of any  
 5518 appointment subject to this chapter.

5519 (d) A person teaching any approved course of instruction  
 5520 or lecturing at any approved seminar and attending the entire  
 5521 course or seminar shall qualify for the same number of classroom  
 5522 hours as would be granted to a person taking and successfully  
 5523 completing such course, seminar, or program. Credit shall be  
 5524 limited to the number of hours actually taught unless a person  
 5525 attends the entire course or seminar. Any person who is an  
 5526 official of or employed by any governmental entity in this  
 5527 state and serves as a professor, instructor, or in any other  
 5528 position or office the duties and responsibilities of which are  
 5529 determined by the department to require monitoring and review of  
 5530 insurance laws or insurance regulations and practices shall be  
 5531 exempt from this section.

5532 (e) Excess classroom hours accumulated during any  
 5533 compliance period may be carried forward to the next compliance  
 5534 period.

5535 (f) For good cause shown, the department may grant an  
 5536 extension of time during which the requirements imposed by this  
 5537 section may be completed, but such extension of time may not  
 5538 exceed 1 year.

5539 (3) The following courses may be completed in order to  
 5540 meet the continuing education course requirements:

5541 (a) In the case of title agents, completion of the  
 5542 Certified Land Closer (CLC) professional designation program  
 5543 and receipt of the designation: 24 hours.

5544 (b) In the case of title agents, completion of the

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5545 Certified Land Searcher (CLS) professional designation program  
 5546 and receipt of the designation: 24 hours.

5547 (c) Any insurance-related course which is approved by the  
 5548 department and taught by an accredited college or university per  
 5549 credit hour granted: 12 hours.

5550 (d) Any course, including courses relating to agency  
 5551 management or errors and omissions, developed or sponsored by  
 5552 any authorized insurer or recognized agents' association or  
 5553 insurance trade association or any independent study  
 5554 program of instruction, subject to approval by the department,  
 5555 qualifies for the equivalency of the number of classroom hours  
 5556 assigned to such course by the department. However, unless  
 5557 otherwise provided in this section, continuing education  
 5558 course hours may not be credited toward meeting the  
 5559 requirements of this section unless the course is provided  
 5560 by classroom instruction or results in a monitored examination.

5561 (e) A monitored examination is not required for:

5562 1. An independent study program of instruction presented  
 5563 through interactive, online technology that the department  
 5564 determines has sufficient internal testing to validate the  
 5565 student's full comprehension of the materials presented; or

5566 2. An independent study program of instruction presented on  
 5567 paper or in printed material that imposes a final closed book  
 5568 examination that meets the requirements of the department's rule  
 5569 for self-study courses. The examination may be taken without a  
 5570 proctor provided the student presents to the provider a sworn  
 5571 affidavit certifying that the student did not consult any  
 5572 written materials or receive outside assistance of any kind or

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5573 from any person, directly or indirectly, while taking the  
 5574 examination. If the student is an employee of an agency or  
 5575 corporate entity, the student's supervisor or a manager or  
 5576 owner of the agency or corporate entity must also sign the sworn  
 5577 affidavit. If the student is self-employed, a sole proprietor,  
 5578 or a partner, or if the examination is administered online, the  
 5579 sworn affidavit must also be signed by a disinterested third  
 5580 party. The sworn affidavit must be received by the approved  
 5581 provider prior to reporting continuing education credits to  
 5582 the department.

5583 (f) Each person or entity sponsoring a course for  
 5584 continuing education credit shall furnish, within 30 days  
 5585 after completion of the course, in a form satisfactory to the  
 5586 department or its designee, a written and certified roster  
 5587 showing the name and license number of all persons  
 5588 successfully completing such course and requesting credit,  
 5589 accompanied by the required fee.

5590 (4) The department shall refuse to renew the appointment  
 5591 of any agent who has not had his or her continuing education  
 5592 requirements certified unless the agent has been granted an  
 5593 extension by the department. The department may not issue a new  
 5594 appointment of the same or similar type, with any insurer, to an  
 5595 agent who was denied a renewal appointment for failure to  
 5596 complete continuing education as required until the agent  
 5597 completes his or her continuing education requirement.

5598 (5) An 11-member continuing education advisory board is  
 5599 created, to be appointed by the Chief Financial Officer.  
 5600 Appointments shall be for terms of 4 years. The purpose of the

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5601 board is to advise the department in determining standards by  
 5602 which courses may be evaluated and categorized as basic,  
 5603 intermediate, or advanced. The board shall submit to the  
 5604 department recommendations of changes needed in such criteria  
 5605 not less frequently than every 2 years. The department shall  
 5606 require all approved course providers to submit courses for  
 5607 approval to the department using the criteria. All materials,  
 5608 brochures, and advertisements related to the approved courses  
 5609 must specify the level assigned to the course.

5610 (6) The department may contract services relative to the  
 5611 administration of the continuing education program to a private  
 5612 entity. The contract shall be procured as a contract for a  
 5613 contractual service pursuant to s. 287.057.

5614 637.30094 Regulation of continuing education for  
 5615 licensees, course providers, instructors, school officials, and  
 5616 monitor groups.-

5617 (1) Continuing education course providers, instructors,  
 5618 school officials, and monitor groups must be approved by the  
 5619 department before offering continuing education courses pursuant  
 5620 to s. 637.30093.

5621 (2) The department shall adopt rules establishing  
 5622 standards for the approval, regulation, and operation of the  
 5623 continuing education programs and for the discipline of  
 5624 licensees, course providers, instructors, school officials, and  
 5625 monitor groups. The standards must be designed to ensure that  
 5626 such course providers, instructors, school officials, and  
 5627 monitor groups have the knowledge, competence, and integrity to  
 5628 fulfill the educational objectives of s. 637.30093.

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5629           (3) The department shall adopt rules establishing a  
 5630 process by which compliance with the continuing education  
 5631 requirements of s. 637.30093 can be determined, the  
 5632 establishment of a continuing education compliance period for  
 5633 licensees, and forms necessary to implement such a process.

5634           637.30095 Regulation of course providers, instructors,  
 5635 school officials, and monitor groups involved in prelicensure  
 5636 education for insurance agents and other licensees.-

5637           (1) Any course provider, instructor, school official, or  
 5638 monitor group must be approved by and registered with the  
 5639 department before offering prelicensure education courses for  
 5640 insurance agents and other licensees.

5641           (2) The department shall adopt rules establishing standards  
 5642 for the approval, registration, discipline, or removal from  
 5643 registration of course providers, instructors, school officials,  
 5644 and monitor groups. The standards must be designed to ensure  
 5645 that such persons have the knowledge, competence, and integrity  
 5646 to fulfill the educational objectives of the prelicensure  
 5647 requirements of this chapter and chapter 648 and to ensure that  
 5648 insurance agents and licensees are competent to engage in the  
 5649 activities authorized under the license.

5650           (3) The department shall adopt rules to establish a  
 5651 process for determining compliance with the prelicensure  
 5652 requirements of this chapter and chapter 648. The department  
 5653 shall adopt rules prescribing the forms necessary to administer  
 5654 the prelicensure requirements.

5655           637.30096 Examination results; denial, issuance of  
 5656 license.-

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5657       (1) Within 30 days after the applicant has completed any  
 5658 examination required under s. 637.30042, the department or its  
 5659 designee shall provide a score report and, if the applicant has  
 5660 received a passing grade, the department shall within such  
 5661 period notify the applicant and issue and transmit the license  
 5662 to which such examination related. If the applicant did not make  
 5663 a passing grade on the examination for a particular license, the  
 5664 department or its designee shall within such period provide  
 5665 notice to the applicant to that effect and of the denial of the  
 5666 license. For an applicant who has completed the examination and  
 5667 received a passing grade prior to submitting the license  
 5668 application, the department shall promptly issue the license  
 5669 applied for as soon as the department approves the application.

5670       (2) A passing grade on an examination is valid for a  
 5671 period of 1 year. The department may not issue a license to an  
 5672 applicant based upon an examination taken more than 1 year prior  
 5673 to the date an application for a license is filed.

5674       637.30097 Form and contents of licenses in general.—Each  
 5675 license issued by the department shall be in such form as the  
 5676 department may designate and must contain the licensee's name,  
 5677 the licensee's personal identification number, the date of  
 5678 issuance, and any other information the department deems  
 5679 necessary to fully identify the licensee and the authority being  
 5680 granted. The department may by rule require photographs of  
 5681 applicants as a part of the licensing process.

5682       Section 44. Section 626.84201, Florida Statutes, is  
 5683 transferred, renumbered as section 637.3011, Florida Statutes,  
 5684 and amended to read:

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5685           637.3011 ~~626.84201~~ Nonresident title insurance agents.—  
 5686 Notwithstanding s. 637.3005(2) ~~626.8414(2)~~, the department, upon  
 5687 application and payment of the fees specified in s. 637.2031  
 5688 ~~624.501~~, may issue a license as a nonresident title insurance  
 5689 agent to an individual not a resident of this state in the same  
 5690 manner applicable to the licensure of nonresident general lines  
 5691 agents under the provisions of s. 626.741, provided the  
 5692 individual passes the examination for licensure required under  
 5693 s. 637.30042 ~~626.221~~. Nonresident title insurance agents  
 5694 licensed pursuant to this section must complete the continuing  
 5695 education requirements of s. 637.30093 ~~626.2815~~ in the same  
 5696 manner as resident title insurance agents. Sections 626.742 and  
 5697 626.743 apply to nonresident title insurance agents.

5698           Section 45. Section 626.8421, Florida Statutes, is  
 5699 transferred, renumbered as section 637.3012, Florida Statutes,  
 5700 and amended to read:

5701           637.3012 ~~626.8421~~ Number of appointments permitted or  
 5702 required.—A title agent shall be required to have a separate  
 5703 appointment as to each insurer by which he or she is appointed  
 5704 as agent. ~~As a part of each appointment there shall be a~~  
 5705 ~~certified statement or affidavit of an appropriate officer or~~  
 5706 ~~official of the appointing insurer stating that to the best of~~  
 5707 ~~the insurer's knowledge and belief the applicant, or its~~  
 5708 ~~principals in the case of a corporation or other legal entity,~~  
 5709 ~~has met the requirements of s. 626.8417.~~

5710           Section 46. Section 637.30125, Florida Statutes, is  
 5711 created to read:

5712           637.30125 Agent in charge.—

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5713 (1) Each location of a title insurance agency or insurer  
 5714 at which disbursement of escrow funds or policy issuance  
 5715 services are performed shall have a separate agent in charge.  
 5716 The failure to designate an agent in charge on a form  
 5717 prescribed by the department, within 10 working days after an  
 5718 agency's inception or a change of the agent in charge, is a  
 5719 violation of this chapter, punishable as provided in s.  
 5720 637.3018.

5721 (2) The agent in charge shall accept and be responsible  
 5722 for the operation and management of a title agency location.

5723 (3) The agent in charge shall perform his or her duties as  
 5724 set forth in subsection (2) at the location for which he or she  
 5725 is an attorney or agent in charge.

5726 (4) The department may suspend or revoke the license of  
 5727 the agency if a title insurance agency employs, contracts with,  
 5728 or uses the services of a person who has had a license denied or  
 5729 whose license is currently suspended or revoked. However, a  
 5730 person who has been denied a license for failure to pass a  
 5731 required examination may be employed to perform clerical or  
 5732 administrative functions for which licensure is not required.

5733 (5) An agency shall designate an attorney licensed by The  
 5734 Florida Bar or an agent licensed by the department as agent in  
 5735 charge for each location of the agency. In the case of multiple  
 5736 locations, the agency shall designate a separate agent in charge  
 5737 for each location.

5738 (6) The department may adopt rules pursuant to ss.  
 5739 120.536(1) and 120.54 to implement this section and interpret  
 5740 the duties and responsibilities of the agent in charge or the

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5741 attorney in charge of a licensed title insurance agency.  
 5742 Section 47. Section 626.8423, Florida Statutes, is  
 5743 transferred and renumbered as section 637.3013, Florida  
 5744 Statutes.  
 5745 Section 48. Section 637.30133, Florida Statutes, is  
 5746 created to read:  
 5747 637.30133 Consumer protections.—To transact title  
 5748 insurance, title insurance agents shall comply with consumer  
 5749 protection laws, including the following, as applicable:  
 5750 (1) Continuing education requirements for resident and  
 5751 nonresident agents, as required in s. 637.30093.  
 5752 (2) Fingerprinting requirements for resident and  
 5753 nonresident agents, as required under s. 626.171 or s.  
 5754 637.30135.  
 5755 (3) Fingerprinting following a department investigation  
 5756 under s. 637.1019.  
 5757 (4) The submission of credit and character reports, as  
 5758 required by s. 626.171 or s. 626.521.  
 5759 (5) Qualifications for licensure as an agent in s.  
 5760 626.731, s. 626.741, s. 626.785, s. 626.831, s. 626.835, or s.  
 5761 6378.2077.  
 5762 (6) Examination requirements in s. 626.741, s. 626.835,  
 5763 637.2077, or s. 637.30042.  
 5764 (7) Required licensure or registration of insurance  
 5765 agencies under s. 626.112.  
 5766 (8) Requirements for licensure of resident and  
 5767 nonresident agents in s. 626.112, s. 626.321, s. 626.731, s.  
 5768 626.741, s. 626.785, s. 626.831, s. 626.835, s. 626.927, or s.

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5769 637.2077.  
 5770 (9) Any other licensing requirement, restriction, or  
 5771 prohibition designated a consumer protection by the Chief  
 5772 Financial Officer, but not inconsistent with the requirements of  
 5773 Subtitle C of the Gramm-Leach-Bliley Act, 15 U.S.C.A. ss. 6751  
 5774 et seq.

5775 Section 49. Section 637.30135, Florida Statutes, is  
 5776 created to read:

5777 637.30135 Fingerprinting requirements.—If there is a  
 5778 change in ownership or control of any entity licensed under this  
 5779 chapter, or if a new partner, officer, or director is employed  
 5780 or appointed, a set of fingerprints of the new owner, partner,  
 5781 officer, or director must be filed with the department or office  
 5782 within 30 days after the change. The acquisition of 10 percent  
 5783 or more of the voting securities of a licensed entity is  
 5784 considered a change of ownership or control. The fingerprints  
 5785 must be taken by a law enforcement agency or other  
 5786 department-approved entity and be accompanied by the  
 5787 fingerprint processing fee in s. 637.2031.

5788 Section 50. Section 626.8427, Florida Statutes, is  
 5789 transferred and renumbered as section 637.3014, Florida  
 5790 Statutes.

5791 Section 51. Sections 637.30142, 637.30143, 637.30144,  
 5792 637.30145, 637.30146, and 637.30147, Florida Statutes, are  
 5793 created to read:

5794 637.30142 Payment of fees, taxes for appointment period  
 5795 without appointment.—

5796 (1) All initial appointments shall be submitted to the

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5797 department on a monthly basis no later than 45 days after the  
 5798 date of appointment and shall become effective on the date  
 5799 requested on the appointment form.

5800 (2) Upon application and qualification for an initial or  
 5801 renewal appointment and such investigation as the department may  
 5802 make, if it appears to the department that an individual who was  
 5803 formerly licensed or is currently licensed but not properly  
 5804 appointed to represent an insurer or employer and who has  
 5805 been actively engaged or is currently actively engaged as such  
 5806 an appointee, but without being appointed as required, the  
 5807 department, if it finds that such failure to be appointed was an  
 5808 inadvertent error on the part of the insurer or employer so  
 5809 represented, may issue or authorize the issuance of the  
 5810 appointment as applied for but subject to the condition that,  
 5811 before the appointment is issued, all fees and taxes which  
 5812 would have been due had the applicant been so appointed during  
 5813 such current and prior periods, with applicable fees pursuant to  
 5814 s. 637.2031 for such current and prior periods of appointment,  
 5815 shall be paid to the department.

5816 (3) (a) Failure to notify the department within the  
 5817 required time period shall result in the appointing entity being  
 5818 assessed a delinquent fee of \$250 per appointee. Delinquent fees  
 5819 shall be paid by the appointing entity and may not be charged to  
 5820 the appointee.

5821 (b) Failure to timely renew an appointment by an  
 5822 appointing entity prior to the expiration date of the  
 5823 appointment shall result in the appointing entity being assessed  
 5824 late filing, continuation, and reinstatement fees as prescribed

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5825 in s. 637.2031. Such fees shall be paid by the appointing entity  
 5826 and may not be charged back to the appointee.

5827 637.30143 License or appointment; transferability.—A  
 5828 license or appointment issued under this part is valid only as  
 5829 to the person named and is not transferable to any other  
 5830 person. A licensee or appointee may not allow any other  
 5831 person to transact insurance by using the license or  
 5832 appointment issued to such licensee or appointee.

5833 637.30144 Termination of appointment.—

5834 (1) Subject to an appointee's contract rights, an  
 5835 appointing entity may terminate its appointment of any appointee  
 5836 at any time. Except when termination is upon a ground which  
 5837 would subject the appointee to suspension or revocation of his  
 5838 or her license and appointment under s. 637.3017 or s. 637.3018,  
 5839 and except as provided by contract between the appointing entity  
 5840 and the appointee, the appointing entity shall give to the  
 5841 appointee at least 60 days' advance written notice of its  
 5842 intention to terminate such appointment by delivery of such  
 5843 notice to the appointee in person or by mailing the notice,  
 5844 postage prepaid, addressed to the appointee at his or her last  
 5845 address of record with the appointing entity. Notice so mailed  
 5846 shall be deemed to have been given when deposited in a United  
 5847 States Postal Service mail depository.

5848 (2) Within 30 days after terminating the appointment  
 5849 of an appointee, other than as to an appointment terminated by  
 5850 the appointing entity's failure to continue or renew the  
 5851 appointment, the appointing entity shall file with the  
 5852 department a written notice of the termination, together with

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5853 | a statement that the appointing entity has given the  
 5854 | appointee notice of the termination as provided in subsection  
 5855 | (1) and shall file with the department the reasons and facts  
 5856 | involved in such termination as required under s. 637.30145.

5857 | (3) Upon termination of the appointment of an appointee by  
 5858 | failure to renew or continue the appointment, the appointing  
 5859 | entity shall:

5860 | (a) File with the department the information required  
 5861 | under s. 637.30145.

5862 | (b) Subject to the exceptions provided under subsection  
 5863 | (1), continue the outstanding contracts transacted by an agent  
 5864 | until the expiration date or anniversary date when the policy is  
 5865 | a continuous policy with no expiration date. This paragraph  
 5866 | shall not be construed to prohibit the cancellation of such  
 5867 | contracts when not otherwise prohibited by law.

5868 | (4) An appointee may terminate the appointment at any  
 5869 | time by giving written or electronic notice of such termination  
 5870 | to the appointing entity, department, or person designated by the  
 5871 | department to administer the appointment process. The department  
 5872 | shall immediately terminate the appointment and notify the  
 5873 | appointing entity of such termination. Such termination shall be  
 5874 | subject to the appointee's contract rights, if any.

5875 | (5) Upon receiving a notice of termination, the department  
 5876 | or person designated by the department to administer the  
 5877 | appointment process shall terminate the appointment.

5878 | 637.30145 Reasons for termination.-

5879 | (1) Any insurer terminating the appointment of an agent or  
 5880 | managing general agent, whether such termination is by direct

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5881 action of the appointing insurer, agent, or employer or by  
 5882 failure to renew or continue the appointment, shall file with  
 5883 the department or office a statement of the reasons, if any, for  
 5884 such termination and the facts relative to such termination. In  
 5885 the case of a termination of the appointment of an agent, such  
 5886 information may be filed by the insurer or by the general agent  
 5887 of the insurer.

5888 (2) In the case of terminations by failure to renew or  
 5889 continue the appointment, the information required under  
 5890 subsection (1) shall be filed with the department or office  
 5891 within 30 days after the date notice of intention not to renew  
 5892 or continue was filed with the department or office as required  
 5893 by this chapter. In all other cases, the information required  
 5894 under subsection (1) shall be filed with the department or  
 5895 office within 10 days after notice of the termination was filed  
 5896 with the department or office.

5897 637.30146 Delinquent agencies; notice of trusteeship.—If  
 5898 any agent or agency becomes delinquent for 90 days in payment of  
 5899 accounts owing to the insurer or insurers represented by the  
 5900 agent or agency and a trusteeship or similar arrangement for the  
 5901 administration of the affairs of the agent or agency is  
 5902 instituted, the insurer or insurers involved in such trusteeship  
 5903 or arrangement shall immediately give written notice of such  
 5904 trusteeship or arrangement to the department. The notice shall  
 5905 state the name and address of each such agent, the circumstances  
 5906 and estimated amount of delinquency, and such other information  
 5907 as the insurer deems pertinent or as the department may  
 5908 reasonably require.

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5909 | 637.30147 Procedure for refusal, suspension, or revocation  
 5910 | of license.—If any licensee is convicted of a violation of  
 5911 | this code or a felony, the licenses and appointments of such  
 5912 | person shall be immediately revoked by the department. The  
 5913 | licensee may subsequently request a hearing pursuant to ss.  
 5914 | 120.569 and 120.57, and the department shall expedite any such  
 5915 | requested hearing. The sole issue at such hearing shall be  
 5916 | whether the revocation should be rescinded because such person  
 5917 | was not in fact convicted of a violation of this code or a  
 5918 | felony.

5919 | Section 52. Section 626.843, Florida Statutes, is  
 5920 | transferred, renumbered as section 637.3015, Florida Statutes,  
 5921 | and amended to read:

5922 | 637.3015 ~~626.843~~ Renewal, continuation, reinstatement,  
 5923 | termination of title insurance agent's appointment.—

5924 | (1) The appointment of a title insurance agent shall  
 5925 | continue in force until suspended, revoked, or otherwise  
 5926 | terminated, but subject to a renewed request filed by the  
 5927 | insurer every 24 months after the original issue date of the  
 5928 | appointment, accompanied by payment of the renewal appointment  
 5929 | fee and taxes as prescribed in s. 637.2031 ~~624.501~~.

5930 | (2) (a) Renewal of an appointment that is received by the  
 5931 | department or person designated by the department to administer  
 5932 | the appointment process prior to the expiration of an  
 5933 | appointment in the licensee's birth month or license issue date,  
 5934 | whichever applies, may be renewed by the department without  
 5935 | penalty and shall be effective as of the first day of the month  
 5936 | succeeding the month in which the appointment would have

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5937 | expired.  
 5938 |        (b) Renewal of an appointment that is received by the  
 5939 | department or person designated by the department to administer  
 5940 | the appointment process after the renewal date may be accepted  
 5941 | and effectuated by the department in its discretion if the  
 5942 | appointment, late filing, continuation, and reinstatement fee  
 5943 | accompanies the renewal request pursuant to s. 637.2031. Late  
 5944 | filing fees shall be paid by the appointing entity and may not  
 5945 | be charged to the appointee ~~Title insurance agent appointments~~  
 5946 | ~~shall be renewed pursuant to s. 626.381 for insurance~~  
 5947 | ~~representatives in general.~~

5948 |        (3) The appointment issued shall remain in effect for so  
 5949 | long as the appointment represented thereby continues in force  
 5950 | as provided in this section.

5951 |        Section 53. Section 626.8433, Florida Statutes, is  
 5952 | transferred and renumbered as section 637.3016, Florida  
 5953 | Statutes.

5954 |        Section 54. Section 626.8437, Florida Statutes, is  
 5955 | transferred, renumbered as section 637.3017, Florida Statutes,  
 5956 | and amended to read:

5957 |        637.3017 ~~626.8437~~ Grounds for denial, suspension,  
 5958 | revocation, or refusal to renew license or appointment.—

5959 |        (1) The department shall deny, suspend, revoke, or refuse  
 5960 | to renew or continue the license or appointment of any title  
 5961 | insurance agent or agency, and it shall suspend or revoke the  
 5962 | eligibility to hold a license or appointment of such person, if  
 5963 | it finds that as to the applicant, licensee, appointee, or any  
 5964 | principal thereof, any one or more of the following grounds

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5965 exist:

5966        (a)~~(1)~~ Lack of one or more of the qualifications for the

5967 license or appointment as specified in ss. 637.3006, 637.3007,

5968 and 637.3008 ~~626.8417, 626.8418, and 626.8419.~~

5969        (b)~~(2)~~ Material misstatement, misrepresentation, or fraud

5970 in obtaining, or attempting to obtain, the license or

5971 appointment.

5972        (c)~~(3)~~ Willful misrepresentation of any title insurance

5973 policy, guarantee of title, binder, or commitment, or willful

5974 deception with regard to any such policy, guarantee, binder, or

5975 commitment, done either in person or by any form of

5976 dissemination of information or advertising.

5977        (d)~~(4)~~ Demonstrated lack of fitness or trustworthiness to

5978 represent a title insurer in the issuance of its commitments,

5979 binders, policies of title insurance, or guarantees of title.

5980        (e)~~(5)~~ Demonstrated lack of reasonably adequate knowledge

5981 and technical competence to engage in the transactions

5982 authorized by the license or appointment.

5983        (f)~~(6)~~ Fraudulent or dishonest practices in the conduct of

5984 business under the license or appointment.

5985        (g)~~(7)~~ Misappropriation, conversion, or unlawful

5986 withholding of moneys belonging to title insurers or insureds or

5987 others and received in conduct of business under the license or

5988 appointment.

5989        (h)~~(8)~~ Unlawful rebating, or attempting to unlawfully

5990 rebate, or unlawfully dividing, or offering to unlawfully

5991 divide, title insurance premiums, fees, or charges with another,

5992 as prohibited by s. 637.1033(7)(b). ~~626.9541(1)(h)3.~~

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5993            (i)~~(9)~~ Willful failure to comply with, or willful  
 5994 violation of, any proper order or rule of the department or  
 5995 willful violation of any provision of this act.

5996            (j)~~(10)~~ The licensee if an individual, or the partners if  
 5997 a partnership, or owner if a sole proprietorship, or the  
 5998 officers if a corporation, having been found guilty of or having  
 5999 pleaded guilty or nolo contendere to a felony or a crime  
 6000 punishable by imprisonment of 1 year or more under the law of  
 6001 the United States or of any state or under the law of any other  
 6002 country which involves moral turpitude, without regard to  
 6003 whether a judgment of conviction has been entered by the court  
 6004 having jurisdiction of such cases.

6005            (k) Failure to timely submit data as required by the  
 6006 department.

6007            (2) Upon receipt of an information or indictment, the  
 6008 department shall immediately temporarily suspend any license or  
 6009 appointment issued under this chapter when the licensee has been  
 6010 convicted of an insurance or financial-related felony or a crime  
 6011 involving moral turpitude or a crime punishable by imprisonment  
 6012 of 1 year or more under the law of any state, territory, or  
 6013 country. Such suspension shall continue if the licensee has been  
 6014 found guilty of, or has pleaded guilty or no contest to, the  
 6015 crime, whether or not a judgment or conviction has been entered,  
 6016 during a pending appeal. A person may not affect any additional  
 6017 insurance after suspension of his or her license or appointment.  
 6018 However, he or she may service the policies effected prior to  
 6019 such suspension.

6020            Section 55. Section 626.844, Florida Statutes, is

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6021 transferred, renumbered as section 637.3018, Florida Statutes,  
 6022 and amended to read:

6023 637.3018 ~~626.844~~ Grounds for discretionary refusal,  
 6024 suspension, or revocation of license or appointment.—The  
 6025 department may, in its discretion, deny, suspend, revoke, or  
 6026 refuse to renew or continue the license or appointment of any  
 6027 title insurance agent or agency, and it may suspend or revoke  
 6028 the eligibility to hold a license or appointment of any such  
 6029 title insurance agent or agency if it finds that as to the  
 6030 applicant or licensee or appointee, or any principal thereof,  
 6031 any one or more of the following grounds exist under  
 6032 circumstances for which such denial, suspension, revocation, or  
 6033 refusal is not mandatory under s. 637.3017 ~~626.8437~~:

6034 (1) Any cause for which issuance of the license or  
 6035 appointment could have been refused had it then existed and been  
 6036 known to the department.

6037 (2) Violation of any provision of this act in the course  
 6038 of dealing under the license or appointment.

6039 (3) Violation of any lawful order or rule of the  
 6040 department.

6041 (4) Failure or refusal upon demand to pay over to any  
 6042 title insurer that the appointee represents or has represented  
 6043 any money coming into the hands of such appointee and belonging  
 6044 to the title insurer.

6045 (5) Engaging in unfair methods of competition or in unfair  
 6046 or deceptive acts or practices in the conduct of business, as  
 6047 prohibited under ~~part IX~~ of this chapter, or having otherwise  
 6048 shown himself or herself to be a source of injury or loss to the

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6049 public or to be detrimental to the public interest.

6050 (6) The licensee if an individual, or the partners if a  
 6051 partnership, or owner if a sole proprietorship, or the officers  
 6052 if a corporation, having been found guilty of or having pleaded  
 6053 guilty or nolo contendere to a felony or a crime punishable by  
 6054 imprisonment of 1 year or more under the law of the United  
 6055 States or of any state or under the law of any other country,  
 6056 without regard to whether a judgment of conviction has been  
 6057 entered by the court having jurisdiction of such cases.

6058 (7) Failure or refusal upon demand by any title insurer  
 6059 that the appointee represents or has represented to pay any  
 6060 money coming into the hands of such appointee and belonging to  
 6061 the title insurer.

6062 (8) Failure to maintain the insurer's portion of the  
 6063 premium in escrow.

6064 (9) Fraud, misrepresentation, or deceit in any title  
 6065 insurance transaction.

6066 (10) Failure to comply with s. 637.3029.

6067 (11) Failure to account or deliver to any person any  
 6068 property that has come into the agency's hands and that is not  
 6069 the agency's property or that the agency is not in law or equity  
 6070 entitled to retain, under the circumstances and at the time that  
 6071 has been agreed upon or is required by law or, in the absence of  
 6072 a fixed time, upon demand of the person entitled to such  
 6073 accounting and delivery absent a good faith dispute, lack of  
 6074 mutual instructions, or doubt about entitlement thereto.

6075 (12) Failure to disburse escrow funds in accordance with  
 6076 agreements signed by the seller and the buyer absent a good

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6077 faith dispute or lack of mutual instructions from the buyer and  
 6078 seller about entitlement thereto.

6079 (13) Acting as or holding himself or herself out to be a  
 6080 title insurance agent or title insurance agency without a  
 6081 current, active license issued by the Department of Financial  
 6082 Services.

6083 (14) Providing a closing protection letter, title  
 6084 insurance commitment, or title insurance policy for an insurer  
 6085 that the licensee is not actively appointed to represent.

6086 (15) Failure to maintain, preserve, and keep available for  
 6087 examination all books, accounts, or other documents required by  
 6088 ss. 637.30044-637.3015 and s. 637.3029 and the rules of the  
 6089 department.

6090 (16) Failure to allow an investigation or examination of  
 6091 books and records by the department.

6092 (17) Adding any amount to the charges of other providers  
 6093 of service in a real estate transaction without adding value to  
 6094 the services provided.

6095 (18) Failure to timely deliver the deed, mortgage, and  
 6096 other documents related to a closing transaction to the  
 6097 appropriate recording authority.

6098 (19) Failure to timely deliver the escrow funds to the  
 6099 appropriate entity or to the state if the owner is unable to be  
 6100 located pursuant to chapter 717.

6101 Section 56. Section 626.8443, Florida Statutes, is  
 6102 transferred, renumbered as section 637.3019, Florida Statutes,  
 6103 and subsection (4) of that section is amended to read:

6104 637.3019 ~~626.8443~~ Duration of suspension or revocation.—

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6105 (4) During the period of suspension or after revocation of  
 6106 the license and appointment, the former licensee shall not  
 6107 engage in or attempt to profess to engage in any transaction or  
 6108 business for which a license or appointment is required under  
 6109 this chapter ~~code~~ or directly or indirectly own, control, or be  
 6110 employed in any manner by any title insurance agent or title  
 6111 insurance agency ~~or adjuster or adjusting firm~~.

6112 Section 57. Section 626.8447, Florida Statutes, is  
 6113 transferred and renumbered as section 637.3021, Florida  
 6114 Statutes.

6115 Section 58. Section 626.845, Florida Statutes, is  
 6116 transferred and renumbered as section 637.3022, Florida  
 6117 Statutes.

6118 Section 59. Section 626.8453, Florida Statutes, is  
 6119 transferred, renumbered as section 637.3023, Florida Statutes,  
 6120 and amended to read:

6121 637.3023 ~~626.8453~~ Penalty for violation.—A person who  
 6122 knowingly makes a false or otherwise fraudulent application for  
 6123 a license or appointment under this act, or who knowingly  
 6124 violates any provision of s. 637.2032 ~~624.5015~~, ss. 637.3006-  
 6125 637.3029 ~~626.8417-626.847~~, or s. 637.2076 ~~627.791~~, in addition  
 6126 to any applicable denial, suspension, revocation, or refusal to  
 6127 renew or continue any license or appointment, commits a  
 6128 misdemeanor of the second degree, punishable as provided in s.  
 6129 775.082 or s. 775.083. Each instance of violation shall be  
 6130 considered a separate offense.

6131 Section 60. Section 626.8457, Florida Statutes, is  
 6132 transferred and renumbered as section 637.3024, Florida

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6133 Statutes.

6134 Section 61. Section 626.846, Florida Statutes, is  
 6135 transferred, renumbered as section 637.3025, Florida Statutes,  
 6136 and subsection (1) of that section is amended to read:

6137 637.3025 ~~626.846~~ Probation.—

6138 (1) If the department finds that one or more grounds exist  
 6139 for the suspension of, revocation of, or refusal to renew or  
 6140 continue any license or appointment issued under this act, the  
 6141 department may, except when an administrative fine is not  
 6142 permissible under s. 637.3024 ~~626.8457~~ or when such suspension,  
 6143 revocation, or refusal is mandatory, in lieu of such suspension,  
 6144 revocation, or refusal, or in connection with any administrative  
 6145 monetary penalty imposed under s. 637.3024 ~~626.8457~~, place the  
 6146 offending licensee or appointee on probation for a period not to  
 6147 exceed 2 years, as specified by the department in its order.

6148 Section 62. Section 626.8463, Florida Statutes, is  
 6149 transferred, renumbered as section 637.3026, Florida Statutes,  
 6150 and subsection (1) of that section is amended to read:

6151 637.3026 ~~626.8463~~ Witnesses and evidence.—

6152 (1) As to the subject of any examination, investigation,  
 6153 or hearing being conducted by him or her under s. 637.2032, s.  
 6154 637.2076, or ~~624.5015~~, ss. 637.3006-637.3029 ~~626.8417-626.847~~,  
 6155 ~~or s. 627.791~~, an examiner appointed by the department ~~or office~~  
 6156 may administer oaths, examine and cross-examine witnesses, and  
 6157 receive oral and documentary evidence and shall have the power  
 6158 to subpoena witnesses, compel their attendance and testimony,  
 6159 and require by subpoena the production of books, papers,  
 6160 records, files, correspondence, documents, or other evidence

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6161 | which the examiner deems relevant to the inquiry.  
 6162 |       Section 63. Section ~~626.8467~~, Florida Statutes, is  
 6163 | transferred, renumbered as section 637.3027, Florida Statutes,  
 6164 | and amended to read:  
 6165 |       637.3027 ~~626.8467~~ Testimony compelled; immunity from  
 6166 | prosecution.—  
 6167 |       (1) If a person asks to be excused from attending or  
 6168 | testifying or from producing any books, papers, records,  
 6169 | contracts, documents, or other evidence in connection with any  
 6170 | examination, hearing, or investigation being conducted under s.  
 6171 | 637.2032, s. 637.2076, or 624.5015, ss. 637.3006-637.3029  
 6172 | ~~626.8417-626.847, or s. 627.791~~ by the department ~~or office~~ or  
 6173 | its examiner on the ground that the testimony or evidence  
 6174 | required of the person may tend to incriminate him or her or  
 6175 | subject him or her to a penalty or forfeiture and  
 6176 | notwithstanding is directed to give such testimony or produce  
 6177 | such evidence, the person must, if so directed by the Department  
 6178 | of Financial Services and the Department of Legal Affairs ~~or by~~  
 6179 | ~~the office and the Department of Legal Affairs~~, nonetheless  
 6180 | comply with such direction, but he or she shall not thereafter  
 6181 | be prosecuted or subjected to any penalty or forfeiture for or  
 6182 | on account of any transaction, matter, or thing concerning which  
 6183 | he or she may have so testified or produced evidence, and no  
 6184 | testimony so given or evidence produced shall be received  
 6185 | against the person upon any criminal action, investigation, or  
 6186 | proceeding. However, a person so testifying shall not be exempt  
 6187 | from prosecution or punishment for any perjury committed by him  
 6188 | or her in such testimony, and the testimony or evidence so given

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6189 | or produced shall be admissible against him or her upon any  
 6190 | criminal action, investigation, or proceeding concerning such  
 6191 | perjury; and such person shall not be exempt from the refusal,  
 6192 | suspension, or revocation of any license or appointment,  
 6193 | permission, or authority conferred or to be conferred pursuant  
 6194 | to s. 637.2032, s. 637.2076, or ~~624.5015~~, ss. 637.3006-637.3029  
 6195 | ~~626.8417-626.847~~, or s. ~~627.791~~.

6196 |         (2) Any such person may execute, acknowledge, and file  
 6197 | with the department of ~~Financial Services or the office~~, as  
 6198 | ~~appropriate~~, a statement expressly waiving such immunity or  
 6199 | privilege with respect to any transaction, matter, or thing  
 6200 | specified in the statement, and thereupon the testimony of such  
 6201 | person or such evidence in relation to such transaction, matter,  
 6202 | or thing may be received or produced before any judge or  
 6203 | justice, court, tribunal, or grand jury or otherwise and, if so  
 6204 | received or produced, such person shall not be entitled to any  
 6205 | immunity or privilege on account of any testimony he or she may  
 6206 | so give or evidence so produced.

6207 |         Section 64. Section 626.847, Florida Statutes, is  
 6208 | transferred, renumbered as section 637.3028, Florida Statutes,  
 6209 | and amended to read:

6210 |         637.3028 ~~626.847~~ Penalty for refusal to testify.—A person  
 6211 | who refuses or fails, without lawful cause, to testify relative  
 6212 | to the affairs of any title insurer or other person when  
 6213 | subpoenaed under s. 637.3026 ~~626.8463~~ and requested by the  
 6214 | department ~~or office~~ to so testify is guilty of a misdemeanor of  
 6215 | the second degree and, upon conviction, is punishable as  
 6216 | provided in s. 775.082 or s. 775.083.

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6217 Section 65. Section 626.8473, Florida Statutes, is  
 6218 transferred, renumbered as section 637.3029, Florida Statutes,  
 6219 and subsections (1), (3), and (6) of that section are amended to  
 6220 read:

6221 637.3029 ~~626.8473~~ Escrow; trust fund.—

6222 (1) A title insurance agent may engage in business as an  
 6223 escrow agent as to funds received from others to be subsequently  
 6224 disbursed by the title insurance agent in connection with real  
 6225 estate closing transactions involving the issuance of title  
 6226 insurance binders, commitments, policies of title insurance, or  
 6227 guarantees of title, provided that a licensed and appointed  
 6228 title insurance agent complies with the requirements of s.  
 6229 637.3006 ~~626.8417~~, including such requirements added after the  
 6230 initial licensure of the agent.

6231 (3) All funds received by a title insurance agent to be  
 6232 held in trust shall be immediately placed and retained in a  
 6233 financial institution that is located within this state and is a  
 6234 member of the Federal Deposit Insurance Corporation or the  
 6235 National Credit Union Share Insurance Fund. ~~These funds shall be~~  
 6236 ~~invested in an escrow account in accordance with the investment~~  
 6237 ~~requirements and standards established for deposits and~~  
 6238 ~~investments of state funds in s. 17.57, where the funds shall be~~  
 6239 ~~kept until disbursement thereof is properly authorized.~~

6240 (6) In the event that the department adopts ~~promulgates~~  
 6241 rules necessary to implement the requirements of this section  
 6242 pursuant to s. 637.1007 ~~624.308~~, the department shall consider  
 6243 reasonable standards necessary for the protection of funds held  
 6244 in trust, including, but not limited to, standards for

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6245 | accounting of funds, standards for receipt and disbursement of  
 6246 | funds, and protection for the person or persons to whom the  
 6247 | funds are to be disbursed.

6248 |       Section 66. Section 637.30295, Florida Statutes, is  
 6249 | created to read:

6250 |       637.30295 Collection of title insurance information.—Each  
 6251 | title insurance agency licensed to do business in this state and  
 6252 | each insurer doing direct, retail, or affiliated business in  
 6253 | this state shall maintain and submit information, including  
 6254 | revenue, loss, and expense data, as the department determines to  
 6255 | be necessary to assist in the analysis of title insurance premium  
 6256 | rates, title search costs, and the condition of the title  
 6257 | insurance industry in this state. This information must be  
 6258 | transmitted to the department no later than March 31 of each  
 6259 | year following the reporting year. The department shall adopt  
 6260 | rules to assist in the collection and analysis of the data from  
 6261 | the title insurance industry.

6262 |       Section 67. Paragraphs (a), (e), and (f) of subsection (1)  
 6263 | of section 624.5105, Florida Statutes, are amended to read:

6264 |       624.5105 Community contribution tax credit; authorization;  
 6265 | limitations; eligibility and application requirements;  
 6266 | administration; definitions; expiration.—

6267 |       (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

6268 |       (a) There shall be allowed a credit of 50 percent of a  
 6269 | community contribution against any tax due for a calendar year  
 6270 | under s. 624.509, ~~or~~ s. 624.510, or s. 637.2039.

6271 |       (e) If the credit granted pursuant to this section is not  
 6272 | fully used in any one year because of insufficient tax liability

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6273 on the part of the insurer, the unused amount may be carried  
 6274 forward for a period not to exceed 5 years. The carryover credit  
 6275 may be used in a subsequent year when the tax imposed by s.  
 6276 624.509, ~~or~~ s. 624.510, or 637.2039 for such year exceeds the  
 6277 credit under this section for such year.

6278 (f) An insurer that claims a credit against premium-tax  
 6279 liability earned by making a community contribution under this  
 6280 section need not pay any additional retaliatory tax levied under  
 6281 s. 624.5091 or s. 637.2041 as a result of claiming such a  
 6282 credit. Section 624.5091 or s. 637.2041 does not limit such a  
 6283 credit in any manner.

6284 Section 68. Subsection (1) of section 624.5107, Florida  
 6285 Statutes, is amended to read:

6286 624.5107 Child care tax credits.—

6287 (1) If the credit granted under this section is not fully  
 6288 used in any one year because of insufficient tax liability on  
 6289 the part of the insurer, the unused amount may be carried  
 6290 forward for a period not to exceed 5 years. The carryover credit  
 6291 may be used in a subsequent year when the tax imposed by s.  
 6292 624.509, ~~or~~ s. 624.510, or s. 637.2039 for that year exceeds the  
 6293 credit for which the insurer is eligible in that year under this  
 6294 section.

6295 Section 69. Transfers; rules; powers; regulatory  
 6296 authority; orders.—

6297 (1) Effective October 1, 2010, the rules of the Financial  
 6298 Services Commission and the Office of Insurance Regulation with  
 6299 respect to the regulation of title insurance shall become the  
 6300 rules of the Department of Financial Services and shall remain

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6301 in effect until specifically amended or repealed in the manner  
 6302 provided by law.

6303 (2) (a) All of the statutory powers, duties and functions,  
 6304 records, personnel, property, and unexpended balances of  
 6305 appropriations, allocations, or other funds for the  
 6306 administration of chapter 624, Florida Statutes, related to  
 6307 title insurance, shall be transferred by a type two transfer, as  
 6308 defined in s. 20.06(2), Florida Statutes, from the Financial  
 6309 Services Commission and the Office of Insurance Regulation to  
 6310 the Department of Financial Services.

6311 (b) All of the statutory powers, duties and functions,  
 6312 records, personnel, property, and unexpended balances of  
 6313 appropriations, allocations, or other funds for the  
 6314 administration of chapter 626, Florida Statutes, related to  
 6315 title insurance, shall be transferred by a type two transfer, as  
 6316 defined in s. 20.06(2), Florida Statutes, from the Financial  
 6317 Services Commission and the Office of Insurance Regulation to  
 6318 the Department of Financial Services.

6319 (c) All of the statutory powers, duties and functions,  
 6320 records, personnel, property, and unexpended balances of  
 6321 appropriations, allocations, or other funds for the  
 6322 administration of chapter 627, Florida Statutes, related to  
 6323 title insurance, shall be transferred by a type two transfer, as  
 6324 defined in s. 20.06(2), Florida Statutes, from the Financial  
 6325 Services Commission and the Office of Insurance Regulation to  
 6326 the Department of Financial Services.

6327 (3) (a) The transfer of regulatory authority under chapter  
 6328 624, Florida Statutes, provided by this act shall not affect the

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6329 validity of any judicial or administrative action relating to  
 6330 title insurance pending as of 11:59 p.m. on the day before the  
 6331 effective date of this act, to which action the Financial  
 6332 Services Commission or the Office of Insurance Regulation are at  
 6333 that time parties, and the Department of Financial Services  
 6334 shall be substituted as a party in interest in any such action.

6335 (b) The transfer of regulatory authority under chapter  
 6336 626, Florida Statutes, provided by this act shall not affect the  
 6337 validity of any judicial or administrative action relating to  
 6338 title insurance pending as of 11:59 p.m. on the day before the  
 6339 effective date of this act, to which action the Financial  
 6340 Services Commission or the Office of Insurance Regulation are at  
 6341 that time parties, and the Department of Financial Services  
 6342 shall be substituted as a party in interest in any such action.

6343 (c) The transfer of regulatory authority under chapter  
 6344 627, Florida Statutes, provided by this act shall not affect the  
 6345 validity of any judicial or administrative action relating to  
 6346 title insurance pending as of 11:59 p.m. on the day before the  
 6347 effective date of this act, to which action the Financial  
 6348 Services Commission or the Office of Insurance Regulation are at  
 6349 that time parties, and the Department of Financial Services  
 6350 shall be substituted as a party in interest in any such action.

6351 (4) (a) All lawful orders issued by the Financial Services  
 6352 Commission or the Office of Insurance Regulation implementing or  
 6353 enforcing or otherwise in regard to any provision of chapter  
 6354 624, Florida Statutes, relating to title insurance, issued prior  
 6355 to the effective date of this act, shall remain in effect and be  
 6356 enforceable after the effective date of this act, unless

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6357 thereafter modified in accordance with law.

6358 (b) All lawful orders issued by the Financial Services  
 6359 Commission or the Office of Insurance Regulation, implementing  
 6360 or enforcing or otherwise in regard to any provision of chapter  
 6361 626, Florida Statutes, relating to title insurance, issued prior  
 6362 to the effective date of this act, shall remain in effect and be  
 6363 enforceable after the effective date of this act, unless  
 6364 thereafter modified in accordance with law.

6365 (c) All lawful orders issued by the Financial Services  
 6366 Commission or the Office of Insurance Regulation, implementing  
 6367 or enforcing or otherwise in regard to any provision of chapter  
 6368 627, Florida Statutes, relating to title insurance, issued prior  
 6369 to the effective date of this act, shall remain in effect and be  
 6370 enforceable after the effective date of this act, unless  
 6371 thereafter modified in accordance with law.

6372 Section 70. The Legislature recognizes that there is a  
 6373 need to conform the Florida Statutes to the policy decisions  
 6374 reflected in the provisions of this act. The Division of  
 6375 Statutory Revision is directed to provide the relevant  
 6376 substantive committees of the Senate and the House of  
 6377 Representatives with assistance, upon request, to enable such  
 6378 committees to prepare draft legislation to conform the Florida  
 6379 Statutes to the provisions of this act.

6380 Section 71. Section 689.263, Florida Statutes, is created  
 6381 to read:

6382 689.263 Sale of residential property; settlement statement  
 6383 requirements.—A title insurance agent or title insurance agency  
 6384 may not disburse funds pursuant to a completed purchase and sale

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6385 transaction subject to the Real Estate Settlement Procedures Act  
 6386 of 1974, 12 U.S.C. ss. 2601 et seq., as amended, without  
 6387 requiring a statement of settlement costs meeting the following  
 6388 requirements:

6389 (1) The settlement statement must be executed by the buyer  
 6390 and the seller.

6391 (2) If a title insurance premium is to be disbursed, the  
 6392 title insurer and the title insurance agent or title insurance  
 6393 agency, if any, must be disclosed.

6394 (3) A copy of the executed settlement statement must be  
 6395 delivered to the buyer and the seller.

6396 Section 72. Section 717.1121, Florida Statutes, is created  
 6397 to read:

6398 717.1121 Payments from escrow related to real estate  
 6399 transactions.—All funds held as part of a real estate  
 6400 transaction, including any outstanding payments for amounts to  
 6401 be paid as listed on the settlement statement form by any title  
 6402 insurance agency, title insurer, savings and loan association,  
 6403 bank, trust company, or other financial institution, attorney  
 6404 firm, real estate broker, or similar institution, are considered  
 6405 unclaimed if the owner of those funds has not claimed the money  
 6406 within 2 years after the closing performed under the real estate  
 6407 transaction.

6408 Section 73. Subsection (1) and paragraph (d) of subsection  
 6409 (2) of section 877.101, Florida Statutes, are amended to read:

6410 877.101 Escrow business by unauthorized persons; use of  
 6411 name.—

6412 (1) Except as provided in subsection (2), in connection

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6413 with the purchase and sale of real property, a person may not:

6414 (a) Transact business under any name or title that  
6415 contains the word "escrow" or words of similar import; ~~or~~

6416 (b)1. Use any name, word, sign, symbol, or device in any  
6417 context or in any manner; or

6418 2. Circulate or use any letterhead, billhead, circular,  
6419 paper, or writing of any kind or otherwise advertise or  
6420 represent in any manner

6421  
6422 that indicates or reasonably implies that the business being  
6423 conducted or advertised is the kind or character of business  
6424 transacted that is regulated by this state as an escrow agent;  
6425 or

6426 (c) Engage in business as an escrow agent as to funds  
6427 received from others to be subsequently disbursed in connection  
6428 with real estate closing transactions.

6429 (2) This section does not apply to:

6430 (d) A title insurance agent who is licensed pursuant to s.  
6431 637.3006 ~~626.8417~~, a title insurance agency that is licensed  
6432 pursuant to s. 637.3007 ~~626.8418~~, or a title insurer who is  
6433 authorized to transact business in this state pursuant to s.  
6434 637.2001 ~~624.401~~.

6435 Section 74. Section 624.5015, Florida Statutes, is amended  
6436 to read:

6437 624.5015 Advance collection of fees and taxes; ~~title~~  
6438 ~~insurers not to pay without reimbursement.~~

6439 ~~(1)~~ The department or the office shall collect in advance  
6440 from the applicant or licensee fees and taxes as provided in s.

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6441 624.501.  
 6442 ~~(2) A title insurer shall not pay directly or indirectly~~  
 6443 ~~without reimbursement from a title insurance agent any~~  
 6444 ~~appointment fee required under this section. The failure of a~~  
 6445 ~~title insurance agent to make reimbursement is not a ground for~~  
 6446 ~~cancellation of the title insurance agent's appointment by the~~  
 6447 ~~title insurer.~~

6448 Section 75. Subsections (7), (8), and (9) of section  
 6449 626.241, Florida Statutes, are amended to read:

6450 626.241 Scope of examination.—

6451 ~~(7) Examinations given applicants for licensure as title~~  
 6452 ~~agents must cover title insurance, abstracting, title searches,~~  
 6453 ~~examination of title, closing procedures, and escrow handling.~~

6454 (7)~~(8)~~ An examination for licensure as a personal lines  
 6455 agent shall consist of 100 questions and shall be limited in  
 6456 scope to the kinds of business transacted under such license.

6457 (8)~~(9)~~ This section applies to any person who submits an  
 6458 application for license and to any person who submits an  
 6459 application for examination prior to filing an application for  
 6460 license.

6461 Section 76. Subsection (5) of section 626.331, Florida  
 6462 Statutes, is amended to read:

6463 626.331 Number of appointments permitted or required.—

6464 ~~(5) A title agent or title agency license must be limited~~  
 6465 ~~to selling title insurance only for the appointing title insurer~~  
 6466 ~~or insurers.~~

6467 Section 77. Paragraph (a) of subsection (5) of section  
 6468 197.502, Florida Statutes, is amended to read:

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6469           197.502 Application for obtaining tax deed by holder of  
6470 tax sale certificate; fees.—

6471           (5) (a) The tax collector may contract with a title company  
6472 or an abstract company at a reasonable fee to provide the  
6473 minimum information required in subsection (4), consistent with  
6474 rules adopted by the department. If additional information is  
6475 required, the tax collector must make a written request to the  
6476 title or abstract company stating the additional requirements.  
6477 The tax collector may select any title or abstract company,  
6478 regardless of its location, as long as the fee is reasonable,  
6479 the minimum information is submitted, and the title or abstract  
6480 company is authorized to do business in this state. The tax  
6481 collector may advertise and accept bids for the title or  
6482 abstract company if he or she considers it appropriate to do so.

6483           1. The ownership and encumbrance report must be printed or  
6484 typed on stationery or other paper showing a letterhead of the  
6485 person, firm, or company that makes the search, and the  
6486 signature of the person who makes the search or of an officer of  
6487 the firm must be attached. The tax collector is not liable for  
6488 payment to the firm unless these requirements are met.

6489           2. The tax collector may not accept or pay for any title  
6490 search or abstract if no financial responsibility is assumed for  
6491 the search. However, reasonable restrictions as to the liability  
6492 or responsibility of the title or abstract company are  
6493 acceptable. Notwithstanding s. 637.2071(3) ~~627.7843(3)~~, the tax  
6494 collector may contract for higher maximum liability limits.

6495           3. In order to establish uniform prices for ownership and  
6496 encumbrance reports within the county, the tax collector shall

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6497 ensure that the contract for ownership and encumbrance reports  
 6498 include all requests for title searches or abstracts for a given  
 6499 period of time.

6500 Section 78. Paragraph (d) of subsection (27) of section  
 6501 624.501, Florida Statutes, is amended to read:

6502 624.501 Filing, license, appointment, and miscellaneous  
 6503 fees.—The department, commission, or office, as appropriate,  
 6504 shall collect in advance, and persons so served shall pay to it  
 6505 in advance, fees, licenses, and miscellaneous charges as  
 6506 follows:

6507 (27) Title insurance agents:

6508 (d) Additional appointment continuation fee as prescribed  
 6509 by s. 637.3015 ~~626.843~~ \$5.00

6510 Section 79. Section 624.604, Florida Statutes, is amended  
 6511 to read:

6512 624.604 "Property insurance" defined.—"Property insurance"  
 6513 is insurance on real or personal property of every kind and of  
 6514 every interest therein, whether on land, water, or in the air,  
 6515 against loss or damage from any and all hazard or cause, and  
 6516 against loss consequential upon such loss or damage, other than  
 6517 noncontractual legal liability for any such loss or damage.  
 6518 Property insurance may contain a provision for accidental death  
 6519 or injury as part of a multiple peril homeowner's policy. Such  
 6520 insurance, which is incidental to the property insurance, is not  
 6521 subject to the provisions of this code applicable to life or  
 6522 health insurance. Property insurance does not include title  
 6523 insurance, as defined in s. 637.1004 ~~624.608~~.

6524 Section 80. Paragraph (r) of subsection (1) of section

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6525 624.605, Florida Statutes, is amended to read:  
 6526 624.605 "Casualty insurance" defined.—  
 6527 (1) "Casualty insurance" includes:  
 6528 (r) Insurance for debt cancellation products.—Insurance  
 6529 that a creditor may purchase against the risk of financial loss  
 6530 from the use of debt cancellation products with consumer loans  
 6531 or leases or retail installment contracts. Insurance for debt  
 6532 cancellation products is not liability insurance but shall be  
 6533 considered credit insurance only for the purposes of s.

6534 631.52(4).

6535 1. For purposes of this paragraph, the term "debt  
 6536 cancellation products" means loan, lease, or retail installment  
 6537 contract terms, or modifications to loan, lease, or retail  
 6538 installment contracts, under which a creditor agrees to cancel  
 6539 or suspend all or part of a customer's obligation to make  
 6540 payments upon the occurrence of specified events and includes,  
 6541 but is not limited to, debt cancellation contracts, debt  
 6542 suspension agreements, and guaranteed asset protection  
 6543 contracts. However, the term "debt cancellation products" does  
 6544 not include title insurance as defined in s. 637.1004 ~~624.608~~.

6545 2. Debt cancellation products may be offered by financial  
 6546 institutions, as defined in s. 655.005(1)(h), insured depository  
 6547 institutions as defined in 12 U.S.C. s. 1813(c), and  
 6548 subsidiaries of such institutions, as provided in the financial  
 6549 institutions codes; by sellers as defined in s. 721.05, or by  
 6550 the parents, subsidiaries, or affiliated entities of sellers, in  
 6551 connection with the sale of timeshare interests; or by other  
 6552 business entities as may be specifically authorized by law, and

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6553 | such products shall not constitute insurance for purposes of the  
 6554 | Florida Insurance Code.

6555 |       Section 81. Subsection (4) of section 625.031, Florida  
 6556 | Statutes, is amended to read:

6557 |           625.031 Assets not allowed.—In addition to assets  
 6558 | impliedly excluded by the provisions of s. 625.012, the  
 6559 | following expressly shall not be allowed as assets in any  
 6560 | determination of the financial condition of an insurer:

6561 |           (4) Furniture, fixtures, furnishings, safes, vehicles,  
 6562 | libraries, stationery, literature, and supplies, other than data  
 6563 | processing and accounting systems authorized under s.  
 6564 | 625.012(11), except in the case of title insurers such materials  
 6565 | and plants as the insurer is expressly authorized to invest in  
 6566 | under s. 637.20073 ~~625.330~~ and except, in the case of any  
 6567 | insurer, such personal property as the insurer is permitted to  
 6568 | hold pursuant to part II of this chapter, or which is acquired  
 6569 | through foreclosure of chattel mortgages acquired pursuant to s.  
 6570 | 625.329, or which is reasonably necessary for the maintenance  
 6571 | and operation of real estate lawfully acquired and held by the  
 6572 | insurer other than real estate used by it for home office,  
 6573 | branch office, and similar purposes.

6574 |       Section 82. Section 626.207, Florida Statutes, is amended  
 6575 | to read:

6576 |           626.207 Department rulemaking authority; waiting periods  
 6577 | for applicants; penalties against licensees.—

6578 |           (1) The department shall adopt rules establishing specific  
 6579 | waiting periods for applicants to become eligible for licensure  
 6580 | following denial, suspension, or revocation pursuant to s.

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6581 626.611, s. 626.621, s. 637.3017 ~~626.8437~~, s. 637.3018 ~~626.844~~,  
 6582 s. 626.935, s. 634.181, s. 634.191, s. 634.320, s. 634.321, s.  
 6583 634.422, s. 634.423, s. 642.041, or s. 642.043. The purpose of  
 6584 the waiting periods is to provide sufficient time to demonstrate  
 6585 reformation of character and rehabilitation. The waiting periods  
 6586 shall vary based on the type of conduct and the length of time  
 6587 since the conduct occurred and shall also be based on the  
 6588 probability that the propensity to commit illegal conduct has  
 6589 been overcome. The waiting periods may be adjusted based on  
 6590 aggravating and mitigating factors established by rule and  
 6591 consistent with this purpose.

6592 (2) The department shall adopt rules establishing specific  
 6593 penalties against licensees for violations of s. 626.611, s.  
 6594 626.621, s. 637.3017 ~~626.8437~~, s. 637.3018 ~~626.844~~, s. 626.935,  
 6595 s. 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.  
 6596 634.423, s. 642.041, or s. 642.043. The purpose of the  
 6597 revocation or suspension is to provide a sufficient penalty to  
 6598 deter future violations of the Florida Insurance Code. The  
 6599 imposition of a revocation or the length of suspension shall be  
 6600 based on the type of conduct and the probability that the  
 6601 propensity to commit further illegal conduct has been overcome  
 6602 at the time of eligibility for relicensure. The revocation or  
 6603 the length of suspension may be adjusted based on aggravating or  
 6604 mitigating factors, established by rule and consistent with this  
 6605 purpose.

6606 Section 83. Paragraph (t) of subsection (1) of section  
 6607 655.005, Florida Statutes, is amended to read:

6608 655.005 Definitions.—

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6609 (1) As used in the financial institutions codes, unless  
6610 the context otherwise requires, the term:

6611 (t) "Debt cancellation products" means loan, lease, or  
6612 retail installment contract terms, or modifications or addenda  
6613 to loan, lease, or retail installment contracts, under which a  
6614 creditor agrees to cancel or suspend all or part of a customer's  
6615 obligation to make payments upon the occurrence of specified  
6616 events and includes, but is not limited to, debt cancellation  
6617 contracts, debt suspension agreements, and guaranteed asset  
6618 protection contracts offered by financial institutions, insured  
6619 depository institutions as defined in 12 U.S.C. s. 1813(c), and  
6620 subsidiaries of such institutions. However, the term "debt  
6621 cancellation products" does not include title insurance as  
6622 defined in s. 637.1004 ~~624.608~~.

6623 Section 84. Paragraph (d) of subsection (6) of section  
6624 701.041, Florida Statutes, is amended to read:

6625 701.041 Title insurer; mortgage release certificate.—

6626 (6) LIABILITY OF TITLE INSURER AND TITLE INSURANCE AGENT.—

6627 (d) Liability of a title insurer pursuant to this section  
6628 shall be considered to be a title insurance claim on real  
6629 property in this state pursuant to s. 637.2075 ~~627.7865~~.

6630 Section 85. Paragraph (d) of subsection (14) of section  
6631 721.05, Florida Statutes, is amended to read:

6632 721.05 Definitions.—As used in this chapter, the term:

6633 (14) "Escrow agent" includes only:

6634 (d) A title insurance agent that is licensed pursuant to  
6635 s. 637.3006 ~~626.8417~~, a title insurance agency that is licensed  
6636 pursuant to s. 637.3007 ~~626.8418~~, or a title insurer authorized

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6637 | to transact business in this state pursuant to s. 637.2001

6638 | ~~624.401.~~

6639 | Section 86. Sections 624.608, 626.841, 626.8411, 626.9531,

6640 | 627.7711, and 627.776, Florida Statutes, are repealed.

6641 | Section 87. This act shall take effect October 1, 2010.