

1                   A bill to be entitled  
2           An act relating to insurance; amending s. 624.307,  
3           F.S.; specifying certain persons are not consumers for  
4           purposes of calculating complaint ratios; amending s.  
5           625.151, F.S.; providing an exception from valuation  
6           rules for stocks in subsidiaries for certain foreign  
7           insurers under certain conditions; amending s.  
8           625.325, F.S.; exempting foreign insurers from  
9           investment requirements relating to subsidiaries and  
10          corporations under certain conditions; amending s.  
11          626.914, F.S.; revising the definition of the term  
12          "diligent effort" to decrease the replacement cost  
13          threshold for a residential structure for purposes of  
14          proving rejection of coverage by authorized insurers;  
15          amending s. 626.9651, F.S.; revising requirements for  
16          rules adopted by the Department of Financial Services  
17          and the Financial Services Commission relating to the  
18          privacy of certain consumer information; amending s.  
19          627.416, F.S.; revising requirements for execution of  
20          insurance policies; amending s. 627.43141, F.S.;  
21          revising requirements for insurance renewal notice of  
22          policy change; amending s. 627.7015, F.S.; authorizing  
23          insurers to participate in mediations requested by  
24          third parties; revising terminology; revising the  
25          definition of the term "claim" to specify that any

26 material issue of fact must relate to a loss arising  
 27 from a declared state of emergency; amending s.  
 28 627.728, F.S.; providing that an Intelligent Mail  
 29 barcode or a similar United States Postal Service  
 30 tracking method are sufficient proof of notice for  
 31 certain motor vehicle insurance notices; amending s.  
 32 627.748, F.S.; revising circumstances in which  
 33 insurers may exclude coverage for owners or operators  
 34 of transportation network company vehicles; amending  
 35 s. 628.8015, F.S.; revising the type of documents that  
 36 are confidential; amending s. 629.401, F.S.; revising  
 37 reserve requirements for reciprocal insurers; amending  
 38 s. 636.044, F.S.; providing an exemption from  
 39 licensing requirements for a person who sells certain  
 40 prepaid limited health service contracts; providing an  
 41 effective date.

42

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

44

45 Section 1. Paragraph (e) is added to subsection (10) of  
 46 section 624.307, Florida Statutes, to read:

47 624.307 General powers; duties.—

48 (10)

49 (e) For purposes of this subsection, a third-party vendor,  
 50 as an assignee of policy benefits, is not a consumer. Inquiries

51 or complaints from a third-party vendor, as an assignee of  
 52 policy benefits, may not be used when calculating a complaint  
 53 ratio pursuant to s. 624.313.

54 Section 2. Paragraph (c) is added to subsection (3) of  
 55 section 625.151, Florida Statutes, to read:

56 625.151 Valuation of other securities.—

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

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

67 Section 3. Subsection (7) is added to section 625.325,  
 68 Florida Statutes, to read:

69 625.325 Investments in subsidiaries and related  
 70 corporations.—

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

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

76 (NAIC).

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

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

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

83 b. Qualify for the NAIC's filing exemption rule and  
 84 assigned a rating by a nationally recognized statistical rating  
 85 organization that would be equivalent to a rating of 1, 2, or 3  
 86 by the SVO.

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

89 626.914 Definitions.—As used in this Surplus Lines Law,  
 90 the term:

91 (4) "Diligent effort" means seeking coverage from and  
 92 having been rejected by at least three authorized insurers  
 93 currently writing this type of coverage and documenting these  
 94 rejections. However, if the residential structure has a dwelling  
 95 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means  
 96 seeking coverage from and having been rejected by at least one  
 97 authorized insurer currently writing this type of coverage and  
 98 documenting this rejection.

99 Section 5. Section 626.9651, Florida Statutes, is amended  
 100 to read:

101           626.9651 Privacy.—The department and commission must ~~shall~~  
102 each adopt rules consistent with other provisions of the Florida  
103 Insurance Code to govern the use of a consumer's nonpublic  
104 personal financial and health information. These rules must be  
105 based on, consistent with, and not more restrictive than the  
106 Privacy of Consumer Financial and Health Information Regulation,  
107 adopted September 26, 2000, by the National Association of  
108 Insurance Commissioners; however, the rules must permit the use  
109 and disclosure of nonpublic personal health information for  
110 scientific, medical, or public policy research, in accordance  
111 with federal law. In addition, these rules must be consistent  
112 with, and not more restrictive than, the standards contained in  
113 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-  
114 102, as amended in Title LXXV of the Fixing America's Surface  
115 Transportation (FAST) Act, Pub. L. No. 114-94. If the office  
116 determines that a health insurer or health maintenance  
117 organization is in compliance with, or is actively undertaking  
118 compliance with, the consumer privacy protection rules adopted  
119 by the United States Department of Health and Human Services, in  
120 conformance with the Health Insurance Portability and  
121 Affordability Act, that health insurer or health maintenance  
122 organization is in compliance with this section.

123           Section 6. Subsection (1) of section 627.416, Florida  
124 Statutes, is amended and subsection (4) is added to read:

125           627.416 Execution of policies.—

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

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

134 Section 7. Subsection (2) of section 627.43141, Florida  
 135 Statutes, is amended to read:

136 627.43141 Notice of change in policy terms.—

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

149 Section 8. Subsections (1), (3), (6), and (9) of section  
 150 627.7015, Florida Statutes, are amended to read:

151           627.7015 Alternative procedure for resolution of disputed  
152 property insurance claims.—

153           (1) This section sets forth a nonadversarial alternative  
154 dispute resolution procedure for a mediated claim resolution  
155 conference prompted by the need for effective, fair, and timely  
156 handling of property insurance claims. There is a particular  
157 need for an informal, nonthreatening forum for helping parties  
158 who elect this procedure to resolve their claims disputes  
159 because most homeowner and commercial residential insurance  
160 policies obligate policyholders to participate in a potentially  
161 expensive and time-consuming adversarial appraisal process  
162 before litigation. The procedure set forth in this section is  
163 designed to bring the parties together for a mediated claims  
164 settlement conference without any of the trappings or drawbacks  
165 of an adversarial process. Before resorting to these procedures,  
166 policyholders and insurers are encouraged to resolve claims as  
167 quickly and fairly as possible. This section is available with  
168 respect to claims under personal lines and commercial  
169 residential policies before commencing the appraisal process, or  
170 before commencing litigation. Mediation may be requested only by  
171 the policyholder, as a first-party claimant, a third-party, as  
172 an assignee of the policy benefits, or the insurer. However, an  
173 insurer is not required to participate in any mediation  
174 requested by a third-party assignee of the policy benefits. If  
175 requested by the policyholder, participation by legal counsel is

176 permitted. Mediation under this section is also available to  
 177 litigants referred to the department by a county court or  
 178 circuit court. This section does not apply to commercial  
 179 coverages, to private passenger motor vehicle insurance  
 180 coverages, or to disputes relating to liability coverages in  
 181 policies of property insurance.

182 (3) The costs of mediation must ~~shall~~ be reasonable, and  
 183 the insurer must ~~shall~~ bear all of the cost of conducting  
 184 mediation conferences, except as otherwise provided in this  
 185 section. If a policyholder ~~an insured~~ fails to appear at the  
 186 conference, the conference must ~~shall~~ be rescheduled upon the  
 187 policyholder's ~~insured's~~ payment of the costs of a rescheduled  
 188 conference. If the insurer fails to appear at the conference,  
 189 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual  
 190 cash expenses incurred in attending the conference if the  
 191 insurer's failure to attend was not due to a good cause  
 192 acceptable to the department. An insurer will be deemed to have  
 193 failed to appear if the insurer's representative lacks authority  
 194 to settle the full value of the claim. The insurer shall incur  
 195 an additional fee for a rescheduled conference necessitated by  
 196 the insurer's failure to appear at a scheduled conference. The  
 197 fees assessed by the administrator must ~~shall~~ include a charge  
 198 necessary to defray the expenses of the department related to  
 199 its duties under this section and must ~~shall~~ be deposited in the  
 200 Insurance Regulatory Trust Fund.



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

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

213 (a) With respect to which the insurer has a reasonable  
 214 basis to suspect fraud;

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

217 (c) With respect to which the insurer has a reasonable  
 218 basis to believe that the policyholder has intentionally made a  
 219 material misrepresentation of fact which is relevant to the  
 220 claim, and the entire request for payment of a loss has been  
 221 denied on the basis of the material misrepresentation;

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

225 (e) With respect to a windstorm or hurricane loss that

226 | does not comply with s. 627.70132.

227 | Section 9. Subsection (5) of section 627.728, Florida  
 228 | Statutes, is amended to read:

229 | 627.728 Cancellations; nonrenewals.—

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

239 | Section 10. Paragraph (b) of subsection (8) of section  
 240 | 627.748, Florida Statutes, is amended to read:

241 | 627.748 Transportation network companies.—

242 | (8) TRANSPORTATION NETWORK COMPANY AND INSURER;  
 243 | DISCLOSURE; EXCLUSIONS.—

244 | (b)1. An insurer that provides an automobile liability  
 245 | insurance policy under this part may exclude any and all  
 246 | coverage afforded under the policy issued to an owner or  
 247 | operator of a TNC vehicle ~~while driving that vehicle~~ for any  
 248 | loss or injury that occurs while a TNC driver is logged on to a  
 249 | digital network and driving a motor vehicle, or when ~~while~~ a TNC  
 250 | driver provides a prearranged ride. Exclusions imposed under

251 | this subsection are limited to coverage while a TNC driver is  
 252 | logged on to a digital network or while a TNC driver provides a  
 253 | prearranged ride. This right to exclude all coverage may apply  
 254 | to any coverage included in an automobile insurance policy,  
 255 | including, but not limited to:

- 256 |       a. Liability coverage for bodily injury and property  
 257 | damage;
- 258 |       b. Uninsured and underinsured motorist coverage;
- 259 |       c. Medical payments coverage;
- 260 |       d. Comprehensive physical damage coverage;
- 261 |       e. Collision physical damage coverage; and
- 262 |       f. Personal injury protection.

263 |       2. The exclusions described in subparagraph 1. apply  
 264 | notwithstanding any requirement under chapter 324. These  
 265 | exclusions do not affect or diminish coverage otherwise  
 266 | available for permissive drivers or resident relatives under the  
 267 | personal automobile insurance policy of the TNC driver or owner  
 268 | of the TNC vehicle who are not occupying the TNC vehicle at the  
 269 | time of loss. This section does not require that a personal  
 270 | automobile insurance policy provide coverage while the TNC  
 271 | driver is logged on to a digital network, while the TNC driver  
 272 | is engaged in a prearranged ride, or while the TNC driver  
 273 | otherwise uses a vehicle to transport riders for compensation.

274 |       3. This section must not be construed to require an  
 275 | insurer to use any particular policy language or reference to

276 | this section in order to exclude any and all coverage for any  
277 | loss or injury that occurs while a TNC driver is logged on to a  
278 | digital network or while a TNC driver provides a prearranged  
279 | ride.

280 |         4. This section does not preclude an insurer from  
281 | providing primary or excess coverage for the TNC driver's  
282 | vehicle by contract or endorsement.

283 |         Section 11. Subsection (4) of section 628.8015, Florida  
284 | Statutes, is amended to read:

285 |             628.8015 Own-risk and solvency assessment; corporate  
286 | governance annual disclosure.—

287 |             (4) CONFIDENTIALITY.—The required filings and related  
288 | documents submitted pursuant to subsections (2) and (3) are  
289 | privileged such that they may not be produced in response to a  
290 | subpoena or other discovery directed to the office, and any such  
291 | filings and related documents, ~~if obtained from the office,~~ are  
292 | not admissible in evidence in any private civil action. However,  
293 | the department or office may use these filings and related  
294 | documents in the furtherance of any regulatory or legal action  
295 | brought against an insurer as part of the official duties of the  
296 | department or office. A waiver of any applicable claim of  
297 | privilege in these filings and related documents may not occur  
298 | because of a disclosure to the office under this section,  
299 | because of any other provision of the Insurance Code, or because  
300 | of sharing under s. 624.4212. The office or a person receiving

301 these filings and related documents, while acting under the  
 302 authority of the office, or with whom such filings and related  
 303 documents are shared pursuant to s. 624.4212, is not permitted  
 304 or required to testify in any private civil action concerning  
 305 any such filings or related documents.

306 Section 12. Paragraph (b) of subsection (6) of section  
 307 629.401, Florida Statutes, is amended to read:

308 629.401 Insurance exchange.—

309 (6)

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

313 1. General examination powers.—The office shall examine  
 314 the affairs, transactions, accounts, records, and assets of any  
 315 security fund, exchange, members, and associate brokers as often  
 316 as it deems advisable. The examination may be conducted by the  
 317 accredited examiners of the office at the offices of the entity  
 318 or person being examined. The office shall examine in like  
 319 manner each prospective member or associate broker applying for  
 320 membership in an exchange.

321 2. Office approval and applications of underwriting  
 322 members.—No underwriting member shall commence operation without  
 323 the approval of the office. Before commencing operation, an  
 324 underwriting member shall provide a written application  
 325 containing:

- 326           a. Name, type, and purpose of the underwriting member.
- 327           b. Name, residence address, business background, and
- 328 qualifications of each person associated or to be associated in
- 329 the formation or financing of the underwriting member.
- 330           c. Full disclosure of the terms of all understandings and
- 331 agreements existing or proposed among persons so associated
- 332 relative to the underwriting member, or the formation or
- 333 financing thereof, accompanied by a copy of each such agreement
- 334 or understanding.
- 335           d. Full disclosure of the terms of all understandings and
- 336 agreements existing or proposed for management or exclusive
- 337 agency contracts.
- 338           3. Investigation of underwriting member applications.—In
- 339 connection with any proposal to establish an underwriting
- 340 member, the office shall make an investigation of:
- 341           a. The character, reputation, financial standing, and
- 342 motives of the organizers, incorporators, or subscribers
- 343 organizing the proposed underwriting member.
- 344           b. The character, financial responsibility, insurance
- 345 experience, and business qualifications of its proposed
- 346 officers.
- 347           c. The character, financial responsibility, business
- 348 experience, and standing of the proposed stockholders and
- 349 directors, or owners.
- 350           4. Notice of management changes.—An underwriting member

351 shall promptly give the office written notice of any change  
352 among the directors or principal officers of the underwriting  
353 member within 30 days after such change. The office shall  
354 investigate the new directors or principal officers of the  
355 underwriting member. The office's investigation shall include an  
356 investigation of the character, financial responsibility,  
357 insurance experience, and business qualifications of any new  
358 directors or principal officers. As a result of the  
359 investigation, the office may require the underwriting member to  
360 replace any new directors or principal officers.

361 5. Alternate financial statement.—In lieu of any financial  
362 examination, the office may accept an audited financial  
363 statement.

364 6. Correction and reconstruction of records.—If the office  
365 finds any accounts or records to be inadequate, or inadequately  
366 kept or posted, it may employ experts to reconstruct, rewrite,  
367 post, or balance them at the expense of the person or entity  
368 being examined if such person or entity has failed to maintain,  
369 complete, or correct such records or accounts after the office  
370 has given him or her or it notice and reasonable opportunity to  
371 do so.

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

376           8. Filing of annual statement.—Each underwriting member  
377 shall file with the office a full and true statement of its  
378 financial condition, transactions, and affairs. The statement  
379 shall be filed on or before March 1 of each year, or within such  
380 extension of time as the office for good cause grants, and shall  
381 be for the preceding calendar year. The statement shall contain  
382 information generally included in insurer financial statements  
383 prepared in accordance with generally accepted insurance  
384 accounting principles and practices and in a form generally  
385 utilized by insurers for financial statements, sworn to by at  
386 least two executive officers of the underwriting member. The  
387 form of the financial statements shall be the approved form of  
388 the National Association of Insurance Commissioners or its  
389 successor organization. The commission may by rule require each  
390 insurer to submit any part of the information contained in the  
391 financial statement in a computer-readable form compatible with  
392 the office's electronic data processing system. In addition to  
393 information furnished in connection with its annual statement,  
394 an underwriting member must furnish to the office as soon as  
395 reasonably possible such information about its transactions or  
396 affairs as the office requests in writing. All information  
397 furnished pursuant to the office's request must be verified by  
398 the oath of two executive officers of the underwriting member.

399           9. Record maintenance.—Each underwriting member shall have  
400 and maintain its principal place of business in this state and



401 shall keep therein complete records of its assets, transactions,  
402 and affairs in accordance with such methods and systems as are  
403 customary for or suitable to the kind or kinds of insurance  
404 transacted.

405 10. Examination of agents.—If the department has reason to  
406 believe that any agent, as defined in s. 626.015 or s. 626.914,  
407 has violated or is violating any provision of the insurance law,  
408 or upon receipt of a written complaint signed by any interested  
409 person indicating that any such violation may exist, the  
410 department shall conduct such examination as it deems necessary  
411 of the accounts, records, documents, and transactions pertaining  
412 to or affecting the insurance affairs of such agent.

413 11. Written reports of office.—The office or its examiner  
414 shall make a full and true written report of any examination.  
415 The report shall contain only information obtained from  
416 examination of the records, accounts, files, and documents of or  
417 relative to the person or entity examined or from testimony of  
418 individuals under oath, together with relevant conclusions and  
419 recommendations of the examiner based thereon. The office shall  
420 furnish a copy of the report to the person or entity examined  
421 not less than 30 days prior to filing the report in its office.  
422 If such person or entity so requests in writing within such 30-  
423 day period, the office shall grant a hearing with respect to the  
424 report and shall not file the report until after the hearing and  
425 after such modifications have been made therein as the office

426 | deems proper.

427 |       12. Admissibility of reports.—The report of an examination  
 428 | when filed shall be admissible in evidence in any action or  
 429 | proceeding brought by the office against the person or entity  
 430 | examined, or against his or her or its officers, employees, or  
 431 | agents. The office or its examiners may at any time testify and  
 432 | offer other proper evidence as to information secured or matters  
 433 | discovered during the course of an examination, whether or not a  
 434 | written report of the examination has been either made,  
 435 | furnished, or filed in the office.

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

440 |       14. Consideration of examination reports by entity  
 441 | examined.—After the examination report of an underwriting member  
 442 | has been filed, an affidavit shall be filed with the office, not  
 443 | more than 30 days after the report has been filed, on a form  
 444 | furnished by the office and signed by the person or a  
 445 | representative of any entity examined, stating that the report  
 446 | has been read and that the recommendations made in the report  
 447 | will be considered within a reasonable time.

448 |       15. Examination costs.—Each person or entity examined by  
 449 | the office shall pay to the office the expenses incurred in such  
 450 | examination.

451           16. Exchange costs.—An exchange shall reimburse the office  
452 for any expenses incurred by it relating to the regulation of  
453 the exchange and its members, except as specified in  
454 subparagraph 15.

455           17. Powers of examiners.—Any examiner appointed by the  
456 office, as to the subject of any examination, investigation, or  
457 hearing being conducted by him or her, may administer oaths,  
458 examine and cross-examine witnesses, and receive oral and  
459 documentary evidence, and shall have the power to subpoena  
460 witnesses, compel their attendance and testimony, and require by  
461 subpoena the production of books, papers, records, files,  
462 correspondence, documents, or other evidence which the examiner  
463 deems relevant to the inquiry. If any person refuses to comply  
464 with any such subpoena or to testify as to any matter concerning  
465 which he or she may be lawfully interrogated, the Circuit Court  
466 of Leon County or the circuit court of the county wherein such  
467 examination, investigation, or hearing is being conducted, or of  
468 the county wherein such person resides, on the office's  
469 application may issue an order requiring such person to comply  
470 with the subpoena and to testify; and any failure to obey such  
471 an order of the court may be punished by the court as a contempt  
472 thereof. Subpoenas shall be served, and proof of such service  
473 made, in the same manner as if issued by a circuit court.  
474 Witness fees and mileage, if claimed, shall be allowed the same  
475 as for testimony in a circuit court.

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

480           19. Self-incrimination.—

481           a. If any person asks to be excused from attending or  
482 testifying or from producing any books, papers, records,  
483 contracts, documents, or other evidence in connection with any  
484 examination, hearing, or investigation being conducted by the  
485 office or its examiner, on the ground that the testimony or  
486 evidence required of the person may tend to incriminate him or  
487 her or subject him or her to a penalty or forfeiture, and the  
488 person notwithstanding is directed to give such testimony or  
489 produce such evidence, he or she shall, if so directed by the  
490 office and the Department of Legal Affairs, nonetheless comply  
491 with such direction; but the person shall not thereafter be  
492 prosecuted or subjected to any penalty or forfeiture for or on  
493 account of any transaction, matter, or thing concerning which he  
494 or she may have so testified or produced evidence, and no  
495 testimony so given or evidence so produced shall be received  
496 against him or her upon any criminal action, investigation, or  
497 proceeding; except that no such person so testifying shall be  
498 exempt from prosecution or punishment for any perjury committed  
499 by him or her in such testimony, and the testimony or evidence  
500 so given or produced shall be admissible against him or her upon

501 any criminal action, investigation, or proceeding concerning  
502 such perjury, nor shall he or she be exempt from the refusal,  
503 suspension, or revocation of any license, permission, or  
504 authority conferred, or to be conferred, pursuant to the  
505 insurance law.

506 b. Any such individual may execute, acknowledge, and file  
507 with the office a statement expressly waiving such immunity or  
508 privilege in respect to any transaction, matter, or thing  
509 specified in such statement, and thereupon the testimony of such  
510 individual or such evidence in relation to such transaction,  
511 matter, or thing may be received or produced before any judge or  
512 justice, court, tribunal, grand jury, or otherwise; and if such  
513 testimony or evidence is so received or produced, such  
514 individual shall not be entitled to any immunity or privileges  
515 on account of any testimony so given or evidence so produced.

516 20. Penalty for failure to testify.—Any person who refuses  
517 or fails, without lawful cause, to testify relative to the  
518 affairs of any member, associate broker, or other person when  
519 subpoenaed and requested by the office to so testify, as  
520 provided in subparagraph 17., shall, in addition to the penalty  
521 provided in subparagraph 17., be guilty of a misdemeanor of the  
522 second degree, punishable as provided in s. 775.082 or s.  
523 775.083.

524 21. Name selection.—No underwriting member shall be formed  
525 or authorized to transact insurance in this state under a name

526 | which is the same as that of any authorized insurer or is so  
527 | nearly similar thereto as to cause or tend to cause confusion or  
528 | under a name which would tend to mislead as to the type of  
529 | organization of the insurer. Before incorporating under or using  
530 | any name, the underwriting syndicate or proposed underwriting  
531 | syndicate shall submit its name or proposed name to the office  
532 | for the approval of the office.

533 |       22. Capitalization.—An underwriting member approved on or  
534 | after July 2, 1987, shall provide an initial paid-in capital and  
535 | surplus of \$3 million and thereafter shall maintain a minimum  
536 | policyholder surplus of \$2 million in order to be permitted to  
537 | write insurance. Underwriting members approved prior to July 2,  
538 | 1987, shall maintain a minimum policyholder surplus of \$1  
539 | million. After June 29, 1988, underwriting members approved  
540 | prior to July 2, 1987, must maintain a minimum policyholder  
541 | surplus of \$1.5 million to write insurance. After June 29, 1989,  
542 | underwriting members approved prior to July 2, 1987, must  
543 | maintain a minimum policyholder surplus of \$1.75 million to  
544 | write insurance. After December 30, 1989, all underwriting  
545 | members, regardless of the date they were approved, must  
546 | maintain a minimum policyholder surplus of \$2 million to write  
547 | insurance. Except for that portion of the paid-in capital and  
548 | surplus which shall be maintained in a security fund of an  
549 | exchange, the paid-in capital and surplus shall be invested by  
550 | an underwriting member in a manner consistent with ss. 625.301-

551 625.340. The portion of the paid-in capital and surplus in any  
552 security fund of an exchange shall be invested in a manner  
553 limited to investments for life insurance companies under the  
554 Florida insurance laws.

555 23. Limitations on coverage written.—

556 a. Limit of risk.—No underwriting member shall expose  
557 itself to any loss on any one risk in an amount exceeding 10  
558 percent of its surplus to policyholders. Any risk or portion of  
559 any risk which shall have been reinsured in an assuming  
560 reinsurer authorized or approved to do such business in this  
561 state shall be deducted in determining the limitation of risk  
562 prescribed in this section.

563 b. Restrictions on premiums written.—If the office has  
564 reason to believe that the underwriting member's ratio of actual  
565 or projected annual gross written premiums to policyholder  
566 surplus exceeds 8 to 1 or the underwriting member's ratio of  
567 actual or projected annual net premiums to policyholder surplus  
568 exceeds 4 to 1, the office may establish maximum gross or net  
569 annual premiums to be written by the underwriting member  
570 consistent with maintaining the ratios specified in this sub-  
571 subparagraph.

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

576 (II) For purposes of this sub-subparagraph, the term  
577 "gross written premiums" means direct premiums written and  
578 reinsurance assumed.

579 c. Surplus as to policyholders.—For the purpose of  
580 determining the limitation on coverage written, surplus as to  
581 policyholders shall be deemed to include any voluntary reserves,  
582 or any part thereof, which are not required by or pursuant to  
583 law and shall be determined from the last sworn statement of  
584 such underwriting member with the office, or by the last report  
585 or examination filed by the office, whichever is more recent at  
586 the time of assumption of such risk.

587 24. Unearned premium reserves.—There shall at all times be  
588 maintained an unearned premium reserve equal to fifty percent  
589 (50%) of the net written premiums of the subscribers on policies  
590 having one year or less to run, and pro rata on those for longer  
591 periods, ~~All unearned premium reserves for business written on~~  
592 ~~the exchange shall be calculated on a monthly or more frequent~~  
593 ~~basis or on such other basis as determined by the office;~~ except  
594 that all premiums on any marine or transportation insurance trip  
595 risk shall be deemed unearned until the trip is terminated. For  
596 the purpose of this subparagraph, "net written premiums" shall  
597 mean the premium payments made by subscribers plus the premiums  
598 due from subscribers, after deducting the amounts specifically  
599 provided in the subscribers' agreements for fees paid to the  
600 attorney in fact, provided that the power of attorney agreement



601 contains an explicit provision requiring the attorney in fact to  
602 refund any unearned subscribers fees on a pro-rata basis for  
603 cancelled policies. If there is no such provision, then the  
604 unearned premium reserve shall be calculated without any  
605 adjustment for fees paid to the attorney in fact. If the  
606 unearned premium reserves at any time do not amount to \$100,000,  
607 then there shall be maintained on deposit at the exchange at all  
608 times additional funds in cash or eligible securities which,  
609 together with the unearned premium reserves, equal \$100,000. In  
610 calculating the foregoing reserves, the amount of the attorney's  
611 bond, as filed with the office and as required by s. 629.121,  
612 shall be included as part thereof. If at any time the unearned  
613 premium reserves is less than the foregoing requirements, the  
614 subscribers, or the attorney in fact, shall advance funds to  
615 make up the deficiency. Such advances shall only be repaid out  
616 of the surplus of the exchange and only after receiving written  
617 approval from the office.

618       25. Loss reserves.—All underwriting members of an exchange  
619 shall maintain loss reserves, including a reserve for incurred  
620 but not reported claims. The reserves shall be subject to review  
621 by the office, and, if loss experience shows that an  
622 underwriting member's loss reserves are inadequate, the office  
623 shall require the underwriting member to maintain loss reserves  
624 in such additional amount as is needed to make them adequate.

625       26. Distribution of profits.—An underwriting member shall

626 | not distribute any profits in the form of cash or other assets  
627 | to owners except out of that part of its available and  
628 | accumulated surplus funds which is derived from realized net  
629 | operating profits on its business and realized capital gains. In  
630 | any one year such payments to owners shall not exceed 30 percent  
631 | of such surplus as of December 31 of the immediately preceding  
632 | year, unless otherwise approved by the office. No distribution  
633 | of profits shall be made that would render an underwriting  
634 | member either impaired or insolvent.

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

639 |       28. Dividends from earned surplus.—A dividend otherwise  
640 | lawful may be payable out of an underwriting member's earned  
641 | surplus even though the total surplus of the underwriting member  
642 | is then less than the aggregate of its past contributed surplus  
643 | resulting from issuance of its capital stock at a price in  
644 | excess of the par value thereof.

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

646 |       a. An underwriting member may borrow money to defray the  
647 | expenses of its organization, provide it with surplus funds, or  
648 | for any purpose of its business, upon a written agreement that  
649 | such money is required to be repaid only out of the underwriting  
650 | member's surplus in excess of that stipulated in such agreement.

651 The agreement may provide for interest not exceeding 15 percent  
652 simple interest per annum. The interest shall or shall not  
653 constitute a liability of the underwriting member as to its  
654 funds other than such excess of surplus, as stipulated in the  
655 agreement. No commission or promotion expense shall be paid in  
656 connection with any such loan. The use of any surplus note and  
657 any repayments thereof shall be subject to the approval of the  
658 office.

659       b. Money so borrowed, together with any interest thereon  
660 if so stipulated in the agreement, shall not form a part of the  
661 underwriting member's legal liabilities except as to its surplus  
662 in excess of the amount thereof stipulated in the agreement, nor  
663 be the basis of any setoff; but until repayment, financial  
664 statements filed or published by an underwriting member shall  
665 show as a footnote thereto the amount thereof then unpaid,  
666 together with any interest thereon accrued but unpaid.

667       30. Liquidation, rehabilitation, and restrictions.—The  
668 office, upon a showing that a member or associate broker of an  
669 exchange has met one or more of the grounds contained in part I  
670 of chapter 631, may restrict sales by type of risk, policy or  
671 contract limits, premium levels, or policy or contract  
672 provisions; increase surplus or capital requirements of  
673 underwriting members; issue cease and desist orders; suspend or  
674 restrict a member's or associate broker's right to transact  
675 business; place an underwriting member under conservatorship or

676 rehabilitation; or seek an order of liquidation as authorized by  
677 part I of chapter 631.

678 31. Prohibited conduct.—The following acts by a member,  
679 associate broker, or affiliated person shall constitute  
680 prohibited conduct:

681 a. Fraud.

682 b. Fraudulent or dishonest acts committed by a member or  
683 associate broker prior to admission to an exchange, if the facts  
684 and circumstances were not disclosed to the office upon  
685 application to become a member or associate broker.

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

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

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

692 f. Misstatements made under oath or upon an application  
693 for membership on an exchange.

694 g. Failure to testify or produce documents when requested  
695 by the office.

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

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

700 j. Violation of the constitution and bylaws of the

701 exchange.

702 32. Penalties for participating in prohibited conduct.—

703 a. The office may order the suspension of further  
 704 transaction of business on the exchange of any member or  
 705 associate broker found to have engaged in prohibited conduct. In  
 706 addition, any member or associate broker found to have engaged  
 707 in prohibited conduct may be subject to reprimand, censure,  
 708 and/or a fine not exceeding \$25,000 imposed by the office.

709 b. Any member which has an affiliated person who is found  
 710 to have engaged in prohibited conduct shall be subject to  
 711 involuntary withdrawal or in addition thereto may be subject to  
 712 suspension, reprimand, censure, and/or a fine not exceeding  
 713 \$25,000.

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

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

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

725 36. Remittance of fines.—Fines imposed under this section

726 | shall be remitted to the office and shall be paid into the  
 727 | Insurance Regulatory Trust Fund.

728 |       37. Failure to pay fines.—When a member or associate  
 729 | broker has failed to pay a fine for 15 days after it becomes  
 730 | payable, such member or associate broker shall be suspended,  
 731 | unless the office has granted an extension of time to pay such  
 732 | fine.

733 |       38. Changes in ownership or assets.—In the event of a  
 734 | major change in the ownership or a major change in the assets of  
 735 | an underwriting member, the underwriting member shall report  
 736 | such change in writing to the office within 30 days of the  
 737 | effective date thereof. The report shall set forth the details  
 738 | of the change. Any change in ownership or assets of more than 5  
 739 | percent shall be considered a major change.

740 |       39. Retaliation.—

741 |       a. When by or pursuant to the laws of any other state or  
 742 | foreign country any taxes, licenses, or other fees, in the  
 743 | aggregate, and any fines, penalties, deposit requirements, or  
 744 | other material obligations, prohibitions, or restrictions are or  
 745 | would be imposed upon an exchange or upon the agents or  
 746 | representatives of such exchange which are in excess of such  
 747 | taxes, licenses, and other fees, in the aggregate, or which are  
 748 | in excess of such fines, penalties, deposit requirements, or  
 749 | other obligations, prohibitions, or restrictions directly  
 750 | imposed upon similar exchanges or upon the agents or

751 representatives of such exchanges of such other state or country  
752 under the statutes of this state, so long as such laws of such  
753 other state or country continue in force or are so applied, the  
754 same taxes, licenses, and other fees, in the aggregate, or  
755 fines, penalties, deposit requirements, or other material  
756 obligations, prohibitions, or restrictions of whatever kind  
757 shall be imposed by the office upon the exchanges, or upon the  
758 agents or representatives of such exchanges, of such other state  
759 or country doing business or seeking to do business in this  
760 state.

761         b. Any tax, license, or other obligation imposed by any  
762 city, county, or other political subdivision or agency of a  
763 state, jurisdiction, or foreign country on an exchange, or on  
764 the agents or representatives on an exchange, shall be deemed to  
765 be imposed by such state, jurisdiction, or foreign country  
766 within the meaning of sub-subparagraph a.

767         40. Agents.—

768         a. Agents as defined in ss. 626.015 and 626.914 who are  
769 broker members or associate broker members of an exchange shall  
770 be allowed only to place on an exchange the same kind or kinds  
771 of business that the agent is licensed to place pursuant to  
772 Florida law. Direct Florida business as defined in s. 626.916 or  
773 s. 626.917 shall be written through a broker member who is a  
774 surplus lines agent as defined in s. 626.914. The activities of  
775 each broker member or associate broker with regard to an

776 exchange shall be subject to all applicable provisions of the  
777 insurance laws of this state, and all such activities shall  
778 constitute transactions under his or her license as an insurance  
779 agent for purposes of the Florida insurance law.

780       b. Premium payments and other requirements.—If an  
781 underwriting member has assumed the risk as to a surplus lines  
782 coverage and if the premium therefor has been received by the  
783 surplus lines agent who placed such insurance, then in all  
784 questions thereafter arising under the coverage as between the  
785 underwriting member and the insured, the underwriting member  
786 shall be deemed to have received the premium due to it for such  
787 coverage; and the underwriting member shall be liable to the  
788 insured as to losses covered by such insurance, and for unearned  
789 premiums which may become payable to the insured upon  
790 cancellation of such insurance, whether or not in fact the  
791 surplus lines agent is indebted to the underwriting member with  
792 respect to such insurance or for any other cause.

793       41. Improperly issued contracts, riders, and  
794 endorsements.—

795       a. Any insurance policy, rider, or endorsement issued by  
796 an underwriting member and otherwise valid which contains any  
797 condition or provision not in compliance with the requirements  
798 of this section shall not be thereby rendered invalid, except as  
799 provided in s. 627.415, but shall be construed and applied in  
800 accordance with such conditions and provisions as would have



801 applied had such policy, rider, or endorsement been in full  
802 compliance with this section. In the event an underwriting  
803 member issues or delivers any policy for an amount which exceeds  
804 any limitations otherwise provided in this section, the  
805 underwriting member shall be liable to the insured or his or her  
806 beneficiary for the full amount stated in the policy in addition  
807 to any other penalties that may be imposed.

808       b. Any insurance contract delivered or issued for delivery  
809 in this state governing a subject or subjects of insurance  
810 resident, located, or to be performed in this state which,  
811 pursuant to the provisions of this section, the underwriting  
812 member may not lawfully insure under such a contract shall be  
813 cancelable at any time by the underwriting member, any provision  
814 of the contract to the contrary notwithstanding; and the  
815 underwriting member shall promptly cancel the contract in  
816 accordance with the request of the office therefor. No such  
817 illegality or cancellation shall be deemed to relieve the  
818 underwriting syndicate of any liability incurred by it under the  
819 contract while in force or to prohibit the underwriting  
820 syndicate from retaining the pro rata earned premium thereon.  
821 This provision does not relieve the underwriting syndicate from  
822 any penalty otherwise incurred by the underwriting syndicate.

823       42. Satisfaction of judgments.—

824       a. Every judgment or decree for the recovery of money  
825 heretofore or hereafter entered in any court of competent

826 jurisdiction against any underwriting member shall be fully  
827 satisfied within 60 days from and after the entry thereof or, in  
828 the case of an appeal from such judgment or decree, within 60  
829 days from and after the affirmance of the judgment or decree by  
830 the appellate court.

831 b. If the judgment or decree is not satisfied as required  
832 under sub-subparagraph a., and proof of such failure to satisfy  
833 is made by filing with the office a certified transcript of the  
834 docket of the judgment or the decree together with a certificate  
835 by the clerk of the court wherein the judgment or decree remains  
836 unsatisfied, in whole or in part, after the time provided in  
837 sub-subparagraph a., the office shall forthwith prohibit the  
838 underwriting member from transacting business. The office shall  
839 not permit such underwriting member to write any new business  
840 until the judgment or decree is wholly paid and satisfied and  
841 proof thereof is filed with the office under the official  
842 certificate of the clerk of the court wherein the judgment was  
843 recovered, showing that the judgment or decree is satisfied of  
844 record, and until the expenses and fees incurred in the case are  
845 also paid by the underwriting syndicate.

846 43. Tender and exchange offers.—No person shall conclude a  
847 tender offer or an exchange offer or otherwise acquire 5 percent  
848 or more of the outstanding voting securities of an underwriting  
849 member or controlling company or purchase 5 percent or more of  
850 the ownership of an underwriting member or controlling company

851 unless such person has filed with, and obtained the approval of,  
852 the office and sent to such underwriting member a statement  
853 setting forth:

854 a. The identity of, and background information on, each  
855 person by whom, or on whose behalf, the acquisition is to be  
856 made; and, if the acquisition is to be made by or on behalf of a  
857 corporation, association, or trust, the identity of and  
858 background information on each director, officer, trustee, or  
859 other natural person performing duties similar to those of a  
860 director, officer, or trustee for the corporation, association,  
861 or trust.

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

864 c. Any plans or proposals which such person may have to  
865 liquidate such member, to sell its assets, or to merge or  
866 consolidate it.

867 d. The percentage of ownership which such person proposes  
868 to acquire and the terms of the offer or exchange, as the case  
869 may be.

870 e. Information as to any contracts, arrangements, or  
871 understandings with any party with respect to any securities of  
872 such member or controlling company, including, but not limited  
873 to, information relating to the transfer of any securities,  
874 option arrangements, or puts or calls or the giving or  
875 withholding of proxies, naming the party with whom such

876 contract, arrangements, or understandings have been entered and  
877 giving the details thereof.

878 f. The office may disapprove any acquisition subject to  
879 the provisions of this subparagraph by any person or any  
880 affiliated person of such person who:

881 (I) Willfully violates this subparagraph;

882 (II) In violation of an order of the office issued  
883 pursuant to sub-subparagraph j., fails to divest himself or  
884 herself of any stock obtained in violation of this subparagraph,  
885 or fails to divest himself or herself of any direct or indirect  
886 control of such stock, within 25 days after such order; or

887 (III) In violation of an order issued by the office  
888 pursuant to sub-subparagraph j., acquires additional stock of  
889 the underwriting member or controlling company, or direct or  
890 indirect control of such stock, without complying with this  
891 subparagraph.

892 g. The person or persons filing the statement required by  
893 this subparagraph have the burden of proof. The office shall  
894 approve any such acquisition if it finds, on the basis of the  
895 record made during any proceeding or on the basis of the filed  
896 statement if no proceeding is conducted, that:

897 (I) Upon completion of the acquisition, the underwriting  
898 member will be able to satisfy the requirements for the approval  
899 to write the line or lines of insurance for which it is  
900 presently approved;

901 (II) The financial condition of the acquiring person or  
902 persons will not jeopardize the financial stability of the  
903 underwriting member or prejudice the interests of its  
904 policyholders or the public;

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

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

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

914  
915 is fair and free of prejudice to the policyholders of the  
916 underwriting member or to the public;

917 (IV) The competence, experience, and integrity of those  
918 persons who will control directly or indirectly the operation of  
919 the underwriting member indicate that the acquisition is in the  
920 best interest of the policyholders of the underwriting member  
921 and in the public interest;

922 (V) The natural persons for whom background information is  
923 required to be furnished pursuant to this subparagraph have such  
924 backgrounds as to indicate that it is in the best interests of  
925 the policyholders of the underwriting member, and in the public

926 | interest, to permit such persons to exercise control over such  
 927 | underwriting member;

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

931 |         (VII) The management of the underwriting member after the  
 932 | acquisition will be competent and trustworthy and will possess  
 933 | sufficient managerial experience so as to make the proposed  
 934 | operation of the underwriting member not hazardous to the  
 935 | insurance-buying public;

936 |         (VIII) The management of the underwriting member after the  
 937 | acquisition will not include any person who has directly or  
 938 | indirectly through ownership, control, reinsurance transactions,  
 939 | or other insurance or business relations unlawfully manipulated  
 940 | the assets, accounts, finances, or books of any insurer or  
 941 | underwriting member or otherwise acted in bad faith with respect  
 942 | thereto;

943 |         (IX) The acquisition is not likely to be hazardous or  
 944 | prejudicial to the underwriting member's policyholders or the  
 945 | public; and

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

949 |         h. No vote by the stockholder of record, or by any other  
 950 | person, of any security acquired in contravention of the

951 provisions of this subparagraph is valid. Any acquisition of any  
952 security contrary to the provisions of this subparagraph is  
953 void. Upon the petition of the underwriting member or  
954 controlling company, the circuit court for the county in which  
955 the principal office of such underwriting member is located may,  
956 without limiting the generality of its authority, order the  
957 issuance or entry of an injunction or other order to enforce the  
958 provisions of this subparagraph. There shall be a private right  
959 of action in favor of the underwriting member or controlling  
960 company to enforce the provisions of this subparagraph. No  
961 demand upon the office that it perform its functions shall be  
962 required as a prerequisite to any suit by the underwriting  
963 member or controlling company against any other person, and in  
964 no case shall the office be deemed a necessary party to any  
965 action by such underwriting member or controlling company to  
966 enforce the provisions of this subparagraph. Any person who  
967 makes or proposes an acquisition requiring the filing of a  
968 statement pursuant to this subparagraph, or who files such a  
969 statement, shall be deemed to have thereby designated the Chief  
970 Financial Officer as such person's agent for service of process  
971 under this subparagraph and shall thereby be deemed to have  
972 submitted himself or herself to the administrative jurisdiction  
973 of the office and to the jurisdiction of the circuit court.

974 i. Any approval by the office under this subparagraph does  
975 not constitute a recommendation by the office for an

976 acquisition, tender offer, or exchange offer. It is unlawful for  
977 a person to represent that the office's approval constitutes a  
978 recommendation. A person who violates the provisions of this  
979 sub-subparagraph is guilty of a felony of the third degree,  
980 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
981 The statute-of-limitations period for the prosecution of an  
982 offense committed under this sub-subparagraph is 5 years.

983 j. Upon notification to the office by the underwriting  
984 member or a controlling company that any person or any  
985 affiliated person of such person has acquired 5 percent or more  
986 of the outstanding voting securities of the underwriting member  
987 or controlling company without complying with the provisions of  
988 this subparagraph, the office shall order that the person and  
989 any affiliated person of such person cease acquisition of any  
990 further securities of the underwriting member or controlling  
991 company; however, the person or any affiliated person of such  
992 person may request a proceeding, which proceeding shall be  
993 convened within 7 days after the rendering of the order for the  
994 sole purpose of determining whether the person, individually or  
995 in connection with any affiliated person of such person, has  
996 acquired 5 percent or more of the outstanding voting securities  
997 of an underwriting member or controlling company. Upon the  
998 failure of the person or affiliated person to request a hearing  
999 within 7 days, or upon a determination at a hearing convened  
1000 pursuant to this sub-subparagraph that the person or affiliated



1001 person has acquired voting securities of an underwriting member  
 1002 or controlling company in violation of this subparagraph, the  
 1003 office may order the person and affiliated person to divest  
 1004 themselves of any voting securities so acquired.

1005 k.(I) The office shall, if necessary to protect the public  
 1006 interest, suspend or revoke the certificate of authority of any  
 1007 underwriting member or controlling company:

1008 (A) The control of which is acquired in violation of this  
 1009 subparagraph;

1010 (B) That is controlled, directly or indirectly, by any  
 1011 person or any affiliated person of such person who, in violation  
 1012 of this subparagraph, has obtained control of an underwriting  
 1013 member or controlling company; or

1014 (C) That is controlled, directly or indirectly, by any  
 1015 person who, directly or indirectly, controls any other person  
 1016 who, in violation of this subparagraph, acquires control of an  
 1017 underwriting member or controlling company.

1018 (II) If any underwriting member is subject to suspension  
 1019 or revocation pursuant to sub-sub-subparagraph (I), the  
 1020 underwriting member shall be deemed to be in such condition, or  
 1021 to be using or to have been subject to such methods or practices  
 1022 in the conduct of its business, as to render its further  
 1023 transaction of insurance presently or prospectively hazardous to  
 1024 its policyholders, creditors, or stockholders or to the public.

1025 1.(I) For the purpose of this sub-sub-subparagraph, the

1026 term "affiliated person" of another person means:

1027 (A) The spouse of such other person;

1028 (B) The parents of such other person and their lineal  
 1029 descendants and the parents of such other person's spouse and  
 1030 their lineal descendants;

1031 (C) Any person who directly or indirectly owns or  
 1032 controls, or holds with power to vote, 5 percent or more of the  
 1033 outstanding voting securities of such other person;

1034 (D) Any person 5 percent or more of the outstanding voting  
 1035 securities of which are directly or indirectly owned or  
 1036 controlled, or held with power to vote, by such other person;

1037 (E) Any person or group of persons who directly or  
 1038 indirectly control, are controlled by, or are under common  
 1039 control with such other person; or any officer, director,  
 1040 partner, copartner, or employee of such other person;

1041 (F) If such other person is an investment company, any  
 1042 investment adviser of such company or any member of an advisory  
 1043 board of such company;

1044 (G) If such other person is an unincorporated investment  
 1045 company not having a board of directors, the depositor of such  
 1046 company; or

1047 (H) Any person who has entered into an agreement, written  
 1048 or unwritten, to act in concert with such other person in  
 1049 acquiring or limiting the disposition of securities of an  
 1050 underwriting member or controlling company.

1051 (II) For the purposes of this section, the term  
 1052 "controlling company" means any corporation, trust, or  
 1053 association owning, directly or indirectly, 25 percent or more  
 1054 of the voting securities of one or more underwriting members.

1055 m. The commission may adopt, amend, or repeal rules that  
 1056 are necessary to implement the provisions of this subparagraph,  
 1057 pursuant to chapter 120.

1058 44. Background information.—The information as to the  
 1059 background and identity of each person about whom information is  
 1060 required to be furnished pursuant to sub-subparagraph 43.a.  
 1061 shall include, but shall not be limited to:

1062 a. Such person's occupations, positions of employment, and  
 1063 offices held during the past 10 years.

1064 b. The principal business and address of any business,  
 1065 corporation, or other organization in which each such office was  
 1066 held or in which such occupation or position of employment was  
 1067 carried on.

1068 c. Whether, at any time during such 10-year period, such  
 1069 person was convicted of any crime other than a traffic  
 1070 violation.

1071 d. Whether, during such 10-year period, such person has  
 1072 been the subject of any proceeding for the revocation of any  
 1073 license and, if so, the nature of such proceeding and the  
 1074 disposition thereof.

1075 e. Whether, during such 10-year period, such person has

1076 | been the subject of any proceeding under the federal Bankruptcy  
 1077 | Act or whether, during such 10-year period, any corporation,  
 1078 | partnership, firm, trust, or association in which such person  
 1079 | was a director, officer, trustee, partner, or other official has  
 1080 | been subject to any such proceeding, either during the time in  
 1081 | which such person was a director, officer, trustee, partner, or  
 1082 | other official, or within 12 months thereafter.

1083 |       f. Whether, during such 10-year period, such person has  
 1084 | been enjoined, either temporarily or permanently, by a court of  
 1085 | competent jurisdiction from violating any federal or state law  
 1086 | regulating the business of insurance, securities, or banking, or  
 1087 | from carrying out any particular practice or practices in the  
 1088 | course of the business of insurance, securities, or banking,  
 1089 | together with details of any such event.

1090 |       45. Security fund.—All underwriting members shall be  
 1091 | members of the security fund of any exchange.

1092 |       46. Underwriting member defined.—Whenever the term  
 1093 | "underwriting member" is used in this subsection, it shall be  
 1094 | construed to mean "underwriting syndicate."

1095 |       47. Offsets.—Any action, requirement, or constraint  
 1096 | imposed by the office shall reduce or offset similar actions,  
 1097 | requirements, or constraints of any exchange.

1098 |       48. Restriction on member ownership.—

1099 |       a. Investments existing prior to July 2, 1987.—The  
 1100 | investment in any member by brokers, agents, and intermediaries

1101 transacting business on the exchange, and the investment in any  
1102 such broker, agent, or intermediary by any member, directly or  
1103 indirectly, shall in each case be limited in the aggregate to  
1104 less than 20 percent of the total investment in such member,  
1105 broker, agent, or intermediary, as the case may be. After  
1106 December 31, 1987, the aggregate percent of the total investment  
1107 in such member by any broker, agent, or intermediary and the  
1108 aggregate percent of the total investment in any such broker,  
1109 agent, or intermediary by any member, directly or indirectly,  
1110 shall not exceed 15 percent. After June 30, 1988, such aggregate  
1111 percent shall not exceed 10 percent and after December 31, 1988,  
1112 such aggregate percent shall not exceed 5 percent.

1113       b. Investments arising on or after July 2, 1987.—The  
1114 investment in any underwriting member by brokers, agents, or  
1115 intermediaries transacting business on the exchange, and the  
1116 investment in any such broker, agent, or intermediary by any  
1117 underwriting member, directly or indirectly, shall in each case  
1118 be limited in the aggregate to less than 5 percent of the total  
1119 investment in such underwriting member, broker, agent, or  
1120 intermediary.

1121       49. "Underwriting manager" defined.—"Underwriting manager"  
1122 as used in this subparagraph includes any person, partnership,  
1123 corporation, or organization providing any of the following  
1124 services to underwriting members of the exchange:

1125       a. Office management and allied services, including

1126 | correspondence and secretarial services.

1127 |       b. Accounting services, including bookkeeping and  
1128 | financial report preparation.

1129 |       c. Investment and banking consultations and services.

1130 |       d. Underwriting functions and services including the  
1131 | acceptance, rejection, placement, and marketing of risk.

1132 |       50. Prohibition of underwriting manager investment.—Any  
1133 | direct or indirect investment in any underwriting manager by a  
1134 | broker member or any affiliated person of a broker member or any  
1135 | direct or indirect investment in a broker member by an  
1136 | underwriting manager or any affiliated person of an underwriting  
1137 | manager is prohibited. "Affiliated person" for purposes of this  
1138 | subparagraph is defined in subparagraph 43.

1139 |       51. An underwriting member may not accept reinsurance on  
1140 | an assumed basis from an affiliate or a controlling company, nor  
1141 | may a broker member or management company place reinsurance from  
1142 | an affiliate or controlling company of theirs with an  
1143 | underwriting member. "Affiliate and controlling company" for  
1144 | purposes of this subparagraph is defined in subparagraph 43.

1145 |       52. Premium defined.—"Premium" is the consideration for  
1146 | insurance, by whatever name called. Any "assessment" or any  
1147 | "membership," "policy," "survey," "inspection," "service" fee or  
1148 | charge or similar fee or charge in consideration for an  
1149 | insurance contract is deemed part of the premium.

1150 |       53. Rules.—The commission shall adopt rules necessary for

1151 or as an aid to the effectuation of any provision of this  
1152 section.

1153 Section 13. Subsection (5) of section 636.044, Florida  
1154 Statutes, is amended to read:

1155 636.044 Agent licensing.—

1156 (5) A person who sells ~~registered as a seller of travel~~  
1157 ~~under s. 559.928 is not required to be licensed under this~~  
1158 ~~section in order to sell~~ prepaid limited health service  
1159 contracts that only cover the cost of transportation provided by  
1160 an air ambulance service licensed pursuant to s. 401.251 is not  
1161 required to be licensed under this section. The prepaid limited  
1162 health service contract for such coverage is, however, subject  
1163 to all applicable provisions of this chapter.

1164 Section 14. This act shall take effect upon becoming a  
1165 law.