

1 A bill to be entitled
2 An act relating to insurance; amending s. 624.4212,
3 F.S.; exempting from public records requirements a
4 certain notice relating to divestiture of controlling
5 stock in a specialty insurer which is filed with the
6 Office of Insurance Regulation; amending s. 625.151,
7 F.S.; providing an exception from valuation rules for
8 stocks in subsidiaries for certain foreign insurers
9 under certain conditions; amending s. 625.325, F.S.;
10 exempting foreign insurers from investment
11 requirements relating to subsidiaries and corporations
12 under certain conditions; amending s. 626.221, F.S.;
13 providing an exception from an examination requirement
14 for an all-lines adjuster license applicant with a
15 specified designation; repealing s. 626.918(2)(a) ,
16 F.S., relating to Eligible surplus lines insurers;
17 amending s. 626.914, F.S.; revising the definition of
18 the term "diligent effort" to decrease the replacement
19 cost threshold for a residential structure for
20 purposes of proving rejection of coverage by
21 authorized insurers; amending s. 626.932, F.S.;
22 deleting a provision relating to a surplus lines tax
23 threshold; amending s. 626.9651, F.S.; revising
24 requirements for rules adopted by the Department of
25 Financial Services and the Financial Services

26 Commission relating to the privacy of certain consumer
27 information; amending s. 627.416, F.S.; revising
28 requirements for execution of insurance policies;
29 amending s. 627.7015, F.S.; authorizing insurers to
30 participate in mediations requested by third parties;
31 revising terminology; revising the definition of the
32 term "claim" to specify that any material issue of
33 fact must relate to a loss arising from a declared
34 state of emergency; amending s. 627.728, F.S.;
35 providing that an Intelligent Mail barcode or a
36 similar United States Postal Service tracking method
37 are sufficient proof of notice for certain motor
38 vehicle insurance notices; amending s. 627.748, F.S.;
39 revising circumstances in which insurers may exclude
40 coverage for owners or operators of transportation
41 network company vehicles; amending s. 628.4615, F.S.;
42 revising the definition of the term "specialty
43 insurer" to include viatical settlement providers;
44 specifying requirements and procedures for a person
45 seeking to rebut a presumption of control in a
46 specialty insurer; providing construction; providing
47 requirements and procedures for a controlling person
48 seeking to divest a controlling interest in a
49 specialty insurer; requiring the office to make
50 certain determinations; specifying the confidentiality

51 of a certain notice and information; providing
52 applicability; conforming cross-references; amending
53 s. 628.8015, F.S.; revising the type of documents that
54 are confidential; amending s. 629.401, F.S.; revising
55 reserve requirements for reciprocal insurers; amending
56 s. 634.121, F.S.; defining terms; providing that
57 provisions relating to the delivery of insurance
58 policy documents by insurers to policyholders apply to
59 certain motor vehicle service agreements provided by
60 motor vehicle service agreement companies; conforming
61 provisions to changes made by the act; amending s.
62 641.27, F.S.; creating an exception to public
63 procurement of contracts; requiring the Financial
64 Services Commission to adopt rules regarding insurer
65 examination contracts; specifying rule requirements;
66 providing an effective date.

67
68 Be It Enacted by the Legislature of the State of Florida:

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70 Section 1. Paragraph (b) of subsection (2) of section
71 624.4212, Florida Statutes, is amended to read:

72 624.4212 Confidentiality of proprietary business and other
73 information.—

74 (2) Proprietary business information contained in the
75 following items held by the office is confidential and exempt

76 | from s. 119.07(1) and s. 24(a), Art. I of the State
 77 | Constitution:

78 | (b) A notice filed with the office by the person or
 79 | affiliated person who seeks to divest controlling stock in an
 80 | insurer pursuant to s. 628.461 or s. 628.4615.

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

83 | 625.151 Valuation of other securities.—

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

89 | (c) This subsection does not apply to stock of a
 90 | subsidiary corporation or related entities of a foreign insurer
 91 | that is permissible under the laws of its state of domicile if
 92 | the state of domicile is a member of the National Association of
 93 | Insurance Commissioners.

94 | Section 3. Subsection (7) is added to section 625.325,
 95 | Florida Statutes, to read:

96 | 625.325 Investments in subsidiaries and related
 97 | corporations.—

98 | (7) APPLICABILITY.—This section does not apply to a
 99 | foreign insurer's investments in its subsidiaries or related
 100 | corporations if:

101 (a) The foreign insurer is domiciled in a state that is a
 102 member of the National Association of Insurance Commissioners
 103 (NAIC).

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

106 1. Permitted under the laws of the foreign insurer's state
 107 of domicile.

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

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

114 Section 4. Paragraph (j) of subsection (2) of section
 115 626.221, Florida Statutes, is amended to read:

116 626.221 Examination requirement; exemptions.—

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

119 (j) An applicant for license as an all-lines adjuster who
 120 has the designation of Accredited Claims Adjuster (ACA) from a
 121 regionally accredited postsecondary institution in this state,
 122 Associate in Claims (AIC) from the Insurance Institute of
 123 America, Professional Claims Adjuster (PCA) from the
 124 Professional Career Institute, Professional Property Insurance
 125 Adjuster (PPIA) from the HurriClaim Training Academy, Certified

126 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
 127 (CCA) from AE21 Incorporated, Claims Adjuster Certified
 128 Professional (CACP) from WebCE, Inc., or Universal Claims
 129 Certification (UCC) from Claims and Litigation Management
 130 Alliance (CLM) whose curriculum has been approved by the
 131 department and which includes comprehensive analysis of basic
 132 property and casualty lines of insurance and testing at least
 133 equal to that of standard department testing for the all-lines
 134 adjuster license. The department shall adopt rules establishing
 135 standards for the approval of curriculum.

136 Section 5. Subsection (4) of section 626.914, Florida
 137 Statutes, is amended to read:

138 626.914 Definitions.—As used in this Surplus Lines Law,
 139 the term:

140 (4) "Diligent effort" means seeking coverage from and
 141 having been rejected by at least three authorized insurers
 142 currently writing this type of coverage and documenting these
 143 rejections. However, if the residential structure has a dwelling
 144 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
 145 seeking coverage from and having been rejected by at least one
 146 authorized insurer currently writing this type of coverage and
 147 documenting this rejection.

148 Section 6. Paragraph (a) of subsection (2) of section
 149 626.918, Florida Statutes, is repealed.

150 Section 7. Subsections (1) and (3) of section 626.932,

151 Florida Statutes, are amended to read:

152 626.932 Surplus lines tax.—

153 (1) The premiums charged for surplus lines coverages are
 154 subject to a premium receipts tax of 4.936 percent ~~5 percent~~ of
 155 all gross premiums charged for such insurance. The surplus lines
 156 agent shall collect from the insured the amount of the tax at
 157 the time of the delivery of the cover note, certificate of
 158 insurance, policy, or other initial confirmation of insurance,
 159 in addition to the full amount of the gross premium charged by
 160 the insurer for the insurance. The surplus lines agent is
 161 prohibited from absorbing such tax or, as an inducement for
 162 insurance or for any other reason, rebating all or any part of
 163 such tax or of his or her commission.

164 (3) If a surplus lines policy covers risks or exposures
 165 only partially in this state and the state is the home state as
 166 defined in the federal Nonadmitted and Reinsurance Reform Act of
 167 2010 (NRRA), the tax payable must ~~shall~~ be computed on the gross
 168 premium. ~~The tax must not exceed the tax rate where the risk or~~
 169 ~~exposure is located.~~

170 Section 8. Section 626.9651, Florida Statutes, is amended
 171 to read:

172 626.9651 Privacy.—The department and commission must ~~shall~~
 173 each adopt rules consistent with other provisions of the Florida
 174 Insurance Code to govern the use of a consumer's nonpublic
 175 personal financial and health information. These rules must be

176 based on, consistent with, and not more restrictive than the
177 Privacy of Consumer Financial and Health Information Regulation,
178 adopted September 26, 2000, by the National Association of
179 Insurance Commissioners; however, the rules must permit the use
180 and disclosure of nonpublic personal health information for
181 scientific, medical, or public policy research, in accordance
182 with federal law. In addition, these rules must be consistent
183 with, and not more restrictive than, the standards contained in
184 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
185 102, as amended in Title LXXV of the Fixing America's Surface
186 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
187 determines that a health insurer or health maintenance
188 organization is in compliance with, or is actively undertaking
189 compliance with, the consumer privacy protection rules adopted
190 by the United States Department of Health and Human Services, in
191 conformance with the Health Insurance Portability and
192 Affordability Act, that health insurer or health maintenance
193 organization is in compliance with this section.

194 Section 9. Subsection (1) of section 627.416, Florida
195 Statutes, is amended and subsection (4) is added to read:

196 627.416 Execution of policies.—

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

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

205 Section 10. Subsection (2) of section 627.43141, Florida
 206 Statutes, is amended to read:

207 627.43141 Notice of change in policy terms.—

208 (2) A renewal policy may contain a change in policy terms.
 209 If such change occurs, the insurer shall give the named insured
 210 advance written notice summarizing ~~of~~ the change, which may be
 211 enclosed along with the written notice of renewal premium
 212 required under ss. 627.4133 and 627.728 or sent separately
 213 within the timeframe required under the Florida Insurance Code
 214 for the provision of a notice of nonrenewal to the named insured
 215 for that line of insurance. The insurer must also provide a
 216 sample copy of the notice to the named insured's insurance agent
 217 before or at the same time that notice is provided to the named
 218 insured. Such notice shall be entitled "Notice of Change in
 219 Policy Terms."

220 Section 11. Subsections (1), (3), (6), and (9) of section
 221 627.7015, Florida Statutes, are amended to read:

222 627.7015 Alternative procedure for resolution of disputed
 223 property insurance claims.—

224 (1) This section sets forth a nonadversarial alternative
 225 dispute resolution procedure for a mediated claim resolution

226 conference prompted by the need for effective, fair, and timely
227 handling of property insurance claims. There is a particular
228 need for an informal, nonthreatening forum for helping parties
229 who elect this procedure to resolve their claims disputes
230 because most homeowner and commercial residential insurance
231 policies obligate policyholders to participate in a potentially
232 expensive and time-consuming adversarial appraisal process
233 before litigation. The procedure set forth in this section is
234 designed to bring the parties together for a mediated claims
235 settlement conference without any of the trappings or drawbacks
236 of an adversarial process. Before resorting to these procedures,
237 policyholders and insurers are encouraged to resolve claims as
238 quickly and fairly as possible. This section is available with
239 respect to claims under personal lines and commercial
240 residential policies before commencing the appraisal process, or
241 before commencing litigation. Mediation may be requested only by
242 the policyholder, as a first-party claimant, a third-party, as
243 an assignee of the policy benefits, or the insurer. However, an
244 insurer is not required to participate in any mediation
245 requested by a third-party assignee of the policy benefits. If
246 requested by the policyholder, participation by legal counsel is
247 permitted. Mediation under this section is also available to
248 litigants referred to the department by a county court or
249 circuit court. This section does not apply to commercial
250 coverages, to private passenger motor vehicle insurance

251 coverages, or to disputes relating to liability coverages in
252 policies of property insurance.

253 (3) The costs of mediation must ~~shall~~ be reasonable, and
254 the insurer must ~~shall~~ bear all of the cost of conducting
255 mediation conferences, except as otherwise provided in this
256 section. If a policyholder ~~an insured~~ fails to appear at the
257 conference, the conference must ~~shall~~ be rescheduled upon the
258 policyholder's ~~insured's~~ payment of the costs of a rescheduled
259 conference. If the insurer fails to appear at the conference,
260 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual
261 cash expenses incurred in attending the conference if the
262 insurer's failure to attend was not due to a good cause
263 acceptable to the department. An insurer will be deemed to have
264 failed to appear if the insurer's representative lacks authority
265 to settle the full value of the claim. The insurer shall incur
266 an additional fee for a rescheduled conference necessitated by
267 the insurer's failure to appear at a scheduled conference. The
268 fees assessed by the administrator must ~~shall~~ include a charge
269 necessary to defray the expenses of the department related to
270 its duties under this section and must ~~shall~~ be deposited in the
271 Insurance Regulatory Trust Fund.

272 (6) Mediation is nonbinding; however, if a written
273 settlement is reached, the policyholder ~~insured~~ has 3 business
274 days within which the policyholder ~~insured~~ may rescind the
275 settlement unless the policyholder ~~insured~~ has cashed or

276 deposited any check or draft disbursed to the policyholder
 277 ~~insured~~ for the disputed matters as a result of the conference.
 278 If a settlement agreement is reached and is not rescinded, it is
 279 ~~shall be~~ binding and acts ~~act~~ as a release of all specific
 280 claims that were presented in that mediation conference.

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

284 (a) With respect to which the insurer has a reasonable
 285 basis to suspect fraud;

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

288 (c) With respect to which the insurer has a reasonable
 289 basis to believe that the policyholder has intentionally made a
 290 material misrepresentation of fact which is relevant to the
 291 claim, and the entire request for payment of a loss has been
 292 denied on the basis of the material misrepresentation;

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

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

298 Section 12. Subsection (5) of section 627.728, Florida
 299 Statutes, is amended to read:

300 627.728 Cancellations; nonrenewals.—

301 (5) United States postal proof of mailing, ~~or~~ certified or
 302 registered mailing, or other mailing using the Intelligent Mail
 303 barcode or other similar tracking method used or approved by the
 304 United States Postal Service of notice of cancellation, of
 305 intention not to renew, or of reasons for cancellation, or of
 306 the intention of the insurer to issue a policy by an insurer
 307 under the same ownership or management, to the first-named
 308 insured at the address shown in the policy is ~~shall be~~
 309 sufficient proof of notice.

310 Section 13. Paragraph (b) of subsection (8) of section
 311 627.748, Florida Statutes, is amended to read:

312 627.748 Transportation network companies.—

313 (8) TRANSPORTATION NETWORK COMPANY AND INSURER;
 314 DISCLOSURE; EXCLUSIONS.—

315 (b)1. An insurer that provides an automobile liability
 316 insurance policy under this part may exclude any and all
 317 coverage afforded under the policy issued to an owner or
 318 operator of a TNC vehicle ~~while driving that vehicle~~ for any
 319 loss or injury that occurs while a TNC driver is logged on to a
 320 digital network and driving a motor vehicle, or when ~~while~~ a TNC
 321 driver provides a prearranged ride. Exclusions imposed under
 322 this subsection are limited to coverage while a TNC driver is
 323 logged on to a digital network or while a TNC driver provides a
 324 prearranged ride. This right to exclude all coverage may apply
 325 to any coverage included in an automobile insurance policy,

326 including, but not limited to:

327 a. Liability coverage for bodily injury and property
328 damage;

329 b. Uninsured and underinsured motorist coverage;

330 c. Medical payments coverage;

331 d. Comprehensive physical damage coverage;

332 e. Collision physical damage coverage; and

333 f. Personal injury protection.

334 2. The exclusions described in subparagraph 1. apply
335 notwithstanding any requirement under chapter 324. These
336 exclusions do not affect or diminish coverage otherwise
337 available for permissive drivers or resident relatives under the
338 personal automobile insurance policy of the TNC driver or owner
339 of the TNC vehicle who are not occupying the TNC vehicle at the
340 time of loss. This section does not require that a personal
341 automobile insurance policy provide coverage while the TNC
342 driver is logged on to a digital network, while the TNC driver
343 is engaged in a prearranged ride, or while the TNC driver
344 otherwise uses a vehicle to transport riders for compensation.

345 3. This section must not be construed to require an
346 insurer to use any particular policy language or reference to
347 this section in order to exclude any and all coverage for any
348 loss or injury that occurs while a TNC driver is logged on to a
349 digital network or while a TNC driver provides a prearranged
350 ride.

351 4. This section does not preclude an insurer from
352 providing primary or excess coverage for the TNC driver's
353 vehicle by contract or endorsement.

354 Section 14. Present subsections (11) through (14) of
355 section 628.4615, Florida Statutes, are redesignated as
356 subsections (12) through (15), respectively, subsections (1) and
357 (7) of that section are amended, and a new subsection (11) is
358 added to that section, to read:

359 628.4615 Specialty insurers; acquisition of controlling
360 stock, ownership interest, assets, or control; merger or
361 consolidation.—

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

365 (a) A motor vehicle service agreement company authorized
366 to issue motor vehicle service agreements as those terms are
367 defined in s. 634.011;

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

370 (c) A service warranty association authorized to issue
371 "service warranties" as those terms are defined in s.
372 634.401(13) and (14);

373 (d) A prepaid limited health service organization
374 authorized to issue prepaid limited health service contracts, as
375 those terms are defined in chapter 636;

- 376 (e) An authorized health maintenance organization
 377 operating pursuant to s. 641.21;
- 378 (f) An authorized prepaid health clinic operating pursuant
 379 to s. 641.405;
- 380 (g) A legal expense insurance corporation authorized to
 381 engage in a legal expense insurance business pursuant to s.
 382 642.021;
- 383 (h) A provider that is licensed to operate a facility that
 384 undertakes to provide continuing care as those terms are defined
 385 in s. 651.011;
- 386 (i) A multiple-employer welfare arrangement operating
 387 pursuant to ss. 624.436-624.446;
- 388 (j) A premium finance company authorized to finance
 389 insurance premiums pursuant to s. 627.828; ~~or~~
- 390 (k) A corporation authorized to accept donor annuity
 391 agreements pursuant to s. 627.481; or-
- 392 (l) A viatical settlement provider authorized to do
 393 business in this state under part X of chapter 626.
- 394 (7) The office may disapprove any acquisition subject to
 395 ~~the provisions of~~ this section by any person or any affiliated
 396 person of such person who:
- 397 (a) Willfully violates this section;
- 398 (b) In violation of an order of the office issued pursuant
 399 to subsection (12) ~~(11)~~, fails to divest himself or herself of
 400 any stock or ownership interest obtained in violation of this

401 section or fails to divest himself or herself of any direct or
402 indirect control of such stock or ownership interest, within 25
403 days after such order; or

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

409 (11) A person may rebut a presumption of control by filing
410 a disclaimer of control with the office on a form prescribed by
411 the commission. The disclaimer must fully disclose all material
412 relationships and bases for affiliation between the person and
413 the specialty insurer as well as the basis for disclaiming the
414 affiliation. In lieu of such form, a person or acquiring party
415 may file with the office a copy of a Schedule 13G filed with the
416 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
417 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
418 of 1934, as amended. After a disclaimer has been filed, the
419 specialty insurer is relieved of any duty to register or report
420 under this section which may arise out of the specialty
421 insurer's relationship with the person unless the office
422 disallows the disclaimer.

423 Section 15. Subsection (4) of section 628.8015, Florida
424 Statutes, is amended to read:

425 628.8015 Own-risk and solvency assessment; corporate

426 | governance annual disclosure.—

427 | (4) CONFIDENTIALITY.—The required filings and related
 428 | documents submitted pursuant to subsections (2) and (3) are
 429 | privileged such that they may not be produced in response to a
 430 | subpoena or other discovery directed to the office, and any such
 431 | filings and related documents, ~~if obtained from the office,~~ are
 432 | not admissible in evidence in any private civil action. However,
 433 | the department or office may use these filings and related
 434 | documents in the furtherance of any regulatory or legal action
 435 | brought against an insurer as part of the official duties of the
 436 | department or office. A waiver of any applicable claim of
 437 | privilege in these filings and related documents may not occur
 438 | because of a disclosure to the office under this section,
 439 | because of any other provision of the Insurance Code, or because
 440 | of sharing under s. 624.4212. The office or a person receiving
 441 | these filings and related documents, while acting under the
 442 | authority of the office, or with whom such filings and related
 443 | documents are shared pursuant to s. 624.4212, is not permitted
 444 | or required to testify in any private civil action concerning
 445 | any such filings or related documents.

446 | Section 16. Paragraph (b) of subsection (6) of section
 447 | 629.401, Florida Statutes, is amended to read:

448 | 629.401 Insurance exchange.—

449 | (6)

450 | (b) In addition to the insurance laws specified in

451 paragraph (a), the office shall regulate the exchange pursuant
452 to the following powers, rights, and duties:

453 1. General examination powers.—The office shall examine
454 the affairs, transactions, accounts, records, and assets of any
455 security fund, exchange, members, and associate brokers as often
456 as it deems advisable. The examination may be conducted by the
457 accredited examiners of the office at the offices of the entity
458 or person being examined. The office shall examine in like
459 manner each prospective member or associate broker applying for
460 membership in an exchange.

461 2. Office approval and applications of underwriting
462 members.—No underwriting member shall commence operation without
463 the approval of the office. Before commencing operation, an
464 underwriting member shall provide a written application
465 containing:

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

467 b. Name, residence address, business background, and
468 qualifications of each person associated or to be associated in
469 the formation or financing of the underwriting member.

470 c. Full disclosure of the terms of all understandings and
471 agreements existing or proposed among persons so associated
472 relative to the underwriting member, or the formation or
473 financing thereof, accompanied by a copy of each such agreement
474 or understanding.

475 d. Full disclosure of the terms of all understandings and

476 | agreements existing or proposed for management or exclusive
477 | agency contracts.

478 | 3. Investigation of underwriting member applications.—In
479 | connection with any proposal to establish an underwriting
480 | member, the office shall make an investigation of:

481 | a. The character, reputation, financial standing, and
482 | motives of the organizers, incorporators, or subscribers
483 | organizing the proposed underwriting member.

484 | b. The character, financial responsibility, insurance
485 | experience, and business qualifications of its proposed
486 | officers.

487 | c. The character, financial responsibility, business
488 | experience, and standing of the proposed stockholders and
489 | directors, or owners.

490 | 4. Notice of management changes.—An underwriting member
491 | shall promptly give the office written notice of any change
492 | among the directors or principal officers of the underwriting
493 | member within 30 days after such change. The office shall
494 | investigate the new directors or principal officers of the
495 | underwriting member. The office's investigation shall include an
496 | investigation of the character, financial responsibility,
497 | insurance experience, and business qualifications of any new
498 | directors or principal officers. As a result of the
499 | investigation, the office may require the underwriting member to
500 | replace any new directors or principal officers.

501 5. Alternate financial statement.—In lieu of any financial
502 examination, the office may accept an audited financial
503 statement.

504 6. Correction and reconstruction of records.—If the office
505 finds any accounts or records to be inadequate, or inadequately
506 kept or posted, it may employ experts to reconstruct, rewrite,
507 post, or balance them at the expense of the person or entity
508 being examined if such person or entity has failed to maintain,
509 complete, or correct such records or accounts after the office
510 has given him or her or it notice and reasonable opportunity to
511 do so.

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

516 8. Filing of annual statement.—Each underwriting member
517 shall file with the office a full and true statement of its
518 financial condition, transactions, and affairs. The statement
519 shall be filed on or before March 1 of each year, or within such
520 extension of time as the office for good cause grants, and shall
521 be for the preceding calendar year. The statement shall contain
522 information generally included in insurer financial statements
523 prepared in accordance with generally accepted insurance
524 accounting principles and practices and in a form generally
525 utilized by insurers for financial statements, sworn to by at

526 | least two executive officers of the underwriting member. The
527 | form of the financial statements shall be the approved form of
528 | the National Association of Insurance Commissioners or its
529 | successor organization. The commission may by rule require each
530 | insurer to submit any part of the information contained in the
531 | financial statement in a computer-readable form compatible with
532 | the office's electronic data processing system. In addition to
533 | information furnished in connection with its annual statement,
534 | an underwriting member must furnish to the office as soon as
535 | reasonably possible such information about its transactions or
536 | affairs as the office requests in writing. All information
537 | furnished pursuant to the office's request must be verified by
538 | the oath of two executive officers of the underwriting member.

539 | 9. Record maintenance.—Each underwriting member shall have
540 | and maintain its principal place of business in this state and
541 | shall keep therein complete records of its assets, transactions,
542 | and affairs in accordance with such methods and systems as are
543 | customary for or suitable to the kind or kinds of insurance
544 | transacted.

545 | 10. Examination of agents.—If the department has reason to
546 | believe that any agent, as defined in s. 626.015 or s. 626.914,
547 | has violated or is violating any provision of the insurance law,
548 | or upon receipt of a written complaint signed by any interested
549 | person indicating that any such violation may exist, the
550 | department shall conduct such examination as it deems necessary

551 of the accounts, records, documents, and transactions pertaining
552 to or affecting the insurance affairs of such agent.

553 11. Written reports of office.—The office or its examiner
554 shall make a full and true written report of any examination.
555 The report shall contain only information obtained from
556 examination of the records, accounts, files, and documents of or
557 relative to the person or entity examined or from testimony of
558 individuals under oath, together with relevant conclusions and
559 recommendations of the examiner based thereon. The office shall
560 furnish a copy of the report to the person or entity examined
561 not less than 30 days prior to filing the report in its office.
562 If such person or entity so requests in writing within such 30-
563 day period, the office shall grant a hearing with respect to the
564 report and shall not file the report until after the hearing and
565 after such modifications have been made therein as the office
566 deems proper.

567 12. Admissibility of reports.—The report of an examination
568 when filed shall be admissible in evidence in any action or
569 proceeding brought by the office against the person or entity
570 examined, or against his or her or its officers, employees, or
571 agents. The office or its examiners may at any time testify and
572 offer other proper evidence as to information secured or matters
573 discovered during the course of an examination, whether or not a
574 written report of the examination has been either made,
575 furnished, or filed in the office.

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

580 14. Consideration of examination reports by entity
581 examined.—After the examination report of an underwriting member
582 has been filed, an affidavit shall be filed with the office, not
583 more than 30 days after the report has been filed, on a form
584 furnished by the office and signed by the person or a
585 representative of any entity examined, stating that the report
586 has been read and that the recommendations made in the report
587 will be considered within a reasonable time.

588 15. Examination costs.—Each person or entity examined by
589 the office shall pay to the office the expenses incurred in such
590 examination.

591 16. Exchange costs.—An exchange shall reimburse the office
592 for any expenses incurred by it relating to the regulation of
593 the exchange and its members, except as specified in
594 subparagraph 15.

595 17. Powers of examiners.—Any examiner appointed by the
596 office, as to the subject of any examination, investigation, or
597 hearing being conducted by him or her, may administer oaths,
598 examine and cross-examine witnesses, and receive oral and
599 documentary evidence, and shall have the power to subpoena
600 witnesses, compel their attendance and testimony, and require by

601 subpoena the production of books, papers, records, files,
602 correspondence, documents, or other evidence which the examiner
603 deems relevant to the inquiry. If any person refuses to comply
604 with any such subpoena or to testify as to any matter concerning
605 which he or she may be lawfully interrogated, the Circuit Court
606 of Leon County or the circuit court of the county wherein such
607 examination, investigation, or hearing is being conducted, or of
608 the county wherein such person resides, on the office's
609 application may issue an order requiring such person to comply
610 with the subpoena and to testify; and any failure to obey such
611 an order of the court may be punished by the court as a contempt
612 thereof. Subpoenas shall be served, and proof of such service
613 made, in the same manner as if issued by a circuit court.
614 Witness fees and mileage, if claimed, shall be allowed the same
615 as for testimony in a circuit court.

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

620 19. Self-incrimination.—

621 a. If any person asks to be excused from attending or
622 testifying or from producing any books, papers, records,
623 contracts, documents, or other evidence in connection with any
624 examination, hearing, or investigation being conducted by the
625 office or its examiner, on the ground that the testimony or

626 | evidence required of the person may tend to incriminate him or
627 | her or subject him or her to a penalty or forfeiture, and the
628 | person notwithstanding is directed to give such testimony or
629 | produce such evidence, he or she shall, if so directed by the
630 | office and the Department of Legal Affairs, nonetheless comply
631 | with such direction; but the person shall not thereafter be
632 | prosecuted or subjected to any penalty or forfeiture for or on
633 | account of any transaction, matter, or thing concerning which he
634 | or she may have so testified or produced evidence, and no
635 | testimony so given or evidence so produced shall be received
636 | against him or her upon any criminal action, investigation, or
637 | proceeding; except that no such person so testifying shall be
638 | exempt from prosecution or punishment for any perjury committed
639 | by him or her in such testimony, and the testimony or evidence
640 | so given or produced shall be admissible against him or her upon
641 | any criminal action, investigation, or proceeding concerning
642 | such perjury, nor shall he or she be exempt from the refusal,
643 | suspension, or revocation of any license, permission, or
644 | authority conferred, or to be conferred, pursuant to the
645 | insurance law.

646 | b. Any such individual may execute, acknowledge, and file
647 | with the office a statement expressly waiving such immunity or
648 | privilege in respect to any transaction, matter, or thing
649 | specified in such statement, and thereupon the testimony of such
650 | individual or such evidence in relation to such transaction,

651 matter, or thing may be received or produced before any judge or
652 justice, court, tribunal, grand jury, or otherwise; and if such
653 testimony or evidence is so received or produced, such
654 individual shall not be entitled to any immunity or privileges
655 on account of any testimony so given or evidence so produced.

656 20. Penalty for failure to testify.—Any person who refuses
657 or fails, without lawful cause, to testify relative to the
658 affairs of any member, associate broker, or other person when
659 subpoenaed and requested by the office to so testify, as
660 provided in subparagraph 17., shall, in addition to the penalty
661 provided in subparagraph 17., be guilty of a misdemeanor of the
662 second degree, punishable as provided in s. 775.082 or s.
663 775.083.

664 21. Name selection.—No underwriting member shall be formed
665 or authorized to transact insurance in this state under a name
666 which is the same as that of any authorized insurer or is so
667 nearly similar thereto as to cause or tend to cause confusion or
668 under a name which would tend to mislead as to the type of
669 organization of the insurer. Before incorporating under or using
670 any name, the underwriting syndicate or proposed underwriting
671 syndicate shall submit its name or proposed name to the office
672 for the approval of the office.

673 22. Capitalization.—An underwriting member approved on or
674 after July 2, 1987, shall provide an initial paid-in capital and
675 surplus of \$3 million and thereafter shall maintain a minimum

676 policyholder surplus of \$2 million in order to be permitted to
677 write insurance. Underwriting members approved prior to July 2,
678 1987, shall maintain a minimum policyholder surplus of \$1
679 million. After June 29, 1988, underwriting members approved
680 prior to July 2, 1987, must maintain a minimum policyholder
681 surplus of \$1.5 million to write insurance. After June 29, 1989,
682 underwriting members approved prior to July 2, 1987, must
683 maintain a minimum policyholder surplus of \$1.75 million to
684 write insurance. After December 30, 1989, all underwriting
685 members, regardless of the date they were approved, must
686 maintain a minimum policyholder surplus of \$2 million to write
687 insurance. Except for that portion of the paid-in capital and
688 surplus which shall be maintained in a security fund of an
689 exchange, the paid-in capital and surplus shall be invested by
690 an underwriting member in a manner consistent with ss. 625.301-
691 625.340. The portion of the paid-in capital and surplus in any
692 security fund of an exchange shall be invested in a manner
693 limited to investments for life insurance companies under the
694 Florida insurance laws.

695 23. Limitations on coverage written.—

696 a. Limit of risk.—No underwriting member shall expose
697 itself to any loss on any one risk in an amount exceeding 10
698 percent of its surplus to policyholders. Any risk or portion of
699 any risk which shall have been reinsured in an assuming
700 reinsurer authorized or approved to do such business in this

701 state shall be deducted in determining the limitation of risk
702 prescribed in this section.

703 b. Restrictions on premiums written.—If the office has
704 reason to believe that the underwriting member's ratio of actual
705 or projected annual gross written premiums to policyholder
706 surplus exceeds 8 to 1 or the underwriting member's ratio of
707 actual or projected annual net premiums to policyholder surplus
708 exceeds 4 to 1, the office may establish maximum gross or net
709 annual premiums to be written by the underwriting member
710 consistent with maintaining the ratios specified in this sub-
711 subparagraph.

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

716 (II) For purposes of this sub-subparagraph, the term
717 "gross written premiums" means direct premiums written and
718 reinsurance assumed.

719 c. Surplus as to policyholders.—For the purpose of
720 determining the limitation on coverage written, surplus as to
721 policyholders shall be deemed to include any voluntary reserves,
722 or any part thereof, which are not required by or pursuant to
723 law and shall be determined from the last sworn statement of
724 such underwriting member with the office, or by the last report
725 or examination filed by the office, whichever is more recent at

726 the time of assumption of such risk.

727 24. Unearned premium reserves.—There shall at all times be
728 maintained an unearned premium reserve equal to fifty percent
729 (50%) of the net written premiums of the subscribers on policies
730 having one year or less to run, and pro rata on those for longer
731 periods, ~~All unearned premium reserves for business written on~~
732 the exchange shall be calculated on a monthly or more frequent
733 basis or on such other basis as determined by the office; except
734 that all premiums on any marine or transportation insurance trip
735 risk shall be deemed unearned until the trip is terminated. For
736 the purpose of this subparagraph, "net written premiums" shall
737 mean the premium payments made by subscribers plus the premiums
738 due from subscribers, after deducting the amounts specifically
739 provided in the subscribers' agreements for expenses, including
740 reinsurance costs and fees paid to the attorney in fact,
741 provided that the power of attorney agreement contains an
742 explicit provision requiring the attorney in fact to refund any
743 unearned subscribers fees on a pro-rata basis for cancelled
744 policies. If there is no such provision, then the unearned
745 premium reserve shall be calculated without any adjustment for
746 fees paid to the attorney in fact. If the unearned premium
747 reserves at any time do not amount to \$100,000, then there shall
748 be maintained on deposit at the exchange at all times additional
749 funds in cash or eligible securities which, together with the
750 unearned premium reserves, equal \$100,000. In calculating the

751 foregoing reserves, the amount of the attorney's bond, as filed
752 with the office and as required by s. 629.121, shall be included
753 as part thereof. If at any time the unearned premium reserves is
754 less than the foregoing requirements, the subscribers, or the
755 attorney in fact, shall advance funds to make up the deficiency.
756 Such advances shall only be repaid out of the surplus of the
757 exchange and only after receiving written approval from the
758 office.

759 25. Loss reserves.—All underwriting members of an exchange
760 shall maintain loss reserves, including a reserve for incurred
761 but not reported claims. The reserves shall be subject to review
762 by the office, and, if loss experience shows that an
763 underwriting member's loss reserves are inadequate, the office
764 shall require the underwriting member to maintain loss reserves
765 in such additional amount as is needed to make them adequate.

766 26. Distribution of profits.—An underwriting member shall
767 not distribute any profits in the form of cash or other assets
768 to owners except out of that part of its available and
769 accumulated surplus funds which is derived from realized net
770 operating profits on its business and realized capital gains. In
771 any one year such payments to owners shall not exceed 30 percent
772 of such surplus as of December 31 of the immediately preceding
773 year, unless otherwise approved by the office. No distribution
774 of profits shall be made that would render an underwriting
775 member either impaired or insolvent.

776 27. Stock dividends.—A stock dividend may be paid by an
777 underwriting member out of any available surplus funds in excess
778 of the aggregate amount of surplus advanced to the underwriting
779 member under subparagraph 29.

780 28. Dividends from earned surplus.—A dividend otherwise
781 lawful may be payable out of an underwriting member's earned
782 surplus even though the total surplus of the underwriting member
783 is then less than the aggregate of its past contributed surplus
784 resulting from issuance of its capital stock at a price in
785 excess of the par value thereof.

786 29. Borrowing of money by underwriting members.—

787 a. An underwriting member may borrow money to defray the
788 expenses of its organization, provide it with surplus funds, or
789 for any purpose of its business, upon a written agreement that
790 such money is required to be repaid only out of the underwriting
791 member's surplus in excess of that stipulated in such agreement.
792 The agreement may provide for interest not exceeding 15 percent
793 simple interest per annum. The interest shall or shall not
794 constitute a liability of the underwriting member as to its
795 funds other than such excess of surplus, as stipulated in the
796 agreement. No commission or promotion expense shall be paid in
797 connection with any such loan. The use of any surplus note and
798 any repayments thereof shall be subject to the approval of the
799 office.

800 b. Money so borrowed, together with any interest thereon

801 if so stipulated in the agreement, shall not form a part of the
802 underwriting member's legal liabilities except as to its surplus
803 in excess of the amount thereof stipulated in the agreement, nor
804 be the basis of any setoff; but until repayment, financial
805 statements filed or published by an underwriting member shall
806 show as a footnote thereto the amount thereof then unpaid,
807 together with any interest thereon accrued but unpaid.

808 30. Liquidation, rehabilitation, and restrictions.—The
809 office, upon a showing that a member or associate broker of an
810 exchange has met one or more of the grounds contained in part I
811 of chapter 631, may restrict sales by type of risk, policy or
812 contract limits, premium levels, or policy or contract
813 provisions; increase surplus or capital requirements of
814 underwriting members; issue cease and desist orders; suspend or
815 restrict a member's or associate broker's right to transact
816 business; place an underwriting member under conservatorship or
817 rehabilitation; or seek an order of liquidation as authorized by
818 part I of chapter 631.

819 31. Prohibited conduct.—The following acts by a member,
820 associate broker, or affiliated person shall constitute
821 prohibited conduct:

822 a. Fraud.

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

826 application to become a member or associate broker.

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

828 d. Unethical or improper practices or conduct,

829 inconsistent with just and equitable principles of trade as set

830 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.

831 e. Failure to use due diligence to ascertain the insurance

832 needs of a client or a principal.

833 f. Misstatements made under oath or upon an application

834 for membership on an exchange.

835 g. Failure to testify or produce documents when requested

836 by the office.

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

838 i. Failure of an officer or principal to testify under

839 oath concerning a member, associate broker, or other person's

840 affairs as they relate to the operation of an exchange.

841 j. Violation of the constitution and bylaws of the

842 exchange.

843 32. Penalties for participating in prohibited conduct.—

844 a. The office may order the suspension of further

845 transaction of business on the exchange of any member or

846 associate broker found to have engaged in prohibited conduct. In

847 addition, any member or associate broker found to have engaged

848 in prohibited conduct may be subject to reprimand, censure,

849 and/or a fine not exceeding \$25,000 imposed by the office.

850 b. Any member which has an affiliated person who is found

851 to have engaged in prohibited conduct shall be subject to
852 involuntary withdrawal or in addition thereto may be subject to
853 suspension, reprimand, censure, and/or a fine not exceeding
854 \$25,000.

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

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

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

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

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

874 38. Changes in ownership or assets.—In the event of a
875 major change in the ownership or a major change in the assets of

876 an underwriting member, the underwriting member shall report
877 such change in writing to the office within 30 days of the
878 effective date thereof. The report shall set forth the details
879 of the change. Any change in ownership or assets of more than 5
880 percent shall be considered a major change.

881 39. Retaliation.—

882 a. When by or pursuant to the laws of any other state or
883 foreign country any taxes, licenses, or other fees, in the
884 aggregate, and any fines, penalties, deposit requirements, or
885 other material obligations, prohibitions, or restrictions are or
886 would be imposed upon an exchange or upon the agents or
887 representatives of such exchange which are in excess of such
888 taxes, licenses, and other fees, in the aggregate, or which are
889 in excess of such fines, penalties, deposit requirements, or
890 other obligations, prohibitions, or restrictions directly
891 imposed upon similar exchanges or upon the agents or
892 representatives of such exchanges of such other state or country
893 under the statutes of this state, so long as such laws of such
894 other state or country continue in force or are so applied, the
895 same taxes, licenses, and other fees, in the aggregate, or
896 fines, penalties, deposit requirements, or other material
897 obligations, prohibitions, or restrictions of whatever kind
898 shall be imposed by the office upon the exchanges, or upon the
899 agents or representatives of such exchanges, of such other state
900 or country doing business or seeking to do business in this

901 state.

902 b. Any tax, license, or other obligation imposed by any
903 city, county, or other political subdivision or agency of a
904 state, jurisdiction, or foreign country on an exchange, or on
905 the agents or representatives on an exchange, shall be deemed to
906 be imposed by such state, jurisdiction, or foreign country
907 within the meaning of sub-subparagraph a.

908 40. Agents.—

909 a. Agents as defined in ss. 626.015 and 626.914 who are
910 broker members or associate broker members of an exchange shall
911 be allowed only to place on an exchange the same kind or kinds
912 of business that the agent is licensed to place pursuant to
913 Florida law. Direct Florida business as defined in s. 626.916 or
914 s. 626.917 shall be written through a broker member who is a
915 surplus lines agent as defined in s. 626.914. The activities of
916 each broker member or associate broker with regard to an
917 exchange shall be subject to all applicable provisions of the
918 insurance laws of this state, and all such activities shall
919 constitute transactions under his or her license as an insurance
920 agent for purposes of the Florida insurance law.

921 b. Premium payments and other requirements.—If an
922 underwriting member has assumed the risk as to a surplus lines
923 coverage and if the premium therefor has been received by the
924 surplus lines agent who placed such insurance, then in all
925 questions thereafter arising under the coverage as between the

926 | underwriting member and the insured, the underwriting member
927 | shall be deemed to have received the premium due to it for such
928 | coverage; and the underwriting member shall be liable to the
929 | insured as to losses covered by such insurance, and for unearned
930 | premiums which may become payable to the insured upon
931 | cancellation of such insurance, whether or not in fact the
932 | surplus lines agent is indebted to the underwriting member with
933 | respect to such insurance or for any other cause.

934 | 41. Improperly issued contracts, riders, and
935 | endorsements.—

936 | a. Any insurance policy, rider, or endorsement issued by
937 | an underwriting member and otherwise valid which contains any
938 | condition or provision not in compliance with the requirements
939 | of this section shall not be thereby rendered invalid, except as
940 | provided in s. 627.415, but shall be construed and applied in
941 | accordance with such conditions and provisions as would have
942 | applied had such policy, rider, or endorsement been in full
943 | compliance with this section. In the event an underwriting
944 | member issues or delivers any policy for an amount which exceeds
945 | any limitations otherwise provided in this section, the
946 | underwriting member shall be liable to the insured or his or her
947 | beneficiary for the full amount stated in the policy in addition
948 | to any other penalties that may be imposed.

949 | b. Any insurance contract delivered or issued for delivery
950 | in this state governing a subject or subjects of insurance

951 resident, located, or to be performed in this state which,
952 pursuant to the provisions of this section, the underwriting
953 member may not lawfully insure under such a contract shall be
954 cancelable at any time by the underwriting member, any provision
955 of the contract to the contrary notwithstanding; and the
956 underwriting member shall promptly cancel the contract in
957 accordance with the request of the office therefor. No such
958 illegality or cancellation shall be deemed to relieve the
959 underwriting syndicate of any liability incurred by it under the
960 contract while in force or to prohibit the underwriting
961 syndicate from retaining the pro rata earned premium thereon.
962 This provision does not relieve the underwriting syndicate from
963 any penalty otherwise incurred by the underwriting syndicate.

964 42. Satisfaction of judgments.—

965 a. Every judgment or decree for the recovery of money
966 heretofore or hereafter entered in any court of competent
967 jurisdiction against any underwriting member shall be fully
968 satisfied within 60 days from and after the entry thereof or, in
969 the case of an appeal from such judgment or decree, within 60
970 days from and after the affirmance of the judgment or decree by
971 the appellate court.

972 b. If the judgment or decree is not satisfied as required
973 under sub-subparagraph a., and proof of such failure to satisfy
974 is made by filing with the office a certified transcript of the
975 docket of the judgment or the decree together with a certificate

976 by the clerk of the court wherein the judgment or decree remains
977 unsatisfied, in whole or in part, after the time provided in
978 sub-subparagraph a., the office shall forthwith prohibit the
979 underwriting member from transacting business. The office shall
980 not permit such underwriting member to write any new business
981 until the judgment or decree is wholly paid and satisfied and
982 proof thereof is filed with the office under the official
983 certificate of the clerk of the court wherein the judgment was
984 recovered, showing that the judgment or decree is satisfied of
985 record, and until the expenses and fees incurred in the case are
986 also paid by the underwriting syndicate.

987 43. Tender and exchange offers.—No person shall conclude a
988 tender offer or an exchange offer or otherwise acquire 5 percent
989 or more of the outstanding voting securities of an underwriting
990 member or controlling company or purchase 5 percent or more of
991 the ownership of an underwriting member or controlling company
992 unless such person has filed with, and obtained the approval of,
993 the office and sent to such underwriting member a statement
994 setting forth:

995 a. The identity of, and background information on, each
996 person by whom, or on whose behalf, the acquisition is to be
997 made; and, if the acquisition is to be made by or on behalf of a
998 corporation, association, or trust, the identity of and
999 background information on each director, officer, trustee, or
1000 other natural person performing duties similar to those of a

1001 director, officer, or trustee for the corporation, association,
 1002 or trust.

1003 b. The source and amount of the funds or other
 1004 consideration used, or to be used, in making the acquisition.

1005 c. Any plans or proposals which such person may have to
 1006 liquidate such member, to sell its assets, or to merge or
 1007 consolidate it.

1008 d. The percentage of ownership which such person proposes
 1009 to acquire and the terms of the offer or exchange, as the case
 1010 may be.

1011 e. Information as to any contracts, arrangements, or
 1012 understandings with any party with respect to any securities of
 1013 such member or controlling company, including, but not limited
 1014 to, information relating to the transfer of any securities,
 1015 option arrangements, or puts or calls or the giving or
 1016 withholding of proxies, naming the party with whom such
 1017 contract, arrangements, or understandings have been entered and
 1018 giving the details thereof.

1019 f. The office may disapprove any acquisition subject to
 1020 the provisions of this subparagraph by any person or any
 1021 affiliated person of such person who:

1022 (I) Willfully violates this subparagraph;

1023 (II) In violation of an order of the office issued
 1024 pursuant to sub-subparagraph j., fails to divest himself or
 1025 herself of any stock obtained in violation of this subparagraph,

1026 or fails to divest himself or herself of any direct or indirect
 1027 control of such stock, within 25 days after such order; or

1028 (III) In violation of an order issued by the office
 1029 pursuant to sub-subparagraph j., acquires additional stock of
 1030 the underwriting member or controlling company, or direct or
 1031 indirect control of such stock, without complying with this
 1032 subparagraph.

1033 g. The person or persons filing the statement required by
 1034 this subparagraph have the burden of proof. The office shall
 1035 approve any such acquisition if it finds, on the basis of the
 1036 record made during any proceeding or on the basis of the filed
 1037 statement if no proceeding is conducted, that:

1038 (I) Upon completion of the acquisition, the underwriting
 1039 member will be able to satisfy the requirements for the approval
 1040 to write the line or lines of insurance for which it is
 1041 presently approved;

1042 (II) The financial condition of the acquiring person or
 1043 persons will not jeopardize the financial stability of the
 1044 underwriting member or prejudice the interests of its
 1045 policyholders or the public;

1046 (III) Any plan or proposal which the acquiring person has,
 1047 or acquiring persons have, made:

1048 (A) To liquidate the insurer, sell its assets, or merge or
 1049 consolidate it with any person, or to make any other major
 1050 change in its business or corporate structure or management; or

1051 (B) To liquidate any controlling company, sell its assets,
 1052 or merge or consolidate it with any person, or to make any major
 1053 change in its business or corporate structure or management
 1054 which would have an effect upon the underwriting member

1055
 1056 is fair and free of prejudice to the policyholders of the
 1057 underwriting member or to the public;

1058 (IV) The competence, experience, and integrity of those
 1059 persons who will control directly or indirectly the operation of
 1060 the underwriting member indicate that the acquisition is in the
 1061 best interest of the policyholders of the underwriting member
 1062 and in the public interest;

1063 (V) The natural persons for whom background information is
 1064 required to be furnished pursuant to this subparagraph have such
 1065 backgrounds as to indicate that it is in the best interests of
 1066 the policyholders of the underwriting member, and in the public
 1067 interest, to permit such persons to exercise control over such
 1068 underwriting member;

1069 (VI) The officers and directors to be employed after the
 1070 acquisition have sufficient insurance experience and ability to
 1071 assure reasonable promise of successful operation;

1072 (VII) The management of the underwriting member after the
 1073 acquisition will be competent and trustworthy and will possess
 1074 sufficient managerial experience so as to make the proposed
 1075 operation of the underwriting member not hazardous to the

1076 insurance-buying public;

1077 (VIII) The management of the underwriting member after the
 1078 acquisition will not include any person who has directly or
 1079 indirectly through ownership, control, reinsurance transactions,
 1080 or other insurance or business relations unlawfully manipulated
 1081 the assets, accounts, finances, or books of any insurer or
 1082 underwriting member or otherwise acted in bad faith with respect
 1083 thereto;

1084 (IX) The acquisition is not likely to be hazardous or
 1085 prejudicial to the underwriting member's policyholders or the
 1086 public; and

1087 (X) The effect of the acquisition of control would not
 1088 substantially lessen competition in insurance in this state or
 1089 would not tend to create a monopoly therein.

1090 h. No vote by the stockholder of record, or by any other
 1091 person, of any security acquired in contravention of the
 1092 provisions of this subparagraph is valid. Any acquisition of any
 1093 security contrary to the provisions of this subparagraph is
 1094 void. Upon the petition of the underwriting member or
 1095 controlling company, the circuit court for the county in which
 1096 the principal office of such underwriting member is located may,
 1097 without limiting the generality of its authority, order the
 1098 issuance or entry of an injunction or other order to enforce the
 1099 provisions of this subparagraph. There shall be a private right
 1100 of action in favor of the underwriting member or controlling

1101 company to enforce the provisions of this subparagraph. No
1102 demand upon the office that it perform its functions shall be
1103 required as a prerequisite to any suit by the underwriting
1104 member or controlling company against any other person, and in
1105 no case shall the office be deemed a necessary party to any
1106 action by such underwriting member or controlling company to
1107 enforce the provisions of this subparagraph. Any person who
1108 makes or proposes an acquisition requiring the filing of a
1109 statement pursuant to this subparagraph, or who files such a
1110 statement, shall be deemed to have thereby designated the Chief
1111 Financial Officer as such person's agent for service of process
1112 under this subparagraph and shall thereby be deemed to have
1113 submitted himself or herself to the administrative jurisdiction
1114 of the office and to the jurisdiction of the circuit court.

1115 i. Any approval by the office under this subparagraph does
1116 not constitute a recommendation by the office for an
1117 acquisition, tender offer, or exchange offer. It is unlawful for
1118 a person to represent that the office's approval constitutes a
1119 recommendation. A person who violates the provisions of this
1120 sub-subparagraph is guilty of a felony of the third degree,
1121 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1122 The statute-of-limitations period for the prosecution of an
1123 offense committed under this sub-subparagraph is 5 years.

1124 j. Upon notification to the office by the underwriting
1125 member or a controlling company that any person or any

1126 affiliated person of such person has acquired 5 percent or more
1127 of the outstanding voting securities of the underwriting member
1128 or controlling company without complying with the provisions of
1129 this subparagraph, the office shall order that the person and
1130 any affiliated person of such person cease acquisition of any
1131 further securities of the underwriting member or controlling
1132 company; however, the person or any affiliated person of such
1133 person may request a proceeding, which proceeding shall be
1134 convened within 7 days after the rendering of the order for the
1135 sole purpose of determining whether the person, individually or
1136 in connection with any affiliated person of such person, has
1137 acquired 5 percent or more of the outstanding voting securities
1138 of an underwriting member or controlling company. Upon the
1139 failure of the person or affiliated person to request a hearing
1140 within 7 days, or upon a determination at a hearing convened
1141 pursuant to this sub-subparagraph that the person or affiliated
1142 person has acquired voting securities of an underwriting member
1143 or controlling company in violation of this subparagraph, the
1144 office may order the person and affiliated person to divest
1145 themselves of any voting securities so acquired.

1146 k.(I) The office shall, if necessary to protect the public
1147 interest, suspend or revoke the certificate of authority of any
1148 underwriting member or controlling company:

1149 (A) The control of which is acquired in violation of this
1150 subparagraph;

1151 (B) That is controlled, directly or indirectly, by any
 1152 person or any affiliated person of such person who, in violation
 1153 of this subparagraph, has obtained control of an underwriting
 1154 member or controlling company; or

1155 (C) That is controlled, directly or indirectly, by any
 1156 person who, directly or indirectly, controls any other person
 1157 who, in violation of this subparagraph, acquires control of an
 1158 underwriting member or controlling company.

1159 (II) If any underwriting member is subject to suspension
 1160 or revocation pursuant to sub-sub-subparagraph (I), the
 1161 underwriting member shall be deemed to be in such condition, or
 1162 to be using or to have been subject to such methods or practices
 1163 in the conduct of its business, as to render its further
 1164 transaction of insurance presently or prospectively hazardous to
 1165 its policyholders, creditors, or stockholders or to the public.

1166 1.(I) For the purpose of this sub-sub-subparagraph, the
 1167 term "affiliated person" of another person means:

1168 (A) The spouse of such other person;

1169 (B) The parents of such other person and their lineal
 1170 descendants and the parents of such other person's spouse and
 1171 their lineal descendants;

1172 (C) Any person who directly or indirectly owns or
 1173 controls, or holds with power to vote, 5 percent or more of the
 1174 outstanding voting securities of such other person;

1175 (D) Any person 5 percent or more of the outstanding voting

1176 securities of which are directly or indirectly owned or
 1177 controlled, or held with power to vote, by such other person;

1178 (E) Any person or group of persons who directly or
 1179 indirectly control, are controlled by, or are under common
 1180 control with such other person; or any officer, director,
 1181 partner, copartner, or employee of such other person;

1182 (F) If such other person is an investment company, any
 1183 investment adviser of such company or any member of an advisory
 1184 board of such company;

1185 (G) If such other person is an unincorporated investment
 1186 company not having a board of directors, the depositor of such
 1187 company; or

1188 (H) Any person who has entered into an agreement, written
 1189 or unwritten, to act in concert with such other person in
 1190 acquiring or limiting the disposition of securities of an
 1191 underwriting member or controlling company.

1192 (II) For the purposes of this section, the term
 1193 "controlling company" means any corporation, trust, or
 1194 association owning, directly or indirectly, 25 percent or more
 1195 of the voting securities of one or more underwriting members.

1196 m. The commission may adopt, amend, or repeal rules that
 1197 are necessary to implement the provisions of this subparagraph,
 1198 pursuant to chapter 120.

1199 44. Background information.—The information as to the
 1200 background and identity of each person about whom information is

1201 required to be furnished pursuant to sub-subparagraph 43.a.
 1202 shall include, but shall not be limited to:

1203 a. Such person's occupations, positions of employment, and
 1204 offices held during the past 10 years.

1205 b. The principal business and address of any business,
 1206 corporation, or other organization in which each such office was
 1207 held or in which such occupation or position of employment was
 1208 carried on.

1209 c. Whether, at any time during such 10-year period, such
 1210 person was convicted of any crime other than a traffic
 1211 violation.

1212 d. Whether, during such 10-year period, such person has
 1213 been the subject of any proceeding for the revocation of any
 1214 license and, if so, the nature of such proceeding and the
 1215 disposition thereof.

1216 e. Whether, during such 10-year period, such person has
 1217 been the subject of any proceeding under the federal Bankruptcy
 1218 Act or whether, during such 10-year period, any corporation,
 1219 partnership, firm, trust, or association in which such person
 1220 was a director, officer, trustee, partner, or other official has
 1221 been subject to any such proceeding, either during the time in
 1222 which such person was a director, officer, trustee, partner, or
 1223 other official, or within 12 months thereafter.

1224 f. Whether, during such 10-year period, such person has
 1225 been enjoined, either temporarily or permanently, by a court of

1226 competent jurisdiction from violating any federal or state law
 1227 regulating the business of insurance, securities, or banking, or
 1228 from carrying out any particular practice or practices in the
 1229 course of the business of insurance, securities, or banking,
 1230 together with details of any such event.

1231 45. Security fund.—All underwriting members shall be
 1232 members of the security fund of any exchange.

1233 46. Underwriting member defined.—Whenever the term
 1234 "underwriting member" is used in this subsection, it shall be
 1235 construed to mean "underwriting syndicate."

1236 47. Offsets.—Any action, requirement, or constraint
 1237 imposed by the office shall reduce or offset similar actions,
 1238 requirements, or constraints of any exchange.

1239 48. Restriction on member ownership.—

1240 a. Investments existing prior to July 2, 1987.—The
 1241 investment in any member by brokers, agents, and intermediaries
 1242 transacting business on the exchange, and the investment in any
 1243 such broker, agent, or intermediary by any member, directly or
 1244 indirectly, shall in each case be limited in the aggregate to
 1245 less than 20 percent of the total investment in such member,
 1246 broker, agent, or intermediary, as the case may be. After
 1247 December 31, 1987, the aggregate percent of the total investment
 1248 in such member by any broker, agent, or intermediary and the
 1249 aggregate percent of the total investment in any such broker,
 1250 agent, or intermediary by any member, directly or indirectly,

1251 shall not exceed 15 percent. After June 30, 1988, such aggregate
 1252 percent shall not exceed 10 percent and after December 31, 1988,
 1253 such aggregate percent shall not exceed 5 percent.

1254 b. Investments arising on or after July 2, 1987.—The
 1255 investment in any underwriting member by brokers, agents, or
 1256 intermediaries transacting business on the exchange, and the
 1257 investment in any such broker, agent, or intermediary by any
 1258 underwriting member, directly or indirectly, shall in each case
 1259 be limited in the aggregate to less than 5 percent of the total
 1260 investment in such underwriting member, broker, agent, or
 1261 intermediary.

1262 49. "Underwriting manager" defined.—"Underwriting manager"
 1263 as used in this subparagraph includes any person, partnership,
 1264 corporation, or organization providing any of the following
 1265 services to underwriting members of the exchange:

1266 a. Office management and allied services, including
 1267 correspondence and secretarial services.

1268 b. Accounting services, including bookkeeping and
 1269 financial report preparation.

1270 c. Investment and banking consultations and services.

1271 d. Underwriting functions and services including the
 1272 acceptance, rejection, placement, and marketing of risk.

1273 50. Prohibition of underwriting manager investment.—Any
 1274 direct or indirect investment in any underwriting manager by a
 1275 broker member or any affiliated person of a broker member or any

1276 direct or indirect investment in a broker member by an
 1277 underwriting manager or any affiliated person of an underwriting
 1278 manager is prohibited. "Affiliated person" for purposes of this
 1279 subparagraph is defined in subparagraph 43.

1280 51. An underwriting member may not accept reinsurance on
 1281 an assumed basis from an affiliate or a controlling company, nor
 1282 may a broker member or management company place reinsurance from
 1283 an affiliate or controlling company of theirs with an
 1284 underwriting member. "Affiliate and controlling company" for
 1285 purposes of this subparagraph is defined in subparagraph 43.

1286 52. Premium defined.—"Premium" is the consideration for
 1287 insurance, by whatever name called. Any "assessment" or any
 1288 "membership," "policy," "survey," "inspection," "service" fee or
 1289 charge or similar fee or charge in consideration for an
 1290 insurance contract is deemed part of the premium.

1291 53. Rules.—The commission shall adopt rules necessary for
 1292 or as an aid to the effectuation of any provision of this
 1293 section.

1294 Section 17. Subsection (6) of section 634.121, Florida
 1295 Statutes, is amended to read:

1296 634.121 Forms, required procedures, provisions.—

1297 (6) Each service agreement, which includes a copy of the
 1298 application form, must be mailed, delivered, or otherwise
 1299 provided electronically transmitted to the agreement holder as
 1300 provided in s. 627.421. As used in that section, the term:

1301 (a) "Insurer" includes a motor vehicle service agreement
 1302 company.

1303 (b) "Insured" includes a motor vehicle service agreement
 1304 holder.

1305 (c) "Insurance policies and endorsements," "policy and
 1306 endorsements," "policy," and "policy form and endorsement form"
 1307 includes a motor vehicle service agreement and related
 1308 endorsement forms.

1309 (d) If the motor vehicle service agreement company elects
 1310 to post motor vehicle service agreements on its Internet website
 1311 in lieu of mailing or delivery to agreement holders the motor
 1312 vehicle service agreement company must comply with the
 1313 requirements of 627.421(4) within 45 days after the date of
 1314 purchase. Electronic transmission of a service agreement
 1315 constitutes delivery to the agreement holder. The electronic
 1316 transmission must notify the agreement holder of his or her
 1317 right to receive the service agreement via United States mail
 1318 rather than electronic transmission. If the agreement holder
 1319 communicates to the service agreement company electronically or
 1320 in writing that he or she does not agree to receipt by
 1321 electronic transmission, a paper copy of the service agreement
 1322 shall be provided to the agreement holder.

1323 Section 18. Section 641.3107, Florida Statutes, is amended
 1324 to read:

1325 641.3107 Delivery of contract. ~~Unless delivered upon~~

1326 ~~execution or issuance,~~ a health maintenance contract,
 1327 certificate of coverage, endorsements and riders, or member
 1328 handbook shall be mailed, ~~or~~ delivered, or otherwise provided to
 1329 the subscriber or, in the case of a group health maintenance
 1330 contract, to the employer or other person who will hold the
 1331 contract on behalf of the subscriber group, as provided in s.
 1332 627.421. As used in that section, the term:

1333 (a) "Insurer" includes a health maintenance organization.

1334 (b) "Insured" includes a subscriber or, in the case of a
 1335 group health maintenance contract, to the employer or other
 1336 person who will hold the contract on behalf of the subscriber
 1337 group.

1338 (c) "Insurance policies and endorsements," "policy and
 1339 endorsements," "policy," and "policy form and endorsement form"
 1340 includes health maintenance contract, endorsement and riders,
 1341 certificate of coverage, or member handbook .

1342 (d) If the health maintenance organization elects to post
 1343 health maintenance contracts on its Internet website in lieu of
 1344 mailing or delivery to subscribers or the person who will hold
 1345 the contract on behalf of a subscriber group the health
 1346 maintenance organization must comply with the requirements of
 1347 627.421(4) within 10 working days from approval of the
 1348 enrollment form by the health maintenance organization or by the
 1349 effective date of coverage, whichever occurs first. However, if
 1350 the employer or other person who will hold the contract on

1351 ~~behalf of the subscriber group requires retroactive enrollment~~
1352 ~~of a subscriber, the organization shall deliver the contract,~~
1353 ~~certificate, or member handbook to the subscriber within 10 days~~
1354 ~~after receiving notice from the employer of the retroactive~~
1355 enrollment. This section does not apply to the delivery of those
1356 contracts specified in s. 641.31(13).

1357 Section 19. This act shall take effect upon becoming a
1358 law.