SB 1046 by **Brandes**; (Compare to CS/H 0157) Insurance

457546	D	S		RS	BI, Hays	Delete everything after	04/02 05:03 PM
517280	AA	S			BI, Diaz de la Portilla	Delete L.5 - 131.	03/20 10:04 AM
267252	AA	S		WD	BI, Montford	Before L.214:	04/02 05:03 PM
863774	AA	S			BI, Hays	btw L.674 - 675:	03/20 10:04 AM
540248	AA	S			BI, Simmons	Delete L.709 - 710:	03/20 03:13 PM
917700	AA	S			BI, Hays	Delete L.1020:	03/20 11:11 AM
650820	AA	S			BI, Negron	Delete L.1038 - 1055.	03/20 12:16 PM
560612	AA	S			BI, Montford	Delete L.1045 - 1048:	03/20 11:26 AM
939674	AA	S			BI, Hays	Before L.1289:	03/20 10:04 AM
149498	AA	S			BI, Hays	Delete L.1366 - 1390:	03/20 10:05 AM
511142	SD	S		RCS	BI, Hays	Delete everything after	04/02 04:11 PM
444890	AA	S	L	RCS	BI, Simmons	Delete L.781 - 1031.	04/02 12:50 PM
531060	AA	S	L	WD	BI, Negron	Delete L.1398 - 1426.	04/02 12:50 PM

SB 324 by **Brandes**; (Similar to CS/H 0211) Florida Insurance Guaranty Association

484256	D	S		RCS	BI, Hays	Delete everything after	04/02 05:03 PM
430612	AA	S		RCS	BI, Hays	Delete L.75:	04/02 05:03 PM
693492	AA	S		WD	BI, Hays	Delete L.120:	04/02 05:03 PM

SPB 7138 by **BI**; Health Insurance

671196	A	S		RCS	BI, Simmons	btw L.130 - 131:	04/02 05:03 PM
514588	A	S		RCS	BI, Simmons	Delete L.142:	04/02 05:03 PM
352000	A	S		RCS	BI, Simmons	Delete L.289 - 291:	04/02 05:03 PM
352008	A	S		RCS	BI, Simmons	Delete L.311:	04/02 05:03 PM
271732	A	S		RCS	BI, Simmons	Delete L.328:	04/02 05:03 PM
257656	A	S		RCS	BI, Simmons	Delete L.346:	04/02 05:03 PM
572796	A	S		RCS	BI, Simmons	Delete L.391 - 392:	04/02 05:03 PM
856052	A	S		RCS	BI, Simmons	Delete L.407 - 409:	04/02 05:03 PM
965632	A	S		RCS	BI, Simmons	Delete L.431 - 432:	04/02 05:03 PM

SB 1262 by **Hays**; (Compare to H 1055) Florida Hurricane Catastrophe Fund

548468	D	S			BI, Ring	Delete everything after	03/12 01:55 PM
588276	SA	S			BI, Hays	Delete L.28 - 1017:	03/13 03:48 PM
398790	ASA	S		FAV	BI, Ring	Delete L.5 - 165:	04/02 05:03 PM
303624	D	S			BI, Hays	Delete everything after	03/13 02:28 PM

SB 836 by **Simmons**; (Similar to CS/CS/H 0821) Insurer Solvency

355782	D	S	L	RCS	BI, Simmons	Delete everything after	04/02 05:03 PM

SB 834 by **Simmons**; (Similar to CS/CS/H 0823) Public Records/Proprietary Business Information/Office of Insurance Regulation

939038	A	S		RCS	BI, Simmons	Delete L.37 - 67:	04/02 05:03 PM
436368	A	S	L	RCS	BI, Simmons	Delete L.90 - 93:	04/02 05:03 PM
536046	A	S	L	RCS	BI, Simmons	Delete L.136:	04/02 05:03 PM

CS/SB 1172 by **JU, Simmons**; (Similar to CS/CS/H 0229) Land Trusts

SB 1612 by **Clemens**; (Identical to H 1329) Citizens Property Insurance Corporation

SB 242 by **Hukill**; (Similar to CS/H 0383) Interstate Insurance Product Regulation Compact

263352	D	S		RCS	BI, Benacquisto	Delete everything after	04/02 05:03 PM
270236	AA	S		RCS	BI, Richter	Delete L.476 - 488:	04/02 05:03 PM

SB 262 by **Smith**; (Compare to CS/H 0157) Delivery of Insurance Policies

950798	A	S		RCS	BI, Clemens	Delete L.16 - 20:	04/02 05:03 PM

SB 550 by **Simpson**; (Compare to CS/CS/H 0457) Worthless Checks, Drafts, or Orders of Payment

580832	D	S	L	RCS	BI, Hays	Delete everything after	04/02 05:03 PM

SB 1622 by **Richter**; (Similar to CS/H 7093) Establishment of a Clearinghouse Diversion Program Within the Citizens Property Insurance Corporation

874164	A	S			BI, Richter	Delete L.28 - 176:	03/20 11:54 AM
285242	A	S			BI, Richter	btw L.176 - 177:	03/20 12:17 PM

SB 1606 by **Richter**; (Similar to H 7095) Public Records/Citizens Property Insurance Corporation

SPB 7136 by **BI**; Public Records/Inspector General/Citizens Property Insurance Corporation

SPB 7140 by **BI**; Public Records/Citizens Property Insurance Corporation Clearinghouse

SB 410 by **Bean**; (Similar to CS/H 0217) Money Services Businesses

SB 1410 by **Simmons**; (Similar to CS/CS/H 0883) Fire Safety and Prevention

360216	D	S	L	RCS	BI, Simmons	Delete everything after	04/02 05:03 PM
825868	AA	S		RCS	BI, Margolis	Delete L.4225 - 4267.	04/02 05:03 PM

SB 924 by **Latvala**; (Similar to H 0581) Dentists

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Simmons, Chair
Senator Clemens, Vice Chair

MEETING DATE: Tuesday, April 2, 2013
TIME: 12:30 —3:30 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Simmons, Chair; Senator Clemens, Vice Chair; Senators Benacquisto, Detert, Diaz de la Portilla, Hays, Lee, Margolis, Montford, Negron, Richter, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 1046** Brandes (Compare CS/H 157, H 509, CS/H 635, H 7125, S 262, S 356, CS/S 1458)	Insurance; Deleting the future repeal of an exemption of medical malpractice insurance premiums from emergency assessments imposed to fund certain obligations, costs, and expenses of the Florida Hurricane Catastrophe Fund and the Florida Hurricane Catastrophe Fund Finance Corporation; authorizing insurers to furnish uniform proof-of-purchase cards in an electronic format for use by insureds to prove the purchase of required insurance coverage when registering a motor vehicle; deleting provisions that require extended periods of prior notice with respect to the nonrenewal, cancellation, or termination of certain insurance policies, etc. BI 03/20/2013 Not Considered BI 04/02/2013 Fav/CS AGG AP	Fav/CS Yeas 12 Nays 0
2	**SB 324** Brandes (Similar CS/H 211)	Florida Insurance Guaranty Association; Revising the list of kinds of insurance exempted from the guarantee of payments; revising the duties of the association; authorizing the association to collect regular assessments directly from policyholders; authorizing the association to collect emergency assessments from insurers under certain circumstances, etc. BI 03/20/2013 Temporarily Postponed BI 04/02/2013 Fav/CS CM AFT AP	Fav/CS Yeas 12 Nays 0

Consideration of proposed committee bill:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**SPB 7138**	Health Insurance; Providing that a provision of the Florida Insurance Code applies unless it conflicts with a provision of the Patient Protection and Affordable Care Act (PPACA); authorizing the Office of Insurance Regulation to review forms and conduct market conduct examinations for compliance with PPACA and to report potential violations to the federal Department of Health and Human Services; providing an exception to the prohibition against an insurer issuing a new policy form after discontinuing the availability of a similar policy form when the form does not comply with PPACA, etc.	Submitted as Committee Bill
4	**SB 1262** Hays (Compare H 1055, CS/H 1107, S 1770)	Florida Hurricane Catastrophe Fund; Revising the definitions for “corporation,” “covered policy,” and “retention”; providing for calculation of an insurer’s reimbursement premium and retention under the reimbursement contract; revising coverage levels available under the reimbursement contract; revising aggregate coverage limits; providing for the phase-in of changes to coverage levels and limits; changing the name of the Florida Hurricane Catastrophe Fund Finance Corporation to the State Board of Administration Finance Corporation, etc. BI 03/14/2013 Temporarily Postponed BI 03/20/2013 Temporarily Postponed BI 04/02/2013 Temporarily Postponed AP	Temporarily Postponed
5	**SB 836** Simmons (Similar CS/CS/H 821, Compare CS/CS/H 823, Link S 834)	Insurer Solvency; Providing additional calculations for determining whether an insurer has a company action level event; requiring an insurer’s annual statement to include an actuarial opinion summary and providing criteria for such summary; protecting a memorandum supporting an insurer’s annual actuarial opinion from subpoena, discovery, or admissibility in a civil action; providing for sanctions for persons who violate certain provisions relating to the acquisition of controlling stock, etc. BI 04/02/2013 Fav/CS JU RC	Fav/CS Yeas 11 Nays 0
6	**SB 834** Simmons (Similar CS/CS/H 823, Compare CS/CS/H 821, Link S 836)	Public Records/Proprietary Business Information/Office of Insurance Regulation; Creating an exemption from public records requirements for proprietary business information submitted to the Office of Insurance Regulation; defining the term "proprietary business information," etc. BI 04/02/2013 Fav/CS GO RC	Fav/CS Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/SB 1172** Judiciary / Simmons (Similar CS/CS/H 229)	Land Trusts; Providing requirements relating to vesting of ownership in a trustee; prohibiting the operation of the statute of uses to execute a land trust or to vest the trust property under certain conditions; prohibiting the operation of the doctrine of merger to execute a land trust or to vest the trust property under certain conditions; providing that a trustee's legal and equitable title to the trust property is separate and distinct from the beneficiary's beneficial interest in the land trust and the trust property; revising and providing scope of the Florida Trust Code, etc. JU 03/12/2013 Fav/CS BI 04/02/2013 Favorable RC	Favorable Yeas 10 Nays 0
8	**SB 1612** Clemens (Identical H 1329, Compare CS/H 909)	Citizens Property Insurance Corporation; Deleting a provision that limits the amount that a public adjuster may charge, agree to, or accept as compensation with respect to a claim filed under a policy of the corporation, etc. BI 04/02/2013 Not Considered CA RC	Not Considered
9	**SB 242** Hukill (Similar CS/H 383)	Interstate Insurance Product Regulation Compact; Providing for establishment of an Interstate Insurance Product Regulation Commission; specifying the commission as an instrumentality of the compacting states; designating the Commissioner of Insurance Regulation as the representative of this state on the commission; providing for qualified immunity, defense, and indemnification of members, officers, employees, and representatives of the commission; specifying that certain records, data, or information of the commission in possession of the Office of Insurance Regulation is subject to ch. 119, F.S., etc. BI 03/20/2013 Not Considered BI 04/02/2013 Fav/CS GO AGG AP	Fav/CS Yeas 10 Nays 0
10	**SB 262** Smith (Compare CS/H 157, CS/H 635, S 1046)	Delivery of Insurance Policies; Providing that an insurance policy may be delivered by electronic means, etc. BI 04/02/2013 Fav/CS CM RC	Fav/CS Yeas 12 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SB 550** Simpson (Compare CS/CS/H 457)	Worthless Checks, Drafts, or Orders of Payment; Permitting recovery of worthless checks, drafts, or orders of payment without the sending of a specified written demand if the payee has a specified notice posted at the point of sale or on an invoice, etc. BI 04/02/2013 Fav/CS CM JU	Fav/CS Yeas 10 Nays 0
12	**SB 1622** Richter (Similar CS/H 7093, Compare H 1099, H 7095, S 724, S 1770, Link S 1606)	Establishment of a Clearinghouse Diversion Program Within the Citizens Property Insurance Corporation; Authorizing the creation of a clearinghouse diversion program within the corporation for identifying and diverting insurance coverage to private insurers; providing requirements and duties of the corporation, insurers, and agents; providing for an alternative to submitting risks to the corporation, etc. BI 03/20/2013 Not Considered BI 04/02/2013 Not Considered CA	Not Considered
13	**SB 1606** Richter (Similar H 7095, Compare CS/H 7093, S 1770, Link S 1622)	Public Records/Citizens Property Insurance Corporation; Providing an exemption from public records requirements for all underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the corporation's policyholder eligibility clearinghouse program which are used to identify and select risks from the program; providing for future review and repeal of the exemption under the Open Government Sunset Review Act, etc. BI 03/20/2013 Not Considered BI 04/02/2013 Not Considered GO RC	Not Considered
	Consideration of proposed committee bill:		
14	**SPB 7136**	Public Records/Inspector General/Citizens Property Insurance Corporation; Providing a public records exemption for the identity of individuals who make certain allegations or provide certain information to the inspector general of Citizens Property Insurance Corporation and for information relating to a resulting investigation; providing for future review and repeal; providing a statement of public necessity, etc.	Submitted as Committee Bill
	Consideration of proposed committee bill:		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**SPB 7140**	Public Records/Citizens Property Insurance Corporation Clearinghouse; Providing an exemption from public records requirements for all underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the corporation's policyholder eligibility clearinghouse program which are used to identify and select risks from the program; providing for future review and repeal; providing a statement of public necessity, etc.	Submitted as Committee Bill
16	**SB 410** Bean (Similar CS/H 217, Compare H 7135)	Money Services Businesses; Authorizing the Financial Services Commission to use a portion of the fees that licensees may charge for the direct costs of verification of payment instruments cashed for certain purposes; requiring licensees engaged in check cashing to submit certain transaction information to the Office of Financial Regulation related to the payment instruments cashed; requiring the office to maintain the transaction information in a centralized database; providing liability protection for licensees relying on database information, etc. BI 04/02/2013 Favorable AGG AP	Favorable Yeas 10 Nays 0
17	**SB 1410** Simmons (Similar CS/CS/H 883)	Fire Safety and Prevention; Revising provisions relating to the authority of the State Fire Marshal; revising provisions relating to hearings, investigations, and recordkeeping duties and the authority of the State Fire Marshal; clarifying provisions relating to impersonating the State Fire Marshal, a firefighter, a firesafety inspector, or a volunteer firefighter, for which a criminal penalty is provided; providing penalties for rendering a fire protection system required by statute or by rule inoperative, etc. BI 04/02/2013 Fav/CS CA CJ	Fav/CS Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	**SB 924** Latvala (Similar H 581)	Dentists; Prohibiting a contract between a health insurer and a dentist from requiring the dentist to provide services at a fee set by the insurer under certain circumstances; prohibiting a contract between a prepaid limited health service organization and a dentist from requiring the dentist to provide services at a fee set by the organization under certain circumstances; prohibiting a contract between a health maintenance organization and a dentist from requiring the dentist to provide services at a fee set by the organization under certain circumstances, etc. HP 03/20/2013 Favorable BI 04/02/2013 Favorable AP RC	Favorable Yeas 11 Nays 0
19	**Workshop** - Discussion and testimony only on the following (no vote to be taken):		
	Personal Injury Protection		Discussed
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1046

INTRODUCER: Senator Brandes

SUBJECT: Insurance

DATE: March 17, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Pre-meeting**
2.			AGG	
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 1046 enacts the following changes related to insurance:

- Prevents the expiration on May 31, 2013, of the exemption of medical malpractice insurance premiums from Florida Hurricane Catastrophe Fund (Cat Fund) emergency assessments;
- Authorizes motor vehicle proof of insurance cards to be issued in electronic form.
- Extends the examination period for licensing foreign or alien insurers;
- Includes employees within the scope of limited licenses to transact motor vehicle rental insurance that are issued to a business entity that offers motor vehicle for rent or lease;
- Provides the Department of Financial Services (DFS) with additional authority to regulate mediators and neutral evaluators under the alternative dispute resolution programs run by the DFS for property, motor vehicle, and sinkhole claims;
- Eliminates the requirement that viatical insurance life expectancy providers register with the Office of Insurance Regulation (OIR);
- Includes using multiple approved hurricane models, an average of models, or a weighted average of models as factors the OIR must consider in a rate filing;
- Increases from 60 days to 120 days the time an insurer is not required to use the newest version of an approved hurricane model;
- Repeals an annual report to the Legislature a report detailing the aggregate net probable maximum losses, financing options, and potential assessments of the Cat Fund and Citizens;
- Establishes a uniform 100 day advance written notice of nonrenewal, cancellation, or termination for personal or commercial lines residential property insurance policies;
- Authorize a licensed company to provide the sworn statement of liability insurance coverage required by current law;

- Allows a policyholder to elect electronic delivery of policy documents;
- Allows a Notice of Change in Policy Terms to be sent separately from the Notice of Renewal Premium;
- Eliminates the requirement that an insurer must offer a $500 deductible applicable to losses not caused by a hurricane prior to issuing a personal lines residential policy. Instead, effective January 1, 2014, the insurer must offer a $500 deductible or a 1 percent deductible;
- Creates conflict of interest standards for appraisers in residential property insurance claims;
- Expand the use of separate sinkhole deductibles to all property insurance policies;
- Clarifies that the annual update to the Personal Injury Protection medical fee schedule applies until March 1 of the following year;
- Deletes a bond requirement on non-resident licensed risk retention and purchasing group insurance agents;
- Allows a financial guaranty insurance corporation to be organized and licensed as a mutual property and casualty insurer;
- Exempts captive insurers from the statutory trust deposit required under s. 624.411, F.S.; and
- Provides exceptions to certain financial requirements applicable to service warranty associations.

The bill is effective upon becoming a law.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 215.555, 316.646, 320.02, 624.413, 626.321, 626.601, 626.9914, 626.99175, 626.9919, 626.992, 626.9925, 626.99278, 627.062, 627.0628, 627.072, 627.281, 627.4133, 627.4137, 627.421, 627.43141, 627.701, 627.7015, 627.706, 627.7074, 627.736, 627.745, 627.952, 627.971, 627.972, 628.901, 628.909, and 634.406

The bill creates the following section of the Florida Statutes: 627.70151.

The bill repeals the following section of the Florida Statutes: 627.3519.

II. Present Situation:

Florida Hurricane Catastrophe Fund Emergency Assessments

The Florida Hurricane Catastrophe Fund (FHCF) is a tax-exempt fund administered by the State Board of Administration (SBA) that was created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers. Insurers that write residential property insurance in Florida are required to buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF. The FHCF must charge insurers the "actuarially indicated" premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.

Reimbursements to insurers for losses above the current cash balance of the fund are financed through bonding. The bonds are funded by assessments on direct premiums for all property and casualty lines of business in Florida except workers' compensation and medical malpractice. The exemption for medical malpractice is scheduled for automatic repeal on May 31, 2013.

Proof of Financial Responsibility

Every owner or operator of a motor vehicle that is required to be registered in Florida must:

- Maintain security to meet required levels of personal injury protection specified by the Florida Motor Vehicle No-Fault Law.[1]
- Demonstrate financial responsibility to cover up to $10,000 of property damage resulting from the use of the motor vehicle.[2]
- For individuals who have been found guilty or entered a plea of nolo contendre to driving under the influence must demonstrate financial responsibility to cover up to:[3]
  - $100,000 for death or injury to any one person;
  - $300,000 for death or injury to two or more people;
  - $50,000 for property damage in any one crash.

Section 316.646, F.S., specifies how proof of the financial securities described above must be maintained. The statute requires that a person must have in his or her immediate possession at all times while operating a motor vehicle:

- A uniform proof-of-insurance card in a form prescribed by the Department of Highway Safety and Motor Vehicles;
- A valid insurance policy;
- An insurance policy binder;
- A certificate of insurance; or
- Such other proof as may be prescribed by the department.

Motor Vehicle Registration

Every person who owns a motor vehicle that is operated on Florida roads is required to register that vehicle with Department of Highway Safety and Motor Vehicles.[4] In order to register a vehicle, the owner must provide proof that the coverages required under s. 324.022, F.S., s. 324.023, F.S., and s. 627.733, F.S., have been purchased. Section 320.02(5), F.S., specifies that the proof this coverage can be satisfied by a number of alternative documents, one of which is a proof-of-purchase card. The statute requires that an insurer providing the required coverage must issue to its policyholder a uniform proof-of-purchase card in a form prescribed by the department that contains:

- The name of the insurance company;
- The coverage identification number;

[1] Sections 627.730 – 627.405, F.S., comprise the "Florida Motor Vehicle No-Fault Law." Section 627.733, F.S., requires that every owner or operator of a motor vehicle that is required to be registered in Florida must maintain security to meet required levels of personal injury protection specified by the Florida Motor Vehicle No-Fault Law. Section 627.736, F.S., requires that coverage of $10,000 for medical and disability benefits and $5,000 for death benefits must be purchased to cover: the named insured, relatives residing in the same household, persons operating the motor vehicle, passengers, and other people struck by the vehicle who are not in another vehicle at the time. Section 627.736, F.S., specifies that the provisions contained in ch. 324, F.S., for maintaining proof of financial responsibility also apply to the Florida Motor Vehicle No-Fault Law.
[2] See s. 324.022, F.S.
[3] See s. 324.023, F.S.
[4] Section 320.02(1), F.S.

- The make, year, and vehicle identification number of the vehicle; and
- A statement notifying the applicant of the penalty specified in s. 316.646(4), F.S.

Foreign or Alien Insurer Application for Certificate

A foreign insurer is defined as being formed under the laws of any state, district, territory, or commonwealth of the United States other than Florida.[5] A domestic insurer is defined as being formed under the laws of Florida.[6] An alien insurer is defined as an insurer other than a foreign or domestic insurer.[7] When a foreign or alien insurer applies for a certificate of authority in Florida, it must submit a report of its most recent examination certified by the insurance official in its state of domicile or of entry into the United States. The end of the most recent year covered by the examination must be within the 3-year period preceding the date of application.[8] In lieu of the certified examination report, the OIR can accept an audited certified public accountant's report prepared on a basis consistent with the insurance laws of the insurer's state of domicile, certified by the insurance official in its state of domicile or of entry into the United States.

Limited Agent Licenses

Section 626.321, F.S., establishes categories for which the DFS will issue a license that authorizes an agent to transact a limited class of business. The following enumerated categories qualify for limited license:

- Motor vehicle physical damage and mechanical breakdown insurance;
- Industrial fire or burglary insurance;
- Travel insurance;
- Motor vehicle rental insurance;
- Credit life or disability insurance;
- Credit insurance;
- Credit property insurance;
- Crop hail and multi-peril crop insurance; In-transit and storage personal property insurance; and
- Communications equipment property insurance, communications equipment inland marine insurance, and communications equipment service warranty insurance.

Under a limited license for motor vehicle rental insurance, the licensee may sell coverage only when the coverage is offered or sold incidental to the rental or lease of a motor vehicle, the lease or rental period is for no more than 60 days, and the coverage is limited to only those risks specified in statute. Further, the license may be issued only to an employee of a licensed general lines agent or to a business entity that offers motor vehicles for lease or rent. A limited license that is issued to such a business entity encompasses each office or place of business that uses the entity's name to offer the specified coverage.

[5] S. 624.06(2), F.S.
[6] S. 624.06(1), F.S.
[7] S. 624.06(3), F.S.
[8] S. 624.413(1)(f), F.S.

Inquiries into Improper Conduct

Current law provides that the DFS and the OIR is authorized to inquire into any alleged improper conduct of any licensed, approved, or certified insurance agency, agent, adjuster, service representative, managing general agent, customer representative, title insurance agent, title insurance agency, mediator, neutral evaluator, continuing education course provider, instructor, school official, or monitor group under the insurance code.[9] The DFS or the OIR may then initiate an investigation if it has reasonable cause to believe there has been a violation of the code.

Suspension of Viatical Settlement Provider License

A viatical settlement contract typically includes an agreement on the part of the owner of a life insurance policy to sell the policy to another person or entity for less than the expected death benefit payable under the policy.[10] Current law specifies the circumstances under which the OIR is required suspend, revoke, deny, or refuse to renew the license of a viatical settlement provider.[11] Among numerous circumstances under which sanctions are to be imposed is when the licensee obtains or utilizes life expectancies from life expectancy providers who are not registered with the OIR.[12]

Life expectancy providers are used in viatical settlements. The discounted amount paid to a policyholder is generally based upon the life expectancy of the insured, his or her general health, and other similar considerations. A life expectancy provider is used in a viatical settlement to determine life expectancy or mortality ratings used to determine a life expectancy.

Life expectancy providers are required to register with the OIR.[13] Every 3 years, a registered life expectancy provider must file an audit of all life expectancies by the provider for the five years preceding the audit. The audit compares actual to projected mortality data. According to the OIR, the OIR reviews the audit to verify it was done, is complete, and in the proper format, but does not verify the accuracy of the audit because the OIR has no authority to regulate the life expectancy provider.

Hurricane Loss Projection Models

The Florida Commission on Hurricane Loss Projection Methodology (Commission) was established by the Legislature to serve as an independent body to provide expert evaluation of computer models that project hurricane losses.[14] The Commission is assigned to the State Board of Administration. The Commission adopts findings on the accuracy or reliability of the methods, standards, principles, models and other means used to project hurricane losses. Members of the Commission include:[15]

[9] S. 626.601, F.S.
[10] See s. 626.9911(10), F.S.
[11] S. 626.9914, F.S.
[12] S. 626.9914(1) (k), F.S.
[13] S. 626.99175, F.S.
[14] See s. 627.0628, F.S.
[15] S. 627.0628(2) (b), F.S.

- The Insurance Consumer Advocate;
- The person responsible for FHCF operations;
- The Executive Director of Citizens Property Insurance Corporation;
- The Director of Emergency Management;
- An actuary member from the FHCF Advisory Council;
- An actuary employed by the OIR;
- An appointment by the state Chief Financial Officer who is an actuary employed with a property and casualty insurer;
- An appointment by the state Chief Financial Officer who is an expert insurance finance and who is a full-time faculty member in the State University System;
- An appointment by the state Chief Financial Officer who is an expert statistics in meteorology and who is a full-time faculty member in the State University System; and
- An appointment by the state Chief Financial Officer who is an expert in computer system design and who is a full-time faculty member in the State University System.

The Commission sets standards for loss projection methodology and examines the methods employed in hurricane loss models used by private insurers in setting rates to determine whether they meet the Commission's standards. Only hurricane loss models or methods that the Commission has found to be accurate can be used by insurers to estimate the hurricane losses that are used to set property insurance rates. After the Commission finds a model to be accurate, an insurer has 60 days to use the model to predict the insurer's probable maximum loss "with respect to a rate filing."[16]

Retrospective Rating Plan in Workers' Compensation

Retrospective rating plans[17] may be used by workers' compensation insurance carriers to compete on price. Under a retrospective rating plan, the final premium paid by the employer is based on the actual loss experience of the employer during the policy, plus insurer expenses and an insurance charge. If the employer is able to limit the amount and the magnitude of claims, it will pay lower premiums. Before there were large deductible programs, retrospective rating plans were the dominant rating plan for large employers.

Notice of Cancellation or Nonrenewal

The requirements for an insurer to give notice of cancelling or nonrenewing a residential property insurance policy are contained in s. 627.4133(2), F.S. The specific notice depends on the particular circumstances of the policy being nonrenewed, as follows:

- Generally, an insurer must give the insured 100 days written notice of nonrenewal or cancellation;
- For any nonrenewal or cancellation that would be effective between June 1 and November 30 (hurricane season), an insurer must give notice by June 1, or 100 days, whichever is earlier;

[16] S. 627.0628(3) (d), F.S.
[17] See "2012 Workers' Compensation Annual Report" (December 2012) by the Florida Office of Insurance Regulation. Available at http://www.floir.com.

- If the nonrenewal or cancellation would be effective between June 1 and November 30, but the reason is a revision in sinkhole coverage, the insurer must give the insured 100 days written notice of nonrenewal;
- If the nonrenewal or cancellation would be effective between June 1 and November 30, but the policy is to be nonrenewed by Citizens pursuant to an approved assumption plan by an authorized insurer, Citizens must give the insured 45 days written notice of nonrenewal;
- If the insured structure has been insured by the insurer or an affiliate for at least 5 years, the insurer must give 120 days' notice of nonrenewal or cancellation;
- If the cancellation is for nonpayment of premium, the insurer must give 10 days' notice of cancellation accompanied by the reason for the cancellation;
- If the OIR finds that the early cancellation is necessary to protect the best interests of the public or policyholders, the insurer must give the insured 45 days' written notice of cancellation or nonrenewal;
- If a policy covers both home and motor vehicle, the insurer must give the insured 100 days written notice of nonrenewal.

Required Disclosures by Liability Insurers

Under current law, a liability insurer must provide to a claimant a statement containing the following information within 30 days of a written request by the claimant:

- The name of the insurer;
- The name of each insured;
- The limits of the liability coverage;
- A statement of any policy or coverage defense which such insurer reasonably believes is available to the such insurer at the time of filing such statement; and
- A copy of the policy.

Further, the above statement must be under oath by a corporate officer or the insurer's claims manager or superintendent.

Delivery of Insurance Policies

Part II of s. 627, F.S., generally applies to all insurance contracts except for those covering reinsurance, wet marine and transportation insurance, title insurance, and credit life or credit disability insurance.[18] Under this part, every insurance policy must be mailed or delivered to the insured (policyholder) within 60 days after the insurance takes effect.[19]

In June, 2000, Congress enacted the Electronic Signatures in Global and National Commerce Act (ESIGN) to facilitate the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically.[20]

[18] S. 627.401, F.S.
[19] S. 627.421, F.S.
[20] See Federal Trade Commission and Department Of Commerce publication: "Electronic Signatures in Global and National Commerce Act," published June 2001, available at http://www.ftc.gov/os/2001/06/esign7.htm.

ESIGN provides that contracts formed using electronic signatures on electronic records will not be denied legal effect merely because they are electronic. ESIGN, however, requires consumer disclosure and consent to electronic records in certain instances before electronic records will be given legal effect. Under ESIGN, if a statute requires information to be provided or made available to a consumer in writing, the use of an electronic record to provide or make the information available to the consumer will satisfy the statute's requirement of writing if the consumer affirmatively consents to the use of an electronic record. The consumer must also be provided with a statement notifying the consumer of the right to have the electronic information made available in a paper format and of the right to withdraw consent to electronic records, among other notifications. Insurance is specifically included in ESIGN.

Section 668.50, F.S., Florida's Uniform Electronic Transaction Act (UETA), has provisions similar to the federal ESIGN. UETA specifically applies to insurance and provides a requirement that information that must be delivered in writing to another person can be satisfied by delivering the information electronically if the parties have agreed to conduct a transaction by electronic means.

Notice of Change in Policy Terms

Section 627.43141, F.S., requires that when an insurer makes a change in the terms of an insurance policy upon the renewal of that policy, the insurer must give the named insured written notice of the change, and the notice must be enclosed with the written notice of renewal premium required by ss. 627.4133, F.S., and 627.728, F.S.

Personal Lines Residential Required Deductible Offering

Currently, s. 627.701(7), F.S., requires that for personal lines residential insurance, the insurer must offer a deductible of $500 applicable to losses from perils other than hurricanes. This offer must be made in a form approved by the OIR and must be made at least once every 3 years.

Alternative Procedure for Resolution of Disputed Property Insurance Claims

The DFS has established alternative dispute resolution programs for various types of insurance. The property insurance claim mediation program is authorized under s. 627.7015, F.S.; the automobile insurance claim mediation program is authorized under s. 627.745, F.S.; and the sinkhole claim neutral evaluation program is authorized under s. 627.7074, F.S.

The DFS approves mediators used in the two mediation programs and certifies the neutral evaluators used in neutral evaluation program for sinkhole insurance claims. To qualify as a mediator for the property or automobile mediation programs, a person must meet specific education or experience requirements set out in statute,[21] and must successfully complete a training program approved by the DFS. According to DFS, the required mediation training program is no longer available from outside vendors due to the low volume of DFS mediators. In

[21] s. 627.745 (3)(b), F.S., requires a mediator to possess certain masters or doctorate degrees, be a member of the Florida Bar, be a licensed certified public accountant, or be a mediator for four years.

order to ensure there is a training program available for those who want to be DFS mediators, for the past several years DFS has approved the mediator training program offered by the courts.

Insurance Contract Appraisal Process

Most insurance contracts contain an appraisal clause which establishes a procedure for resolving disputed amounts under a claim. Disputes over coverage are determined by the courts, but an appraisal process can be used to resolve disputed amounts. Generally, the appraisal process works as follows:

- The insurance company and the policyholder each appoint an independent, disinterested appraiser.
- Each appraiser evaluates the loss independently.
- The appraisers negotiate and reach an agreed amount of the damages.
- If the appraisers cannot agree on the amount of damages, they together choose a mutually acceptable umpire.
- Once the umpire has been chosen, the appraisers each present their loss assessment to the umpire.
- The umpire will subsequently provide a written decision to both parties.
- If the two parties agree to the amount of the loss, that amount becomes the claim amount. If one of the parties does not agree, the case can still be litigated in court.

Current law does not address disqualification of an umpire due to impartiality. As a result, a party seeking to disqualify an umpire must go to Circuit Court and have a judge rule on the umpire's impartiality. There are no parameters in current law for a judge to rule on an umpire's impartiality.

Personal Injury Protection Insurance (PIP)

In 2012, the Legislature enacted HB 119,[22] making substantial changes to laws applying to Florida's PIP requirements. Among numerous other changes, the bill amended s. 627.736(5)(a) 2., F.S., by establishing the date on which changes to the Medicare fee schedule or payment limitation are effective. The new provision states, in part:

> [T]he applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation in effect on March 1 of the year in which the services, supplies, or care is rendered…and the applicable fee schedule or payment limitation applies throughout the remainder of that year….

The above language created uncertainty as to whether the Medicare fee schedule in place on March 1st applied just to the end of the calendar year or applied through the end of February of the following year. On November 6, 2012, the OIR issued Informational Memorandum OIR-12-06M,[23] stating that the plain language of the section requires the fee schedule in place on March 1, to apply throughout the following 365 days, or until March 1, of the following year.

[22] Ch. 2012-151, L.O.F.
[23] Available at http://www.floir.com/Sections/PandC/ProductReview/PIPInfo.aspx. Last visited March 16, 2013.

Risk Retention Group Agents

A risk retention group is defined in s. 627.942(9), F.S., as a corporation or limited liability association whose primary activity consists of spreading the liability exposure of its group members. Within the definition, the statute imposes numerous requirements and limitations for operating a risk retention group.

Section 627.952 (1), F.S., establishes requirements for risk retention and purchasing group agents. The statute requires that any person selling, purchasing, or servicing an insurance contracts for a purchasing group or risk retention group to a Florida resident must have an appointment to act general lines agent. In order to place business through a surplus lines carrier, a resident agent must be licensed and appointed as a surplus lines agent. If not a resident of Florida, the agent must be licensed and appointed as a surplus lines agent in her or his state of residence and must file and maintain a fidelity bond. The statute specifies the amount ($50,000) and the conditions that are required for the fidelity bond.

Financial Guaranty Insurance

Financial guaranty insurance is defined[24] as a surety bond, insurance policy, or similar guaranty, under which payment is made upon the occurrence of financial loss to an insured, as a result of:

- The failure of an obligor on a debt to make payments when due, if the failure is the result of a financial default or insolvency;
- Changes in the levels of interest rates;
- Changes in the rate of exchange of currency;
- Changes in the value of specific assets or commodities, or price levels in general; or
- Other events which the OIR determines are substantially similar to any of the foregoing.

Section 627.971, F.S., defines a financial guaranty insurance corporation as a stock insurer licensed to transact financial guaranty insurance business in this state. The definition makes no provision for mutual insurers. A stock insurer is defined as an incorporated insurer with its capital divided into shares and owned by its stockholders.[25] A mutual insurer is defined as an incorporated insurer without permanent capital stock, the governing body of which is elected in accordance with part I of ch. 628, F.S.[26]

Captive Insurance

A captive insurer is an insurance company that primarily or exclusively insures a business entity, or entities, that owns or is an affiliate of the captive insurer. The insured business entities pay premiums to the captive insurer for specified insurance coverages. Under current law, captive insurance is regulated by the Office of Insurance Regulation (OIR) under part V of ch. 628, F.S., which defines a “captive insurance company” as a domestic insurer established under part V, and

[24] S. 627.971(1) (a), F.S.
[25] S. 628.021, F.S.
[26] S. 628.031, F.S.

includes a pure captive insurance company, a special purpose captive insurance company, or an industrial captive insurance company, with each of these formations also separately defined.

Each formation may vary in allowable corporate structure, capital and surplus, underwritten risks, and number of owners. Most captive insurance companies are formed as pure captives,[27] meaning that the captive is a wholly-owned subsidiary that insures the risks of its parent and affiliates.

Chapter 628, F.S., also defines "captive reinsurance company" as a stock corporation reinsurer formed under part V of ch. 628, F.S., that is wholly owned by a qualifying reinsurance parent company. A "qualifying reinsurance parent company" is defined as a reinsurer that:

- Holds a certificate of authority or a letter of eligibility; or
- Is an accredited or a satisfactory non-approved reinsurer in Florida and possesses consolidated GAAP net worth of at least $500 million and a consolidated debt to total capital ratio of not greater than 0.50.

Service Warranty Associations

A service warranty is generally defined as a contract to perform the repair or replacement of a consumer product for failure due to a defect.[28] A service warranty association is defined as any person, other than an authorized insurer, issuing service warranties.[29]

Section 634.406, F.S., establishes the financial requirements, ratios, and limitations on service warranty associations. A service warranty association can allow its premiums to exceed the ratio to net assets limitations of s. 634.406, F.S., only if the association meets all of the following:

- Maintains net assets of at least $750,000.
- Utilizes a contractual liability insurance policy approved by the office which:
    - Reimburses the service warranty association for 100 percent of its claims liability and is issued by an insurer that maintains a policyholder surplus of at least $100 million; or
    - Complies with the requirements of subsection (3) and is issued by an insurer that maintains a policyholder surplus of at least $200 million.
- The insurer issuing the contractual liability insurance policy:
    - Maintains a policyholder surplus of at least $100 million.
    - Is rated "A" or higher by A.M. Best Company or an equivalent rating by another national rating service acceptable to the OIR.
    - Is in no way affiliated with the warranty association.
    - Provides a statement certifying the gross written premiums is covered under the contractual liability policy, whether or not it has been reported.

[27] Theriault, Patrick. Captive Insurance Companies (2008). Page 9. www.captive.com.
[28] S. 634.401(13), F.S.
[29] S. 634.401(14), F.S.

The statute further requires that a contractual liability policy must insure 100 percent of an association's claims exposure under all of the association's service warranty contracts, unless numerous specified conditions are met.

III. Effect of Proposed Changes:

Florida Hurricane Catastrophe Fund Exemption for Medical Malpractice Insurance

Section 1. Amends s. 215.555, F.S., to prevent the expiration on May 31, 2013, of the exemption of medical malpractice insurance premiums from Cat Fund emergency assessments.

Proof of Motor Vehicle Insurance in Electronic Form

Sections 2 and 3. Amends ss. 316.646 and 320.02, F.S., to authorize the uniform motor vehicle proof of insurance card to be issued in electronic form. The bill grants the DHSMV rulemaking authority to implement s. 316.646, F.S.

Certificates of Authority Application Process for Foreign and Alien Insurers

Section 4. Amends s. 624.413, F.S., to allow a foreign or alien insurer applying for a certificate of authority to submit a copy of the report of the most recent examination certified by the public official having supervision of insurance in its state of domicile or of entry into the United States that is up to 5 years old as of the date of the insurer's application. Under current law, the examination may be no greater than 3 years old.

Scope of Limited Licensure for Motor Vehicle Rental Insurance

Section 5. Amends s. 626.321, F.S., to include employees within the scope of limited licenses to transact motor vehicle rental insurance that are issued to a business entity that offers motor vehicle for rent or lease.

Department of Financial Services Oversight of Mediators and Neutral Evaluators

Section 6. Amends s. 626.601, F.S., to authorize the Department of Financial Services to inquire into alleged improper conduct of mediators and neutral evaluators and subsequently to initiate and conduct an investigation if reasonable cause exists of an insurance code violation.

Section 23. Amends s. 627.7015(4)(b), F.S., to delete the requirement that the Department of Financial Services adopt rules that qualify mediators for the property insurance mediation program who are eligible pursuant to the Florida Rules of Certified and Court Appointed Mediators, or that the DFS determines have appropriate education, training, or expertise to serve as a mediator. The bill retains current law that the DFS adopt rules specifying that mediators be qualified under the requirements of s. 627.745, F.S., but adds language specifying that s. 627.745, F.S., also governs the denial of application, suspension, revocation and other penalties for mediators in the program.

Section 26. Amends s. 627.7074, F.S., to require the Department of Financial Services to adopt rules for certifying, denying certification, suspending certification, and revoking certification as a neutral evaluator. The rules must be based on the neutral evaluator qualifications contained in ss. 627.7074,. 627.706, and s. 627.745(4), F.S.

Section 28. Amends s. 627.745, F.S., to change the requirements for qualifying as a mediator under the motor vehicle insurance claim mediation program for personal injury claims of $10,000 or less, or for property damage claims of any amount. A mediator must possess an active certification as a Florida Circuit Court Mediator or be an appointed department mediator as of July 1, 2013, who has conducted at least one mediation on behalf of the DFS within 4 years prior to that date. The bill eliminates the 40-hour mediation training program and test that all mediators under the program currently must complete in order to be approved as a mediator under the program.

The bill also requires the DFS to deny an application or revoke its approval of a mediator or neutral evaluator for any of the following:

- Lack of one or more of the qualifications required for approval or certification.
- Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain approval or certification.
- Demonstrated lack of fitness or trustworthiness to act as a mediator or neutral evaluator.
- Fraudulent or dishonest practices in the conduct of mediation or neutral evaluation or in conducting business in the financial services industry.
- Violation of any provision of the Florida Insurance Code; a lawful order or rule of the DFS; or aiding, instructing, or encouraging another party to commit such a violation.

The bill grants rulemaking authority to administer this requirement.

Repeal of Registration Requirement for Viatical Insurance Life Expectancy Providers

Sections 7 – 12. Amends s. 626.99175, F.S., (Section 8 of the bill) to eliminate the requirement that viatical insurance life expectancy providers register with the Office of Insurance Regulation. Sections 626.9914, 626.9919, 626.992, 626.9925, and 626.99278, F.S., are also amended to conform to the elimination of the registration requirement.

Use of Hurricane Models in Rate Filings

Section 13. Amends s. 627.062, F.S., to specify that the Office of Insurance Regulation, when reviewing a rate filing, must consider projections of hurricane losses that have been estimated using multiple models, an average of models, or a weighted average of models found acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628, F.S.[30]

[30] Section 627.0628, F.S., tasks the Florida Commission on Hurricane Loss Projection Methodology with considering actuarial methods, principles, standards, models, or output ranges that have the potential for improving the accuracy or reliability of hurricane loss projections used in rate filing and probable maximum loss levels. Insurers are prohibited from

Section 14. Amends s. 627.0628, F.S., to increase from 60 days to 120 days the time an insurer is not required to use the newest version of a model approved by the Commission on Hurricane Loss Projection Methodology. This section also specifies that an insurer is not prohibited from averaging model results, output ranges, or using weighted averages in a rate filing.

Workers' Compensation Retrospective Rating Plans

Section 15. Amends s. 627.072, F.S., to allow workers' compensation insurance retrospective rating plans that authorize the employer and insurer to negotiate and determine the retrospective rating factors used to calculate the employer's premium if the employer has exposure in more than one state and an estimated countrywide standard premium of $1 million or more for workers' compensation coverage.

Section 16 contains a technical, conforming change to s. 627.281, F.S.

Repeal of Financial Services Commission Report of Hurricane Risk

Section 17. Repeals s. 627.3519, F.S., which requires the Financial Services Commission to annually provide the Legislature a report detailing the aggregate net probable maximum losses, financing options, and potential assessments of the Cat Fund and Citizens.

Notice of Non-Renewal for Residential Property Insurance Policies

Section 18. Amends s. 627.4133, F.S., to reduce to 100 days the advance written notice of nonrenewal, cancellation, or termination an insurer must give the first-named insured of a personal lines or commercial residential property insurance policy when the nonrenewal, cancellation, or termination that:

- Is effective between June 1 and November 30, which under current law requires the insurer to provide written notice by June 1 or at least 100 days notice, whichever is greater.
- Is for a residential structure that has been insured by the insurer or the insurer's affiliate for at least 5 years, which under current law requires the insurer to provide at least 120 days written notice.

Insurer Sworn Statement Detailing Liability Coverage and Alleged Defenses

Section 19. Amends s. 627.4137, F.S., to authorize the licensed company adjuster of an insurer that provides liability insurance coverage to provide the sworn statement required by current law setting forth the name of the insurer, the name of each insured, the limits of liability coverage, a statement of each policy defense the insurer reasonably believes is available, and a copy of the policy. Current law allows the sworn statement to be provided by the insurer's claims manager or superintendent, or a corporate officer of the insurer.

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using in a rate filing a modified or adjusted model, actuarial method, principle, standard, or output range that the commission has found accurate or reliable.

Electronic Delivery of Insurance Policy Documents

Section 20. Amends s. 627.421(1), F.S., to authorize an insurer to allow a policyholder to elect electronic delivery of policy documents, rather than delivery by mail. The bill does not alter the requirement that the insurer provide the policy no later than 60 days after the effectuation of coverage.

Notice of Change in Policy Terms Delivered Separately from Notice of Renewal Premium

Section 21. Amends s. 627.43131(2), F.S., to allow the Notice of Change in Policy Terms to be sent separately from the Notice of Renewal Premium. If a separate notice is used, it must comply with the nonrenewal mailing time requirement for that particular line of business. Insurers must also provide or make available electronically to the insured's insurance agent the Notice of Change in Policy Terms before or at the same time the notice is given to the insured.

Insurer Choice to Offer $500 or 1 Percent Mandatory Residential Property Insurance Non –Hurricane Deductible

Section 22. Amends s. 627.701(7), F.S., to eliminate the requirement that an insurer must offer a $500 deductible applicable to losses not caused by a hurricane prior to issuing a personal lines residential policy. Instead, effective January 1, 2014, the insurer must offer a $500 deductible or a deductible equal to 1 percent of the policy dwelling limits (if the deductible is not less than $500) for such losses. The section also deletes the requirement that each insurer notify the insured of the availability of a $500 deductible for non-hurricane losses at least once every 3 years on a form approved by the OIR.

Conflict of Interest Standards for Residential Property Insurance Appraisal Umpires

Section 24. Creates s. 627.70151, F.S., to provide conflict of interest standards for appraisers in residential property insurance claims. The insurer or policyholder may challenge impartiality and seek to disqualify the appraisal umpire only if:

- A familial relationship within the third degree exists between the umpire and a party or a representative of a party;
- The umpire previously represented any party or a representative of any party in a professional capacity in the same or a substantially related matter;
- The umpire has represented another person in a professional capacity on the same or a substantially related matter, including the claim, on the same property, or on an adjacent property and that other person's interests are materially adverse to the interests of any party; or
- The umpire has worked as an employer or employee of any party within the preceding 5 years.

Separate Sinkhole Deductible Expanded to All Property Insurance Policies

Section 25. Amends s. 627.706, F.S., to expand the authorization of sinkhole deductibles of 1 percent, 2 percent, 5 percent, or 10 percent to all property insurance policies. Current law authorizes such deductibles only for residential property insurance.

Personal Injury Protection Medical Fee Schedule Clarification

Section 27. Amends s. 627.736(5)(a), F.S., to clarify that the Personal Injury Protection medical fee schedule that is effective on March 1 of each year applies until March 1 of the following year.

Non-Resident Risk Retention and Purchasing Group Agents

Section 29. Amends s. 627.952, F.S., to delete the requirement that non-resident licensed risk retention and purchasing group insurance agents, in order to place business through Florida eligible surplus lines carriers, must file and maintain a fidelity bond of at least $50,000 in favor of the people of the State of Florida that is issued by an admitted surety company.

Allowing Financial Guaranty Insurance Corporations to Organize as Mutual Insurers

Sections 30 and 31. Amends s. 927.972, F.S., to allow a financial guaranty insurance corporation to be organized and licensed as a mutual property and casualty insurer under the Florida Insurance Code. Current law only permits organization as a stock property and casualty insurer. The bill makes a conforming change to s. 627.971, F.S., revising the definition of "financial guaranty insurance corporation" to include a mutual insurer.

Statutory Deposit for Captive Insurers

Section 32. Amends s. 628.901(13), F.S., to strike a reference to a satisfactory non-approved reinsurer in the definition of "qualifying reinsurer parent company" in part V of ch. 628, F.S., governing captive insurers.

Repeal of Captive Insurer Trust Deposit Requirement

Section 33. Amends s. 628.909, F.S., to exempt captive insurers from the statutory trust deposit required under s. 624.411, F.S., as a condition of obtaining a certificate of authority to transact insurance.

Service Warranty Association Financial Requirements

Section 34. Amends s. 634.406, F.S., to revise the requirement that if a service warranty association's premiums to exceed the statutorily required 7-to-1 ratio of gross written premium to net assets, it must maintain net assets of $750,000 and maintain a contractual liability insurance policy that reimburses the service warranty association for 100 percent of its claims liability and is approved by the office. Under the bill, the contractual liability policy may be issued by an affiliate of the warranty association. Additionally, the insurer issuing the policy

must either maintain at least a $100 million policyholder surplus or maintain a policyholder surplus of at least $200 million and issue a policy that complies with the provisions of subsection (3).[31]

Effective Date

Section 35. The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Issuance of proof of motor vehicle insurance cards in electronic format implicates the "Plain View Doctrine" of the Fourth Amendment of the United States Constitution. The doctrine provides that when a person voluntarily grants access to an otherwise protected area, evidence discovered in the course of that search is admissible if the evidence discovered in the course of that search is in plain view; the officer discovers evidence, contraband, or a fruit or instrumentality of a crime; and the officer has probable cause to believe that the item is evidence, contraband, or a fruit or instrumentality of a crime.[32]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

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[31] Subsection (3) of s. 634.406, F.S., states that a warranty association need not establish an unearned premium reserve if it purchases contractual liability insurance that covers 100 percent of its claims liability from an authorized insurer. The terms of the policy must contain the following (a) state the insurer will pay losses and unearned premium refunds directly to a person making a claim under the warranty association contract in the event the services warranty association does not do so; (b) the insurer must assume full responsibility for administering claims if the warranty association cannot do so; (c) 60 days written notice must be given to the OIR prior to policy cancellation; (4) the policy must insure all service warranty contracts issued while the policy was in effect whether or not the premium has been remitted to the insurer; (e) If the insurer is fulfilling the service warranty covered by the policy and the service warranty holder cancels the warranty, the insurer must fully refund unearned premium, subject to a cancellation fee under s. 634.414, F.S.; and (f) a warranty association may not use an unearned premium reserve and contractual liability insurance policy simultaneously. However, the warranty association may have contractual liability coverage on service warranties previously sold and sell new service warranties covered by the unearned premium reserve, and the converse. The warranty association must be able to distinguish how each individual service warranty is covered.

[32] See *Arizona v. Hicks*, 480 U.S. 321 (1987).

B. Private Sector Impact:

Representatives from the Department of Highway Safety and Motor Vehicles note that "according to the Department's Annual Uniform Traffic Citation statistics, in 2011 there were 353,703 citations issued for no proof of motor vehicle insurance." The use of electronic cards may reduce the number of such citations.

Preventing the expiration on May 31, 2013, of the exemption of medical malpractice insurance premiums from Cat Fund emergency assessments will benefit the purchasers of such premiums, who would otherwise be subject to assessment.

Replacing the mandatory offer of a $500 deductible for non-hurricane losses on a personal lines residential policy with an option for the insurance company to offer either a $500 or 1 percent deductible on such losses may result in customers no longer being able to purchase a policy with a $500 deductible from many insurance carriers. Eliminating the requirement to offer a $500 deductible may create efficiencies for some insurers who write in multiple states and generally do not offer such a deductible to their policyholders in other states.

Life expectancy providers will no longer be required to register with the Office and send the Office an actuarial audit every 3 years.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Paragraph (b) of subsection (6) of section
6 215.555, Florida Statutes, is amended to read:
7 215.555 Florida Hurricane Catastrophe Fund.—
8 (6) REVENUE BONDS.—
9 (b) *Emergency assessments.*—
10 1. If the board determines that the amount of revenue
11 produced under subsection (5) is insufficient to fund the
12 obligations, costs, and expenses of the fund and the

457546

13 corporation, including repayment of revenue bonds and that
14 portion of the debt service coverage not met by reimbursement
15 premiums, the board shall direct the Office of Insurance
16 Regulation to levy, by order, an emergency assessment on direct
17 premiums for all property and casualty lines of business in this
18 state, including property and casualty business of surplus lines
19 insurers regulated under part VIII of chapter 626, but not
20 including any workers' compensation premiums or medical
21 malpractice premiums. As used in this subsection, the term
22 "property and casualty business" includes all lines of business
23 identified on Form 2, Exhibit of Premiums and Losses, in the
24 annual statement required of authorized insurers by s. 624.424
25 and any rule adopted under this section, except for those lines
26 identified as accident and health insurance and except for
27 policies written under the National Flood Insurance Program. The
28 assessment shall be specified as a percentage of direct written
29 premium and is subject to annual adjustments by the board in
30 order to meet debt obligations. The same percentage shall apply
31 to all policies in lines of business subject to the assessment
32 issued or renewed during the 12-month period beginning on the
33 effective date of the assessment.
34 2. A premium is not subject to an annual assessment under
35 this paragraph in excess of 6 percent of premium with respect to
36 obligations arising out of losses attributable to any one
37 contract year, and a premium is not subject to an aggregate
38 annual assessment under this paragraph in excess of 10 percent
39 of premium. An annual assessment under this paragraph shall
40 continue as long as the revenue bonds issued with respect to
41 which the assessment was imposed are outstanding, including any

457546

42 bonds the proceeds of which were used to refund the revenue
43 bonds, unless adequate provision has been made for the payment
44 of the bonds under the documents authorizing issuance of the
45 bonds.
46 3. Emergency assessments shall be collected from
47 policyholders. Emergency assessments shall be remitted by
48 insurers as a percentage of direct written premium for the
49 preceding calendar quarter as specified in the order from the
50 Office of Insurance Regulation. The office shall verify the
51 accurate and timely collection and remittance of emergency
52 assessments and shall report the information to the board in a
53 form and at a time specified by the board. Each insurer
54 collecting assessments shall provide the information with
55 respect to premiums and collections as may be required by the
56 office to enable the office to monitor and verify compliance
57 with this paragraph.
58 4. With respect to assessments of surplus lines premiums,
59 each surplus lines agent shall collect the assessment at the
60 same time as the agent collects the surplus lines tax required
61 by s. 626.932, and the surplus lines agent shall remit the
62 assessment to the Florida Surplus Lines Service Office created
63 by s. 626.921 at the same time as the agent remits the surplus
64 lines tax to the Florida Surplus Lines Service Office. The
65 emergency assessment on each insured procuring coverage and
66 filing under s. 626.938 shall be remitted by the insured to the
67 Florida Surplus Lines Service Office at the time the insured
68 pays the surplus lines tax to the Florida Surplus Lines Service
69 Office. The Florida Surplus Lines Service Office shall remit the
70 collected assessments to the fund or corporation as provided in

457546

71 the order levied by the Office of Insurance Regulation. The
72 Florida Surplus Lines Service Office shall verify the proper
73 application of such emergency assessments and shall assist the
74 board in ensuring the accurate and timely collection and
75 remittance of assessments as required by the board. The Florida
76 Surplus Lines Service Office shall annually calculate the
77 aggregate written premium on property and casualty business,
78 other than workers' compensation and medical malpractice,
79 procured through surplus lines agents and insureds procuring
80 coverage and filing under s. 626.938 and shall report the
81 information to the board in a form and at a time specified by
82 the board.
83 5. Any assessment authority not used for a particular
84 contract year may be used for a subsequent contract year. If,
85 for a subsequent contract year, the board determines that the
86 amount of revenue produced under subsection (5) is insufficient
87 to fund the obligations, costs, and expenses of the fund and the
88 corporation, including repayment of revenue bonds and that
89 portion of the debt service coverage not met by reimbursement
90 premiums, the board shall direct the Office of Insurance
91 Regulation to levy an emergency assessment up to an amount not
92 exceeding the amount of unused assessment authority from a
93 previous contract year or years, plus an additional 4 percent
94 provided that the assessments in the aggregate do not exceed the
95 limits specified in subparagraph 2.
96 6. The assessments otherwise payable to the corporation
97 under this paragraph shall be paid to the fund unless and until
98 the Office of Insurance Regulation and the Florida Surplus Lines
99 Service Office have received from the corporation and the fund a

457546

100 notice, which shall be conclusive and upon which they may rely
101 without further inquiry, that the corporation has issued bonds
102 and the fund has no agreements in effect with local governments
103 under paragraph (c). On or after the date of the notice and
104 until the date the corporation has no bonds outstanding, the
105 fund shall have no right, title, or interest in or to the
106 assessments, except as provided in the fund's agreement with the
107 corporation.
108 7. Emergency assessments are not premium and are not
109 subject to the premium tax, to the surplus lines tax, to any
110 fees, or to any commissions. An insurer is liable for all
111 assessments that it collects and must treat the failure of an
112 insured to pay an assessment as a failure to pay the premium. An
113 insurer is not liable for uncollectible assessments.
114 8. When an insurer is required to return an unearned
115 premium, it shall also return any collected assessment
116 attributable to the unearned premium. A credit adjustment to the
117 collected assessment may be made by the insurer with regard to
118 future remittances that are payable to the fund or corporation,
119 but the insurer is not entitled to a refund.
120 9. When a surplus lines insured or an insured who has
121 procured coverage and filed under s. 626.938 is entitled to the
122 return of an unearned premium, the Florida Surplus Lines Service
123 Office shall provide a credit or refund to the agent or such
124 insured for the collected assessment attributable to the
125 unearned premium before ~~prior to~~ remitting the emergency
126 assessment collected to the fund or corporation.
127 ~~10. The exemption of medical malpractice insurance premiums~~
128 ~~from emergency assessments under this paragraph is repealed May~~

457546

129 ~~31, 2013, and medical malpractice insurance premiums shall be~~
130 ~~subject to emergency assessments attributable to loss events~~
131 ~~occurring in the contract years commencing on June 1, 2013.~~
132 Section 2. Subsection (1) of section 316.646, Florida
133 Statutes, is amended, and subsection (5) is added to that
134 section, to read:
135 316.646 Security required; proof of security and display
136 thereof; dismissal of cases.—
137 (1) Any person required by s. 324.022 to maintain property
138 damage liability security, required by s. 324.023 to maintain
139 liability security for bodily injury or death, or required by s.
140 627.733 to maintain personal injury protection security on a
141 motor vehicle shall have in his or her immediate possession at
142 all times while operating such motor vehicle proper proof of
143 maintenance of the required security. Such proof shall be a
144 uniform proof-of-insurance card, in paper or electronic format,
145 in a form prescribed by the department, a valid insurance
146 policy, an insurance policy binder, a certificate of insurance,
147 or such other proof as may be prescribed by the department. If a
148 person presents an electronic device to a law enforcement
149 officer for the purpose of displaying a proof-of-insurance card
150 in an electronic format:
151 (a) The person presenting the device is not deemed to
152 consent to access to any information on the electronic device
153 other than the displayed proof-of-insurance card.
154 (b) The law enforcement officer is not liable for any
155 damage to the electronic device.
156 (5) The department may adopt rules to implement this
157 section.

457546

158 Section 3. Paragraph (a) of subsection (5) of section
159 320.02, Florida Statutes, is amended to read:
160 320.02 Registration required; application for registration;
161 forms.—
162 (5)(a) Proof that personal injury protection benefits have
163 been purchased when required under s. 627.733, that property
164 damage liability coverage has been purchased as required under
165 s. 324.022, that bodily injury or death coverage has been
166 purchased if required under s. 324.023, and that combined bodily
167 liability insurance and property damage liability insurance have
168 been purchased when required under s. 627.7415 shall be provided
169 in the manner prescribed by law by the applicant at the time of
170 application for registration of any motor vehicle that is
171 subject to such requirements. The issuing agent shall refuse to
172 issue registration if such proof of purchase is not provided.
173 Insurers shall furnish uniform proof-of-purchase cards, in paper
174 or electronic format, in a form prescribed by the department and
175 shall include the name of the insured's insurance company, the
176 coverage identification number, and the make, year, and vehicle
177 identification number of the vehicle insured. The card shall
178 contain a statement notifying the applicant of the penalty
179 specified in s. 316.646(4). The card or insurance policy,
180 insurance policy binder, or certificate of insurance or a
181 photocopy of any of these; an affidavit containing the name of
182 the insured's insurance company, the insured's policy number,
183 and the make and year of the vehicle insured; or such other
184 proof as may be prescribed by the department shall constitute
185 sufficient proof of purchase. If an affidavit is provided as
186 proof, it shall be in substantially the following form:

457546

187
188 Under penalty of perjury, I ...(Name of insured)... do hereby
189 certify that I have ...(Personal Injury Protection, Property
190 Damage Liability, and, when required, Bodily Injury
191 Liability)... Insurance currently in effect with ...(Name of
192 insurance company)... under ...(policy number)... covering
193 ...(make, year, and vehicle identification number of
194 vehicle).... ...(Signature of Insured)...
195
196 Such affidavit shall include the following warning:
197
198 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
199 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
200 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
201 SUBJECT TO PROSECUTION.
202
203 When an application is made through a licensed motor vehicle
204 dealer as required in s. 319.23, the original or a photostatic
205 copy of such card, insurance policy, insurance policy binder, or
206 certificate of insurance or the original affidavit from the
207 insured shall be forwarded by the dealer to the tax collector of
208 the county or the Department of Highway Safety and Motor
209 Vehicles for processing. By executing the aforesaid affidavit,
210 no licensed motor vehicle dealer will be liable in damages for
211 any inadequacy, insufficiency, or falsification of any statement
212 contained therein. A card shall also indicate the existence of
213 any bodily injury liability insurance voluntarily purchased.
214 Section 4. Subsection (8) is added to section 554.1021,
215 Florida Statutes, to read:

457546

216 554.1021 Definitions.—As used in ss. 554.1011-554.115:
217 (8) "Authorized inspection agency" means:
218 (a) Any county, city, town, or other governmental
219 subdivision that has adopted and administers, at a minimum,
220 Section I of the A.S.M.E. Boiler and Pressure Vessel Code as a
221 legal requirement and whose inspectors hold valid certificates
222 of competency in accordance with s. 554.113; or
223 (b) Any insurance company that is licensed or registered by
224 an appropriate authority of any state of the United States or
225 province of Canada and whose inspectors hold valid certificates
226 of competency in accordance with s. 554.113.
227 Section 5. Section 554.107, Florida Statutes, is amended to
228 read:
229 554.107 Special inspectors.—
230 (1) Upon application by any authorized inspection agency
231 ~~company licensed to insure boilers in this state~~, the chief
232 inspector shall issue a certificate of competency as a special
233 inspector to any inspector employed by the authorized inspection
234 agency ~~company~~, provided that such inspector satisfies the
235 competency requirements for inspectors as provided in s.
236 554.113.
237 (2) The certificate of competency of a special inspector
238 shall remain in effect only so long as the special inspector is
239 employed by an authorized inspection agency ~~a company licensed~~
240 ~~to insure boilers in this state~~. Upon termination of employment
241 with such agency ~~company~~, a special inspector shall, in writing,
242 notify the chief inspector of such termination. Such notice
243 shall be given within 15 days following the date of termination.
244 Section 6. Subsection (1) of section 554.109, Florida

457546

245 Statutes, is amended to read:
246 554.109 Exemptions.—
247 (1) Any insurance company insuring a boiler located in a
248 public assembly location in this state shall inspect or contract
249 with an authorized inspection agency to inspect such boiler ~~so~~
250 ~~insured,~~ and shall annually report to the department the
251 identity of any authorized inspection agency performing any
252 required boiler inspection on behalf of the company. A ~~any~~
253 county, city, town, or other governmental subdivision that ~~which~~
254 has adopted into law the Boiler and Pressure Vessel Code of the
255 American Society of Mechanical Engineers and the National Board
256 Inspection Code for the construction, installation, inspection,
257 maintenance, and repair of boilers, regulating such boilers in
258 public assembly locations, shall inspect such boilers so
259 regulated; provided that such inspection shall be conducted by a
260 special inspector licensed pursuant to ss. 554.1011-554.115.
261 Upon filing of a report of satisfactory inspection with the
262 department, such boiler is exempt from inspection by the
263 department.
264 Section 7. Paragraph (f) of subsection (1) of section
265 624.413, Florida Statutes, is amended to read:
266 624.413 Application for certificate of authority.—
267 (1) To apply for a certificate of authority, an insurer
268 shall file its application therefor with the office, upon a form
269 adopted by the commission and furnished by the office, showing
270 its name; location of its home office and, if an alien insurer,
271 its principal office in the United States; kinds of insurance to
272 be transacted; state or country of domicile; and such additional
273 information as the commission reasonably requires, together with

457546

274 the following documents:
275 (f) If a foreign or alien insurer, a copy of the report of
276 the most recent examination of the insurer certified by the
277 public official having supervision of insurance in its state of
278 domicile or of entry into the United States. The end of the most
279 recent year covered by the examination must be within the 5-year
280 ~~3-year~~ period preceding the date of application. In lieu of the
281 certified examination report, the office may accept an audited
282 certified public accountant's report prepared on a basis
283 consistent with the insurance laws of the insurer's state of
284 domicile, certified by the public official having supervision of
285 insurance in its state of domicile or of entry into the United
286 States.
287 Section 8. Subsection (4) is added to section 626.0428,
288 Florida Statutes, to read:
289 626.0428 Agency personnel powers, duties, and limitations.—
290 (4)(a) Each place of business established by an agent or
291 agency, firm, corporation, or association shall be in the active
292 full-time charge of a licensed and appointed agent holding the
293 required agent licenses to transact the lines of insurance being
294 handled at the location.
295 (b) Notwithstanding paragraph (a), the licensed agent in
296 charge of an insurance agency may also be the agent in charge of
297 additional branch office locations of the agency if insurance
298 activities requiring licensure as an insurance agent do not
299 occur at any location when the agent is not physically present
300 and unlicensed employees at the location do not engage in any
301 insurance activities requiring licensure as an insurance agent
302 or customer representative.

457546

303 (c) An insurance agency and each branch place of business
304 of an insurance agency shall designate an agent in charge and
305 file the name and license number of the agent in charge and the
306 physical address of the insurance agency location with the
307 department at the department's designated website. The
308 designation of the agent in charge may be changed at the option
309 of the agency, and any change shall be effective upon
310 notification to the department. Notice to the department must be
311 provided within 30 days after such change.
312 (d) For the purposes of this subsection, an "agent in
313 charge" is the licensed and appointed agent who is responsible
314 for the supervision of all individuals within an insurance
315 agency location, regardless of whether such individuals deal
316 with the general public in the solicitation or negotiation of
317 insurance contracts or the collection or accounting of moneys.
318 (e) An agent in charge of an insurance agency is
319 accountable for any wrongful acts, misconduct, or violations of
320 provisions of this code committed by the agent or by any person
321 under his or her supervision while acting on behalf of the
322 agency. This section may not be construed to render the agent in
323 charge criminally liable for an act unless he or she personally
324 committed or knew or should have known of the act and of the
325 facts constituting a violation of this chapter.
326 (f) An insurance agency location may not conduct the
327 business of insurance unless the agency designates an agent in
328 charge at all times. If the agency fails to update the
329 designation of the agent in charge within 90 days after the date
330 of a change in designation, the department shall automatically
331 revoke the agency's license.

457546

332 Section 9. Subsection (7) of section 626.112, Florida
333 Statutes, is amended to read:
334 626.112 License and appointment required; agents, customer
335 representatives, adjusters, insurance agencies, service
336 representatives, managing general agents.—
337 (7)(a) ~~Effective October 1, 2006,~~ No individual, firm,
338 partnership, corporation, association, or any other entity shall
339 act in its own name or under a trade name, directly or
340 indirectly, as an insurance agency, unless it complies with s.
341 626.172 with respect to possessing an insurance agency license
342 for each place of business at which it engages in any activity
343 which may be performed only by a licensed insurance agent.
344 However, an insurance agency that is owned and operated by a
345 single licensed agent conducting business in his or her
346 individual name and not employing or otherwise using the
347 services of or appointing other licensees shall be exempt from
348 the agency licensing requirements of this subsection. A branch
349 place of business that is established by a licensed agency is
350 considered a branch agency and is not required to be licensed so
351 long as it transacts business under the same name and federal
352 tax identification number as the licensed agency and has
353 designated a licensed agent in charge of the location as
354 required by s. 626.0428 and the address and telephone number of
355 the location have been submitted to the department for inclusion
356 in the licensing record of the licensed agency within 30 days
357 after insurance transactions begin at the location ~~Each agency~~
358 ~~engaged in business in this state before January 1, 2003, which~~
359 ~~is wholly owned by insurance agents currently licensed and~~
360 ~~appointed under this chapter, each incorporated agency whose~~

457546

361 ~~voting shares are traded on a securities exchange, each agency~~
362 ~~designated and subject to supervision and inspection as a branch~~
363 ~~office under the rules of the National Association of Securities~~
364 ~~Dealers, and each agency whose primary function is offering~~
365 ~~insurance as a service or member benefit to members of a~~
366 ~~nonprofit corporation may file an application for registration~~
367 ~~in lieu of licensure in accordance with s. 626.172(3)~~. ~~Each~~
368 ~~agency engaged in business before October 1, 2006, shall file an~~
369 ~~application for licensure or registration on or before October~~
370 ~~1, 2006.~~
371 (b)~~1.~~ If an agency is required to be licensed but fails to
372 file an application for licensure in accordance with this
373 section, the department shall impose on the agency an
374 administrative penalty in an amount of up to $10,000.
375 ~~2. If an agency is eligible for registration but fails to~~
376 ~~file an application for registration or an application for~~
377 ~~licensure in accordance with this section, the department shall~~
378 ~~impose on the agency an administrative penalty in an amount of~~
379 ~~up to $5,000.~~
380 (c)~~(b)~~ Effective October 1, 2013, the department must
381 automatically convert the registration of an approved ~~a~~
382 registered insurance agency to ~~shall, as a condition precedent~~
383 ~~to continuing business, obtain~~ an insurance agency license ~~if~~
384 ~~the department finds that, with respect to any majority owner,~~
385 ~~partner, manager, director, officer, or other person who manages~~
386 ~~or controls the agency, any person has:~~
387 ~~1. Been found guilty of, or has pleaded guilty or nolo~~
388 ~~contendere to, a felony in this state or any other state~~
389 ~~relating to the business of insurance or to an insurance agency,~~

457546

390 ~~without regard to whether a judgment of conviction has been~~
391 ~~entered by the court having jurisdiction of the cases~~.
392 ~~2. Employed any individual in a managerial capacity or in a~~
393 ~~capacity dealing with the public who is under an order of~~
394 ~~revocation or suspension issued by the department. An insurance~~
395 ~~agency may request, on forms prescribed by the department,~~
396 ~~verification of any person's license status. If a request is~~
397 ~~mailed within 5 working days after an employee is hired, and the~~
398 ~~employee's license is currently suspended or revoked, the agency~~
399 ~~shall not be required to obtain a license, if the unlicensed~~
400 ~~person's employment is immediately terminated.~~
401 ~~3. Operated the agency or permitted the agency to be~~
402 ~~operated in violation of s. 626.747.~~
403 ~~4. With such frequency as to have made the operation of the~~
404 ~~agency hazardous to the insurance-buying public or other~~
405 ~~persons:~~
406 ~~a. Solicited or handled controlled business. This~~
407 ~~subparagraph shall not prohibit the licensing of any lending or~~
408 ~~financing institution or creditor, with respect to insurance~~
409 ~~only, under credit life or disability insurance policies of~~
410 ~~borrowers from the institutions, which policies are subject to~~
411 ~~part IX of chapter 627.~~
412 ~~b. Misappropriated, converted, or unlawfully withheld~~
413 ~~moneys belonging to insurers, insureds, beneficiaries, or others~~
414 ~~and received in the conduct of business under the license.~~
415 ~~c. Unlawfully rebated, attempted to unlawfully rebate, or~~
416 ~~unlawfully divided or offered to divide commissions with~~
417 ~~another.~~
418 ~~d. Misrepresented any insurance policy or annuity contract,~~

457546

419 ~~or used deception with regard to any policy or contract, done~~
420 ~~either in person or by any form of dissemination of information~~
421 ~~or advertising.~~
422 ~~e. Violated any provision of this code or any other law~~
423 ~~applicable to the business of insurance in the course of dealing~~
424 ~~under the license.~~
425 ~~f. Violated any lawful order or rule of the department.~~
426 ~~g. Failed or refused, upon demand, to pay over to any~~
427 ~~insurer he or she represents or has represented any money coming~~
428 ~~into his or her hands belonging to the insurer.~~
429 ~~h. Violated the provision against twisting as defined in s.~~
430 ~~626.9541(1)(l).~~
431 ~~i. In the conduct of business, engaged in unfair methods of~~
432 ~~competition or in unfair or deceptive acts or practices, as~~
433 ~~prohibited under part IX of this chapter.~~
434 ~~j. Willfully overinsured any property insurance risk.~~
435 ~~k. Engaged in fraudulent or dishonest practices in the~~
436 ~~conduct of business arising out of activities related to~~
437 ~~insurance or the insurance agency.~~
438 ~~l. Demonstrated lack of fitness or trustworthiness to~~
439 ~~engage in the business of insurance arising out of activities~~
440 ~~related to insurance or the insurance agency.~~
441 ~~m. Authorized or knowingly allowed individuals to transact~~
442 ~~insurance who were not then licensed as required by this code.~~
443 ~~5. Knowingly employed any person who within the preceding 3~~
444 ~~years has had his or her relationship with an agency terminated~~
445 ~~in accordance with paragraph (d).~~
446 ~~6. Willfully circumvented the requirements or prohibitions~~
447 ~~of this code.~~

457546

448 Section 10. Subsections (2), (3), and (4) of section
449 626.172, Florida Statutes, are amended to read:
450 626.172 Application for insurance agency license.—
451 (2) An application for an insurance agency license must
452 ~~shall~~ be signed by the owner or owners of the agency. If the
453 agency is incorporated, the application must ~~shall~~ be signed by
454 the president and secretary of the corporation. The application
455 for an insurance agency license must ~~shall~~ include:
456 (a) The name of each majority owner, partner, officer, and
457 director of the insurance agency.
458 (b) The residence address of each person required to be
459 listed in the application under paragraph (a).
460 (c) The name of the insurance agency, ~~and~~ its principal
461 business street address and a valid e-mail address of the
462 insurance agency.
463 (d) The physical address ~~location~~ of each branch agency,
464 including its name, e-mail address, and telephone number and the
465 date that the branch location began transacting insurance ~~office~~
466 ~~and the name under which each agency office conducts or will~~
467 ~~conduct business~~.
468 (e) The name of each agent to be in full-time charge of an
469 agency office and specification of which office, including
470 branch locations.
471 (f) The fingerprints of each of the following:
472 1. A sole proprietor;
473 2. Each partner;
474 3. Each owner of an unincorporated agency;
475 4. Each owner who directs or participates in the management
476 or control of an incorporated agency whose shares are not traded

457546

477 on a securities exchange;
478 5. The president, senior vice presidents, treasurer,
479 secretary, and directors of the agency; and
480 6. Any other person who directs or participates in the
481 management or control of the agency, whether through the
482 ownership of voting securities, by contract, by ownership of any
483 agency bank accounts, or otherwise.
484
485 Fingerprints must be taken by a law enforcement agency or other
486 entity approved by the department and must be accompanied by the
487 fingerprint processing fee specified in s. 624.501. Fingerprints
488 must ~~shall~~ be processed in accordance with s. 624.34. However,
489 fingerprints need not be filed for any individual who is
490 currently licensed and appointed under this chapter. This
491 paragraph does not apply to corporations whose voting shares are
492 traded on a securities exchange.
493 (g) Such additional information as the department requires
494 by rule to ascertain the trustworthiness and competence of
495 persons required to be listed on the application and to
496 ascertain that such persons meet the requirements of this code.
497 However, the department may not require that credit or character
498 reports be submitted for persons required to be listed on the
499 application.
500 (h) ~~Beginning October 1, 2005,~~ The department must ~~shall~~
501 accept the uniform application for nonresident agency licensure.
502 The department may adopt by rule revised versions of the uniform
503 application.
504 ~~(3) The department shall issue a registration as an~~
505 ~~insurance agency to any agency that files a written application~~

457546

506 ~~with the department and qualifies for registration. The~~
507 ~~application for registration shall require the agency to provide~~
508 ~~the same information required for an agency licensed under~~
509 ~~subsection (2), the agent identification number for each owner~~
510 ~~who is a licensed agent, proof that the agency qualifies for~~
511 ~~registration as provided in s. 626.112(7), and any other~~
512 ~~additional information that the department determines is~~
513 ~~necessary in order to demonstrate that the agency qualifies for~~
514 ~~registration. The application must be signed by the owner or~~
515 ~~owners of the agency. If the agency is incorporated, the~~
516 ~~application must be signed by the president and the secretary of~~
517 ~~the corporation. An agent who owns the agency need not file~~
518 ~~fingerprints with the department if the agent obtained a license~~
519 ~~under this chapter and the license is currently valid.~~
520 ~~(a) If an application for registration is denied, the~~
521 ~~agency must file an application for licensure no later than 30~~
522 ~~days after the date of the denial of registration.~~
523 ~~(b) A registered insurance agency must file an application~~
524 ~~for licensure no later than 30 days after the date that any~~
525 ~~person who is not a licensed and appointed agent in this state~~
526 ~~acquires any ownership interest in the agency. If an agency~~
527 ~~fails to file an application for licensure in compliance with~~
528 ~~this paragraph, the department shall impose an administrative~~
529 ~~penalty in an amount of up to $5,000 on the agency.~~
530 ~~(c) Sections 626.6115 and 626.6215 do not apply to agencies~~
531 ~~registered under this subsection.~~
532 (3) ~~(4)~~ The department must ~~shall~~ issue a license ~~or~~
533 ~~registration~~ to each agency upon approval of the application,
534 and each agency location must ~~shall~~ display the license ~~or~~

457546

535 ~~registration~~ prominently in a manner that makes it clearly
536 visible to any customer or potential customer who enters the
537 agency.
538 Section 11. Paragraph (d) of subsection (1) of section
539 626.321, Florida Statutes, is amended to read:
540 626.321 Limited licenses.—
541 (1) The department shall issue to a qualified applicant a
542 license as agent authorized to transact a limited class of
543 business in any of the following categories of limited lines
544 insurance:
545 (d) *Motor vehicle rental insurance.*—
546 1. License covering only insurance of the risks set forth
547 in this paragraph when offered, sold, or solicited with and
548 incidental to the rental or lease of a motor vehicle and which
549 applies only to the motor vehicle that is the subject of the
550 lease or rental agreement and the occupants of the motor
551 vehicle:
552 a. Excess motor vehicle liability insurance providing
553 coverage in excess of the standard liability limits provided by
554 the lessor in the lessor’s lease to a person renting or leasing
555 a motor vehicle from the licensee’s employer for liability
556 arising in connection with the negligent operation of the leased
557 or rented motor vehicle.
558 b. Insurance covering the liability of the lessee to the
559 lessor for damage to the leased or rented motor vehicle.
560 c. Insurance covering the loss of or damage to baggage,
561 personal effects, or travel documents of a person renting or
562 leasing a motor vehicle.
563 d. Insurance covering accidental personal injury or death

457546

564 of the lessee and any passenger who is riding or driving with
565 the covered lessee in the leased or rented motor vehicle.
566 2. Insurance under a motor vehicle rental insurance license
567 may be issued only if the lease or rental agreement is for no
568 more than 60 days, the lessee is not provided coverage for more
569 than 60 consecutive days per lease period, and the lessee is
570 given written notice that his or her personal insurance policy
571 providing coverage on an owned motor vehicle may provide
572 coverage of such risks and that the purchase of the insurance is
573 not required in connection with the lease or rental of a motor
574 vehicle. If the lease is extended beyond 60 days, the coverage
575 may be extended one time only for a period not to exceed an
576 additional 60 days. Insurance may be provided to the lessee as
577 an additional insured on a policy issued to the licensee's
578 employer.
579 3. The license may be issued only to the full-time salaried
580 employee of a licensed general lines agent or to a business
581 entity that offers motor vehicles for rent or lease if insurance
582 sales activities authorized by the license are in connection
583 with and incidental to the rental or lease of a motor vehicle.
584 a. A license issued to a business entity that offers motor
585 vehicles for rent or lease encompasses each office, branch
586 office, employee, or place of business making use of the
587 entity's business name in order to offer, solicit, and sell
588 insurance pursuant to this paragraph.
589 b. The application for licensure must list the name,
590 address, and phone number for each office, branch office, or
591 place of business that is to be covered by the license. The
592 licensee shall notify the department of the name, address, and

457546

593 phone number of any new location that is to be covered by the
594 license before the new office, branch office, or place of
595 business engages in the sale of insurance pursuant to this
596 paragraph. The licensee must notify the department within 30
597 days after closing or terminating an office, branch office, or
598 place of business. Upon receipt of the notice, the department
599 shall delete the office, branch office, or place of business
600 from the license.
601 c. A licensed and appointed entity is directly responsible
602 and accountable for all acts of the licensee's employees.
603 Section 12. Section 626.382, Florida Statutes, is amended
604 to read:
605 626.382 Continuation, expiration of license; insurance
606 agencies.—The license of any insurance agency ~~shall be issued~~
607 ~~for a period of 3 years and~~ shall continue in force until
608 canceled, suspended, revoked, or otherwise terminated. ~~A license~~
609 ~~may be renewed by submitting a renewal request to the department~~
610 ~~on a form adopted by department rule.~~
611 Section 13. Section 626.601, Florida Statutes, is amended
612 to read:
613 626.601 Improper conduct; inquiry; fingerprinting.—
614 (1) The department or office may, upon its own motion or
615 upon a written complaint signed by any interested person and
616 filed with the department or office, inquire into any alleged
617 improper conduct of any licensed, approved, or certified
618 insurance agency, agent, adjuster, service representative,
619 managing general agent, customer representative, title insurance
620 agent, title insurance agency, mediator, neutral evaluator,
621 continuing education course provider, instructor, school

457546

622 official, or monitor group under this code. The department or
623 office may thereafter initiate an investigation of any such
624 individual or entity ~~licensee~~ if it has reasonable cause to
625 believe that the individual or entity ~~licensee~~ has violated any
626 provision of the insurance code. During the course of its
627 investigation, the department or office shall contact the
628 individual or entity ~~licensee~~ being investigated unless it
629 determines that contacting such individual or entity ~~person~~
630 could jeopardize the successful completion of the investigation
631 or cause injury to the public.
632 (2) In the investigation by the department or office of the
633 alleged misconduct, the individual or entity ~~licensee~~ shall,
634 whenever so required by the department or office, cause the
635 individual's or entity's ~~his or her~~ books and records to be open
636 for inspection for the purpose of such inquiries.
637 (3) The complaints against any individual or entity
638 ~~licensee~~ may be informally alleged and need not be in any such
639 language as is necessary to charge a crime on an indictment or
640 information.
641 (4) The expense for any hearings or investigations under
642 this law, as well as the fees and mileage of witnesses, may be
643 paid out of the appropriate fund.
644 (5) If the department or office, after investigation, has
645 reason to believe that an individual ~~a licensee~~ may have been
646 found guilty of or pleaded guilty or nolo contendere to a felony
647 or a crime related to the business of insurance in this or any
648 other state or jurisdiction, the department or office may
649 require the individual ~~licensee~~ to file with the department or
650 office a complete set of his or her fingerprints, which shall be

457546

651 accompanied by the fingerprint processing fee set forth in s.
652 624.501. The fingerprints shall be taken by an authorized law
653 enforcement agency or other department-approved entity.
654 (6) The complaint and any information obtained pursuant to
655 the investigation by the department or office are confidential
656 and are exempt from ~~the provisions of~~ s. 119.07, unless the
657 department or office files a formal administrative complaint,
658 emergency order, or consent order against the individual or
659 entity ~~licensee~~. ~~Nothing in~~ This subsection does not ~~shall be~~
660 ~~construed to~~ prevent the department or office from disclosing
661 the complaint or such information as it deems necessary to
662 conduct the investigation, to update the complainant as to the
663 status and outcome of the complaint, or to share such
664 information with any law enforcement agency.
665 Section 14. Section 626.747, Florida Statutes, is repealed.
666 Section 15. Paragraph (b) of subsection (1) of section
667 626.8411, Florida Statutes, is amended to read:
668 626.8411 Application of Florida Insurance Code provisions
669 to title insurance agents or agencies.—
670 (1) The following provisions of part II applicable to
671 general lines agents or agencies also apply to title insurance
672 agents or agencies:
673 (b) Section 626.0428(4)(a) and (b) ~~626.747~~, relating to
674 branch agencies.
675 Section 16. Subsection (1) of section 626.9914, Florida
676 Statutes, is amended to read:
677 626.9914 Suspension, revocation, denial, or nonrenewal of
678 viatical settlement provider license; grounds; administrative
679 fine.—

457546

680 (1) The office shall suspend, revoke, deny, or refuse to
681 renew the license of any viatical settlement provider if the
682 office finds that the licensee:
683 (a) Has made a misrepresentation in the application for the
684 license;
685 (b) Has engaged in fraudulent or dishonest practices, or
686 otherwise has been shown to be untrustworthy or incompetent to
687 act as a viatical settlement provider;
688 (c) Demonstrates a pattern of unreasonable payments to
689 viators;
690 (d) Has been found guilty of, or has pleaded guilty or nolo
691 contendere to, any felony, or a misdemeanor involving fraud or
692 moral turpitude, regardless of whether a judgment of conviction
693 has been entered by the court;
694 (e) Has issued viatical settlement contracts that have not
695 been approved pursuant to this act;
696 (f) Has failed to honor contractual obligations related to
697 the business of viatical settlement contracts;
698 (g) Deals in bad faith with viators;
699 (h) Has violated any provision of the insurance code or of
700 this act;
701 (i) Employs any person who materially influences the
702 licensee's conduct and who fails to meet the requirements of
703 this act; or
704 (j) No longer meets the requirements for initial licensure~~;~~
705 ~~or~~
706 ~~(k) Obtains or utilizes life expectancies from life~~
707 ~~expectancy providers who are not registered with the office~~
708 ~~pursuant to this act~~.

457546

709 Section 17. Section 626.99175, Florida Statutes, is
710 repealed.
711 Section 18. Section 626.9919, Florida Statutes, is amended
712 to read:
713 626.9919 Notice of change of licensee ~~or registrant's~~
714 address or name.—Each viatical settlement provider licensee ~~and~~
715 ~~registered life expectancy provider~~ must provide the office at
716 least 30 days' advance notice of any change in the licensee's ~~or~~
717 ~~registrant's~~ name, residence address, principal business
718 address, or mailing address.
719 Section 19. Section 626.992, Florida Statutes, is amended
720 to read:
721 626.992 Use of licensed viatical settlement providers and~~,~~
722 viatical settlement brokers~~, and registered life expectancy~~
723 ~~providers required~~.—
724 (1) A licensed viatical settlement provider may not use any
725 person to perform the functions of a viatical settlement broker
726 as defined in this act unless such person holds a current, valid
727 life agent license and has appointed himself or herself in
728 conformance with this chapter.
729 (2) A viatical settlement broker may not use any person to
730 perform the functions of a viatical settlement provider as
731 defined in this act unless such person holds a current, valid
732 license as a viatical settlement provider.
733 ~~(3) After July 1, 2006, a person may not operate as a life~~
734 ~~expectancy provider unless such person is registered as a life~~
735 ~~expectancy provider pursuant to this act.~~
736 ~~(4) After July 1, 2006, a viatical settlement provider,~~
737 ~~viatical settlement broker, or any other person in the business~~

457546

738 ~~of viatical settlements may not obtain life expectancies from a~~
739 ~~person who is not registered as a life expectancy provider~~
740 ~~pursuant to this act.~~
741 Section 20. Section 626.9925, Florida Statutes, is amended
742 to read:
743 626.9925 Rules.—The commission may adopt rules to
744 administer this act, including rules establishing standards for
745 evaluating advertising by licensees; rules providing for the
746 collection of data, for disclosures to viators, and for the
747 reporting of life expectancies~~, and for the registration of life~~
748 ~~expectancy providers~~; and rules defining terms used in this act
749 and prescribing recordkeeping requirements relating to executed
750 viatical settlement contracts.
751 Section 21. Section 626.99278, Florida Statutes, is amended
752 to read:
753 626.99278 Viatical provider anti-fraud plan.—Every licensed
754 viatical settlement provider ~~and registered life expectancy~~
755 ~~provider~~ must adopt an anti-fraud plan and file it with the
756 Division of Insurance Fraud of the department. Each anti-fraud
757 plan shall include:
758 (1) A description of the procedures for detecting and
759 investigating possible fraudulent acts and procedures for
760 resolving material inconsistencies between medical records and
761 insurance applications.
762 (2) A description of the procedures for the mandatory
763 reporting of possible fraudulent insurance acts and prohibited
764 practices set forth in s. 626.99275 to the Division of Insurance
765 Fraud of the department.
766 (3) A description of the plan for anti-fraud education and

457546

767 training of its underwriters or other personnel.
768 (4) A written description or chart outlining the
769 organizational arrangement of the anti-fraud personnel who are
770 responsible for the investigation and reporting of possible
771 fraudulent insurance acts and for the investigation of
772 unresolved material inconsistencies between medical records and
773 insurance applications.
774 (5) For viatical settlement providers, a description of the
775 procedures used to perform initial and continuing review of the
776 accuracy of life expectancies used in connection with a viatical
777 settlement contract or viatical settlement investment.
778 Section 22. Paragraph (b) of subsection (2) of section
779 627.062, Florida Statutes, is amended to read:
780 627.062 Rate standards.—
781 (2) As to all such classes of insurance:
782 (b) Upon receiving a rate filing, the office shall review
783 the filing to determine if a rate is excessive, inadequate, or
784 unfairly discriminatory. In making that determination, the
785 office shall, in accordance with generally accepted and
786 reasonable actuarial techniques, consider the following factors:
787 1. Past and prospective loss experience within and without
788 this state.
789 2. Past and prospective expenses.
790 3. The degree of competition among insurers for the risk
791 insured.
792 4. Investment income reasonably expected by the insurer,
793 consistent with the insurer’s investment practices, from
794 investable premiums anticipated in the filing, plus any other
795 expected income from currently invested assets representing the

457546

796 amount expected on unearned premium reserves and loss reserves.
797 The commission may adopt rules using reasonable techniques of
798 actuarial science and economics to specify the manner in which
799 insurers calculate investment income attributable to classes of
800 insurance written in this state and the manner in which
801 investment income is used to calculate insurance rates. Such
802 manner must contemplate allowances for an underwriting profit
803 factor and full consideration of investment income which produce
804 a reasonable rate of return; however, investment income from
805 invested surplus may not be considered.
806 5. The reasonableness of the judgment reflected in the
807 filing.
808 6. Dividends, savings, or unabsorbed premium deposits
809 allowed or returned to Florida policyholders, members, or
810 subscribers.
811 7. The adequacy of loss reserves.
812 8. The cost of reinsurance. The office may not disapprove a
813 rate as excessive solely due to the insurer having obtained
814 catastrophic reinsurance to cover the insurer’s estimated 250-
815 year probable maximum loss or any lower level of loss.
816 9. Trend factors, including trends in actual losses per
817 insured unit for the insurer making the filing.
818 10. Conflagration and catastrophe hazards, if applicable.
819 11. Projected hurricane losses, if applicable, which must
820 be estimated using a model or method<u>, or a straight average of</u>
821 <u>model results or output ranges, independently</u> found to be
822 acceptable or reliable by the Florida Commission on Hurricane
823 Loss Projection Methodology, and as further provided in s.
824 627.0628.

457546

825 12. A reasonable margin for underwriting profit and
826 contingencies.
827 13. The cost of medical services, if applicable.
828 14. Other relevant factors that affect the frequency or
829 severity of claims or expenses.
830 Section 23. Paragraph (d) of subsection (3) of section
831 627.0628, Florida Statutes, is amended to read:
832 627.0628 Florida Commission on Hurricane Loss Projection
833 Methodology; public records exemption; public meetings
834 exemption.—
835 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—
836 (d) With respect to a rate filing under s. 627.062, an
837 insurer shall employ and may not modify or adjust actuarial
838 methods, principles, standards, models, or output ranges found
839 by the commission to be accurate or reliable in determining
840 hurricane loss factors for use in a rate filing under s.
841 627.062. An insurer shall employ and may not modify or adjust
842 models found by the commission to be accurate or reliable in
843 determining probable maximum loss levels pursuant to paragraph
844 (b) with respect to a rate filing under s. 627.062 made more
845 than 180 ~~60~~ days after the commission has made such findings.
846 This paragraph does not prohibit an insurer from using a
847 straight average of model results or output ranges or using
848 straight averages for the purposes of a rate filing under s.
849 627.062.
850 Section 24. Subsections (2) through (4) of section 627.072,
851 Florida Statutes, are renumbered as subsections (3) through (5),
852 respectively, and a new subsection (2) is added to that section,
853 to read:

457546

854 627.072 Making and use of rates.—
855 (2) A retrospective rating plan may contain a provision
856 that allows negotiation between the employer and the insurer to
857 determine the retrospective rating factors used to calculate the
858 premium for employers that have exposure in more than one state
859 and an estimated annual countrywide standard premium of $1
860 million or more for workers' compensation.
861 Section 25. Subsection (2) of section 627.281, Florida
862 Statutes, is amended to read:
863 627.281 Appeal from rating organization; workers'
864 compensation and employer's liability insurance filings.—
865 (2) If such appeal is based upon the failure of the rating
866 organization to make a filing on behalf of such member or
867 subscriber which is based on a system of expense provisions
868 which differs, in accordance with the right granted in s.
869 627.072(3) ~~627.072(2)~~, from the system of expense provisions
870 included in a filing made by the rating organization, the office
871 shall, if it grants the appeal, order the rating organization to
872 make the requested filing for use by the appellant. In deciding
873 such appeal, the office shall apply the applicable standards set
874 forth in ss. 627.062 and 627.072.
875 Section 26. Section 627.3519, Florida Statutes, is
876 repealed.
877 Section 27. Paragraph (b) of subsection (2) of section
878 627.4133, Florida Statutes, is amended to read:
879 627.4133 Notice of cancellation, nonrenewal, or renewal
880 premium.—
881 (2) With respect to any personal lines or commercial
882 residential property insurance policy, including, but not

457546

883 limited to, any homeowner's, mobile home owner's, farmowner's,
884 condominium association, condominium unit owner's, apartment
885 building, or other policy covering a residential structure or
886 its contents:
887 (b) The insurer shall give the first-named insured written
888 notice of nonrenewal, cancellation, or termination at least 120
889 ~~100~~ days before the effective date of the nonrenewal,
890 cancellation, or termination. ~~However, the insurer shall give at~~
891 ~~least 100 days' written notice, or written notice by June 1,~~
892 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
893 ~~termination that would be effective between June 1 and November~~
894 ~~30.~~ The notice must include the reason or reasons for the
895 nonrenewal, cancellation, or termination, except that:
896 ~~1. The insurer shall give the first-named insured written~~
897 ~~notice of nonrenewal, cancellation, or termination at least 120~~
898 ~~days prior to the effective date of the nonrenewal,~~
899 ~~cancellation, or termination for a first-named insured whose~~
900 ~~residential structure has been insured by that insurer or an~~
901 ~~affiliated insurer for at least a 5-year period immediately~~
902 ~~prior to the date of the written notice.~~
903 1.~~2.~~ If cancellation is for nonpayment of premium, at least
904 10 days' written notice of cancellation accompanied by the
905 reason therefor must be given. As used in this subparagraph, the
906 term "nonpayment of premium" means failure of the named insured
907 to discharge when due her or his obligations for ~~in connection~~
908 ~~with~~ the payment of premiums on a policy or any installment of
909 such premium, whether the premium is payable directly to the
910 insurer or its agent or indirectly under any premium finance
911 plan or extension of credit, or failure to maintain membership

457546

912 in an organization if such membership is a condition precedent
913 to insurance coverage. The term also means the failure of a
914 financial institution to honor an insurance applicant's check
915 after delivery to a licensed agent for payment of a premium,
916 even if the agent has previously delivered or transferred the
917 premium to the insurer. If a dishonored check represents the
918 initial premium payment, the contract and all contractual
919 obligations are void ab initio unless the nonpayment is cured
920 within the earlier of 5 days after actual notice by certified
921 mail is received by the applicant or 15 days after notice is
922 sent to the applicant by certified mail or registered mail.~~, and~~
923 If the contract is void, any premium received by the insurer
924 from a third party must be refunded to that party in full.
925 2.~~3.~~ If ~~such~~ cancellation or termination occurs during the
926 first 90 days the insurance is in force and the insurance is
927 canceled or terminated for reasons other than nonpayment of
928 premium, at least 20 days' written notice of cancellation or
929 termination accompanied by the reason therefor must be given
930 unless there has been a material misstatement or
931 misrepresentation or failure to comply with the underwriting
932 requirements established by the insurer.
933 3. After the policy has been in effect for 90 days, the
934 policy may not be canceled by the insurer unless there has been
935 a material misstatement, a nonpayment of premium, a failure to
936 comply with underwriting requirements established by the insurer
937 within 90 days after the date of effectuation of coverage, or a
938 substantial change in the risk covered by the policy or if the
939 cancellation is for all insureds under such policies for a given
940 class of insureds. This subparagraph does not apply to

457546

941 individually rated risks having a policy term of less than 90
942 days.
943 ~~4. The requirement for providing written notice by June 1~~
944 ~~of any nonrenewal that would be effective between June 1 and~~
945 ~~November 30 does not apply to the following situations, but the~~
946 ~~insurer remains subject to the requirement to provide such~~
947 ~~notice at least 100 days before the effective date of~~
948 ~~nonrenewal:~~
949 ~~a. A policy that is nonrenewed due to a revision in the~~
950 ~~coverage for sinkhole losses and catastrophic ground cover~~
951 ~~collapse pursuant to s. 627.706.~~
952 4.~~b.~~ A policy that is nonrenewed by Citizens Property
953 Insurance Corporation, pursuant to s. 627.351(6), for a policy
954 that has been assumed by an authorized insurer offering
955 replacement coverage to the policyholder is exempt from the
956 notice requirements of paragraph (a) and this paragraph. In such
957 cases, the corporation must give the named insured written
958 notice of nonrenewal at least 45 days before the effective date
959 of the nonrenewal.
960
961 ~~After the policy has been in effect for 90 days, the policy may~~
962 ~~not be canceled by the insurer unless there has been a material~~
963 ~~misstatement, a nonpayment of premium, a failure to comply with~~
964 ~~underwriting requirements established by the insurer within 90~~
965 ~~days after the date of effectuation of coverage, or a~~
966 ~~substantial change in the risk covered by the policy or if the~~
967 ~~cancellation is for all insureds under such policies for a given~~
968 ~~class of insureds. This paragraph does not apply to individually~~
969 ~~rated risks having a policy term of less than 90 days.~~

457546

970 5. Notwithstanding any other provision of law, an insurer
971 may cancel or nonrenew a property insurance policy after at
972 least 45 days' notice if the office finds that the early
973 cancellation of some or all of the insurer's policies is
974 necessary to protect the best interests of the public or
975 policyholders and the office approves the insurer's plan for
976 early cancellation or nonrenewal of some or all of its policies.
977 The office may base such finding upon the financial condition of
978 the insurer, lack of adequate reinsurance coverage for hurricane
979 risk, or other relevant factors. The office may condition its
980 finding on the consent of the insurer to be placed under
981 administrative supervision pursuant to s. 624.81 or to the
982 appointment of a receiver under chapter 631.
983 6. A policy covering both a home and motor vehicle may be
984 nonrenewed for any reason applicable to ~~either~~ the property or
985 motor vehicle insurance after providing 90 days' notice.
986 Section 28. Subsection (1) of section 627.4137, Florida
987 Statutes, is amended to read:
988 627.4137 Disclosure of certain information required.—
989 (1) Each insurer that provides ~~which does~~ or may provide
990 liability insurance coverage to pay all or a portion of any
991 claim that ~~which~~ might be made shall provide, within 30 days
992 after ~~of~~ the written request of the claimant, a statement, under
993 oath, of a corporate officer or the insurer's claims manager, ~~or~~
994 superintendent, or licensed company adjuster setting forth the
995 following information with regard to each known policy of
996 insurance, including excess or umbrella insurance:
997 (a) The name of the insurer.
998 (b) The name of each insured.

457546

999 (c) The limits of the liability coverage.
1000 (d) A statement of any policy or coverage defense that the
1001 ~~which such~~ insurer reasonably believes is available to the ~~such~~
1002 insurer at the time of filing such statement.
1003 (e) A copy of the policy.
1004
1005 In addition, the insured, or her or his insurance agent, upon
1006 written request of the claimant or the claimant's attorney,
1007 shall disclose the name and coverage of each known insurer to
1008 the claimant and shall forward such request for information as
1009 required by this subsection to all affected insurers. The
1010 insurer shall then supply the information required in this
1011 subsection to the claimant within 30 days after ~~of~~ receipt of
1012 such request.
1013 Section 29. Subsection (1) of section 627.421, Florida
1014 Statutes, is amended to read:
1015 627.421 Delivery of policy.—
1016 (1) Subject to the insurer's requirement as to payment of
1017 premium, every policy shall be mailed or delivered to the
1018 insured or to the person entitled thereto not later than 60 days
1019 after the effectuation of coverage. Notwithstanding any other
1020 provision of law, an insurer may allow a policyholder to
1021 affirmatively elect delivery of the policy documents, including,
1022 but not limited to, policies, endorsements, notices, or
1023 documents, by electronic means in lieu of delivery by mail.
1024 Section 30. Subsection (2) of section 627.43141, Florida
1025 Statutes, is amended to read:
1026 627.43141 Notice of change in policy terms.—
1027 (2) A renewal policy may contain a change in policy terms.

457546

1028 If a renewal policy contains ~~does contain~~ such change, the
1029 insurer must give the named insured written notice of the
1030 change, which may either ~~must~~ be enclosed along with the written
1031 notice of renewal premium required by ss. 627.4133 and 627.728
1032 or be sent in a separate notice that complies with the
1033 nonrenewal mailing time requirement for that particular line of
1034 business. The insurer must also provide a sample copy of the
1035 notice to the insured's insurance agent before or at the same
1036 time that notice is given to the insured. Such notice shall be
1037 entitled "Notice of Change in Policy Terms."
1038 Section 31. Subsection (7) of section 627.701, Florida
1039 Statutes, is amended to read:
1040 627.701 Liability of insureds; coinsurance; deductibles.—
1041 (7) Before ~~Prior to~~ issuing a personal lines residential
1042 property insurance policy on or after January 1, 2014 ~~April 1,~~
1043 ~~1997~~, or before ~~prior to~~ the first renewal of a residential
1044 property insurance policy on or after January 1, 2014 ~~April 1,~~
1045 ~~1997~~, the insurer must offer a deductible equal to $500, or
1046 equal to 1 percent of the policy dwelling limits if such amount
1047 is not less than $500, applicable to losses from perils other
1048 than hurricane. ~~The insurer must provide the policyholder with~~
1049 ~~notice of the availability of the deductible specified in this~~
1050 ~~subsection in a form approved by the office at least once every~~
1051 ~~3 years. The failure to provide such notice constitutes a~~
1052 ~~violation of this code but does not affect the coverage provided~~
1053 ~~under the policy.~~ An insurer may require a higher deductible
1054 only as part of a deductible program lawfully in effect on June
1055 1, 1996, or as part of a similar deductible program.
1056 Section 32. Paragraph (b) of subsection (4) of section

457546

1057 627.7015, Florida Statutes, is amended to read:
1058 627.7015 Alternative procedure for resolution of disputed
1059 property insurance claims.—
1060 (4) The department shall adopt by rule a property insurance
1061 mediation program to be administered by the department or its
1062 designee. The department may also adopt special rules which are
1063 applicable in cases of an emergency within the state. The rules
1064 shall be modeled after practices and procedures set forth in
1065 mediation rules of procedure adopted by the Supreme Court. The
1066 rules shall provide for:
1067 (b) Qualifications, denial of application, suspension,
1068 revocation, and other penalties for ~~of~~ mediators as provided in
1069 s. 627.745 and in the Florida Rules of Certified and Court
1070 Appointed Mediators~~, and for such other individuals as are~~
1071 ~~qualified by education, training, or experience as the~~
1072 ~~department determines to be appropriate~~.
1073 Section 33. Section 627.70151, Florida Statutes, is created
1074 to read:
1075 627.70151 Appraisal; conflicts of interest.—An insurer that
1076 offers residential coverage, as defined in s. 627.4025, or a
1077 policyholder that uses an appraisal clause in the property
1078 insurance contract to establish a process of estimating or
1079 evaluating the amount of the loss through the use of an
1080 impartial umpire may challenge the umpire's impartiality and
1081 disqualify the proposed umpire only if:
1082 (1) A familial relationship within the third degree exists
1083 between the umpire and any party or a representative of any
1084 party;
1085 (2) The umpire has previously represented any party or a

457546

1086 representative of any party in a professional capacity in the
1087 same or a substantially related matter;
1088 (3) The umpire has represented another person in a
1089 professional capacity on the same or a substantially related
1090 matter, which includes the claim, same property, or an adjacent
1091 property and that other person's interests are materially
1092 adverse to the interests of any party; or
1093 (4) The umpire has worked as an employer or employee of any
1094 party within the preceding 5 years.
1095 Section 34. Paragraph (c) of subsection (2) of section
1096 627.706, Florida Statutes, is amended to read:
1097 627.706 Sinkhole insurance; catastrophic ground cover
1098 collapse; definitions.—
1099 (2) As used in ss. 627.706-627.7074, and as used in
1100 connection with any policy providing coverage for a catastrophic
1101 ground cover collapse or for sinkhole losses, the term:
1102 (c) "Neutral evaluator" means a professional engineer or a
1103 professional geologist who has completed a course of study in
1104 alternative dispute resolution designed or approved by the
1105 department for use in the neutral evaluation process, ~~and~~ who is
1106 determined by the department to be fair and impartial, and who
1107 is not otherwise ineligible for certification as provided in s.
1108 627.7074.
1109 Section 35. Subsection (1) of section 627.7074, Florida
1110 Statutes, is amended to read:
1111 627.7074 Alternative procedure for resolution of disputed
1112 sinkhole insurance claims.—
1113 (1) The department shall:
1114 (a) Certify and maintain a list of persons who are neutral

457546

1115 evaluators.
1116 (b) Adopt rules for certifying, denying certification,
1117 suspending certification, and revoking certification as a
1118 neutral evaluator, in keeping with qualifications specified in
1119 this section and ss. 627.706 and 627.745(4).
1120 (c) ~~(b)~~ Prepare a consumer information pamphlet for
1121 distribution by insurers to policyholders which clearly
1122 describes the neutral evaluation process and includes
1123 information necessary for the policyholder to request a neutral
1124 evaluation.
1125 Section 36. Paragraph (a) of subsection (5) of section
1126 627.736, Florida Statutes, is amended to read:
1127 627.736 Required personal injury protection benefits;
1128 exclusions; priority; claims.—
1129 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—
1130 (a) A physician, hospital, clinic, or other person or
1131 institution lawfully rendering treatment to an injured person
1132 for a bodily injury covered by personal injury protection
1133 insurance may charge the insurer and injured party only a
1134 reasonable amount pursuant to this section for the services and
1135 supplies rendered, and the insurer providing such coverage may
1136 pay for such charges directly to such person or institution
1137 lawfully rendering such treatment if the insured receiving such
1138 treatment or his or her guardian has countersigned the properly
1139 completed invoice, bill, or claim form approved by the office
1140 upon which such charges are to be paid for as having actually
1141 been rendered, to the best knowledge of the insured or his or
1142 her guardian. However, such a charge may not exceed the amount
1143 the person or institution customarily charges for like services

457546

1144 or supplies. In determining whether a charge for a particular
1145 service, treatment, or otherwise is reasonable, consideration
1146 may be given to evidence of usual and customary charges and
1147 payments accepted by the provider involved in the dispute,
1148 reimbursement levels in the community and various federal and
1149 state medical fee schedules applicable to motor vehicle and
1150 other insurance coverages, and other information relevant to the
1151 reasonableness of the reimbursement for the service, treatment,
1152 or supply.
1153 1. The insurer may limit reimbursement to 80 percent of the
1154 following schedule of maximum charges:
1155 a. For emergency transport and treatment by providers
1156 licensed under chapter 401, 200 percent of Medicare.
1157 b. For emergency services and care provided by a hospital
1158 licensed under chapter 395, 75 percent of the hospital’s usual
1159 and customary charges.
1160 c. For emergency services and care as defined by s. 395.002
1161 provided in a facility licensed under chapter 395 rendered by a
1162 physician or dentist, and related hospital inpatient services
1163 rendered by a physician or dentist, the usual and customary
1164 charges in the community.
1165 d. For hospital inpatient services, other than emergency
1166 services and care, 200 percent of the Medicare Part A
1167 prospective payment applicable to the specific hospital
1168 providing the inpatient services.
1169 e. For hospital outpatient services, other than emergency
1170 services and care, 200 percent of the Medicare Part A Ambulatory
1171 Payment Classification for the specific hospital providing the
1172 outpatient services.

457546

1173 f. For all other medical services, supplies, and care, 200
1174 percent of the allowable amount under:
1175 (I) The participating physicians fee schedule of Medicare
1176 Part B, except as provided in sub-sub-subparagraphs (II) and
1177 (III).
1178 (II) Medicare Part B, in the case of services, supplies,
1179 and care provided by ambulatory surgical centers and clinical
1180 laboratories.
1181 (III) The Durable Medical Equipment Prosthetics/Orthotics
1182 and Supplies fee schedule of Medicare Part B, in the case of
1183 durable medical equipment.
1184
1185 However, if such services, supplies, or care is not reimbursable
1186 under Medicare Part B, as provided in this sub-subparagraph, the
1187 insurer may limit reimbursement to 80 percent of the maximum
1188 reimbursable allowance under workers' compensation, as
1189 determined under s. 440.13 and rules adopted thereunder which
1190 are in effect at the time such services, supplies, or care is
1191 provided. Services, supplies, or care that is not reimbursable
1192 under Medicare or workers' compensation is not required to be
1193 reimbursed by the insurer.
1194 2. For purposes of subparagraph 1., the applicable fee
1195 schedule or payment limitation under Medicare is the fee
1196 schedule or payment limitation in effect on March 1 of the year
1197 in which the services, supplies, or care is rendered and for the
1198 area in which such services, supplies, or care is rendered, and
1199 the applicable fee schedule or payment limitation applies from
1200 March 1 until the last day of the following February ~~throughout~~
1201 ~~the remainder of that year~~, notwithstanding any subsequent

457546

1202 change made to the fee schedule or payment limitation, except
1203 that it may not be less than the allowable amount under the
1204 applicable schedule of Medicare Part B for 2007 for medical
1205 services, supplies, and care subject to Medicare Part B.
1206 3. Subparagraph 1. does not allow the insurer to apply any
1207 limitation on the number of treatments or other utilization
1208 limits that apply under Medicare or workers' compensation. An
1209 insurer that applies the allowable payment limitations of
1210 subparagraph 1. must reimburse a provider who lawfully provided
1211 care or treatment under the scope of his or her license,
1212 regardless of whether such provider is entitled to reimbursement
1213 under Medicare due to restrictions or limitations on the types
1214 or discipline of health care providers who may be reimbursed for
1215 particular procedures or procedure codes. However, subparagraph
1216 1. does not prohibit an insurer from using the Medicare coding
1217 policies and payment methodologies of the federal Centers for
1218 Medicare and Medicaid Services, including applicable modifiers,
1219 to determine the appropriate amount of reimbursement for medical
1220 services, supplies, or care if the coding policy or payment
1221 methodology does not constitute a utilization limit.
1222 4. If an insurer limits payment as authorized by
1223 subparagraph 1., the person providing such services, supplies,
1224 or care may not bill or attempt to collect from the insured any
1225 amount in excess of such limits, except for amounts that are not
1226 covered by the insured's personal injury protection coverage due
1227 to the coinsurance amount or maximum policy limits.
1228 5. Effective July 1, 2012, an insurer may limit payment as
1229 authorized by this paragraph only if the insurance policy
1230 includes a notice at the time of issuance or renewal that the

457546

1231 insurer may limit payment pursuant to the schedule of charges
1232 specified in this paragraph. A policy form approved by the
1233 office satisfies this requirement. If a provider submits a
1234 charge for an amount less than the amount allowed under
1235 subparagraph 1., the insurer may pay the amount of the charge
1236 submitted.
1237 Section 37. Subsection (3) of section 627.745, Florida
1238 Statutes, is amended, present subsections (4) and (5) of that
1239 section are renumbered as subsections (5) and (6), respectively,
1240 and a new subsection (4) is added to that section, to read:
1241 627.745 Mediation of claims.—
1242 (3)(a) The department shall approve mediators to conduct
1243 mediations pursuant to this section. All mediators must file an
1244 application under oath for approval as a mediator.
1245 (b) To qualify for approval as a mediator, an individual ~~a~~
1246 ~~person~~ must meet one of the following qualifications:
1247 1. Possess an active certification as a Florida Circuit
1248 Court Mediator. A Florida Circuit Court Mediator in a lapsed,
1249 suspended, or decertified status is not eligible to participate
1250 in the mediation program ~~a masters or doctorate degree in~~
1251 ~~psychology, counseling, business, accounting, or economics, be a~~
1252 ~~member of The Florida Bar, be licensed as a certified public~~
1253 ~~accountant, or demonstrate that the applicant for approval has~~
1254 ~~been actively engaged as a qualified mediator for at least 4~~
1255 ~~years prior to July 1, 1990~~.
1256 2. Be an approved department mediator as of July 1, 2013,
1257 and have conducted at least one mediation on behalf of the
1258 department within 4 years immediately preceding that ~~the~~ date
1259 ~~the application for approval is filed with the department, have~~

457546

1260 ~~completed a minimum of a 40-hour training program approved by~~
1261 ~~the department and successfully passed a final examination~~
1262 ~~included in the training program and approved by the department.~~
1263 ~~The training program shall include and address all of the~~
1264 ~~following:~~
1265 ~~a. Mediation theory~~.
1266 ~~b. Mediation process and techniques.~~
1267 ~~c. Standards of conduct for mediators.~~
1268 ~~d. Conflict management and intervention skills.~~
1269 ~~e. Insurance nomenclature.~~
1270 (4) The department shall deny an application, or suspend or
1271 revoke its approval of a mediator or its certification of a
1272 neutral evaluator to serve in such capacity, if the department
1273 finds that any of the following grounds exist:
1274 (a) Lack of one or more of the qualifications specified in
1275 this section for approval or certification.
1276 (b) Material misstatement, misrepresentation, or fraud in
1277 obtaining or attempting to obtain the approval or certification.
1278 (c) Demonstrated lack of fitness or trustworthiness to act
1279 as a mediator or neutral evaluator.
1280 (d) Fraudulent or dishonest practices in the conduct of
1281 mediation or neutral evaluation or in the conduct of business in
1282 the financial services industry.
1283 (e) Violation of any provision of this code, a lawful order
1284 or rule of the department, the Florida Rules for Certified and
1285 Court-Appointed Mediators, or aiding, instructing, or
1286 encouraging another party in committing such a violation.
1287
1288 The department may adopt rules to administer this subsection.

457546

1289 Section 38. Paragraph (b) of subsection (1) of section
1290 627.952, Florida Statutes, is amended to read:
1291 627.952 Risk retention and purchasing group agents.—
1292 (1) Any person offering, soliciting, selling, purchasing,
1293 administering, or otherwise servicing insurance contracts,
1294 certificates, or agreements for any purchasing group or risk
1295 retention group to any resident of this state, either directly
1296 or indirectly, by the use of mail, advertising, or other means
1297 of communication, shall obtain a license and appointment to act
1298 as a resident general lines agent, if a resident of this state,
1299 or a nonresident general lines agent if not a resident. Any such
1300 person shall be subject to all requirements of the Florida
1301 Insurance Code.
1302 (b) Any person required to be licensed and appointed under
1303 this subsection, in order to place business through Florida
1304 eligible surplus lines carriers, must, if a resident of this
1305 state, be licensed and appointed as a surplus lines agent. If
1306 not a resident of this state, such person must be licensed and
1307 appointed as a nonresident surplus lines agent in this ~~her or~~
1308 ~~his~~ state ~~of residence and file and maintain a fidelity bond in~~
1309 ~~favor of the people of the State of Florida executed by a surety~~
1310 ~~company admitted in this state and payable to the State of~~
1311 ~~Florida; however, such nonresident is limited to the provision~~
1312 ~~of insurance for purchasing groups. The bond must be continuous~~
1313 ~~in form and in the amount of not less than $50,000, aggregate~~
1314 ~~liability. The bond must remain in force and effect until the~~
1315 ~~surety is released from liability by the department or until the~~
1316 ~~bond is canceled by the surety. The surety may cancel the bond~~
1317 ~~and be released from further liability upon 30 days' prior~~

457546

1318 ~~written notice to the department. The cancellation does not~~
1319 ~~affect any liability incurred or accrued before the termination~~
1320 ~~of the 30-day period. Upon receipt of a notice of cancellation,~~
1321 ~~the department shall immediately notify the agent~~.
1322 Section 39. Subsection (6) of section 627.971, Florida
1323 Statutes, is amended to read:
1324 627.971 Definitions.—As used in this part:
1325 (6) "Financial guaranty insurance corporation" means a
1326 stock or mutual insurer licensed to transact financial guaranty
1327 insurance business in this state.
1328 Section 40. Subsection (1) of section 627.972, Florida
1329 Statutes, is amended to read:
1330 627.972 Organization; financial requirements.—
1331 (1) A financial guaranty insurance corporation must be
1332 organized and licensed in the manner prescribed in this code for
1333 stock or mutual property and casualty insurers except that:
1334 (a) A corporation organized to transact financial guaranty
1335 insurance may, subject to the provisions of this code, be
1336 licensed to transact:
1337 1. Residual value insurance, as defined by s. 624.6081;
1338 2. Surety insurance, as defined by s. 624.606;
1339 3. Credit insurance, as defined by s. 624.605(1)(i); and
1340 4. Mortgage guaranty insurance as defined in s. 635.011,
1341 provided that the provisions of chapter 635 are met.
1342 (b)1. Before ~~Prior to~~ the issuance of a license, a
1343 corporation must submit to the office for approval~~,~~ a plan of
1344 operation detailing:
1345 a. The types and projected diversification of guaranties to
1346 be issued;

457546

1347 b. The underwriting procedures to be followed;
1348 c. The managerial oversight methods;
1349 d. The investment policies; and
1350 e. Any other matters prescribed by the office;
1351 2. An insurer which is writing only the types of insurance
1352 allowed under this part on July 1, 1988, and otherwise meets the
1353 requirements of this part, is exempt from the requirements of
1354 this paragraph.
1355 (c) An insurer transacting financial guaranty insurance is
1356 subject to all provisions of this code that are applicable to
1357 property and casualty insurers to the extent that those
1358 provisions are not inconsistent with this part.
1359 (d) The investments of an insurer transacting financial
1360 guaranty insurance in any entity insured by the corporation may
1361 not exceed 2 percent of its admitted assets as of the end of the
1362 prior calendar year.
1363 (e) An insurer transacting financial guaranty insurance may
1364 only assume those lines of insurance for which it is licensed to
1365 write direct business.
1366 Section 41. Subsection (13) of section 628.901, Florida
1367 Statutes, is amended to read:
1368 628.901 Definitions.—As used in this part, the term:
1369 (13) "Qualifying reinsurer parent company" means a
1370 reinsurer that ~~which~~ currently holds a certificate of authority
1371 or a~~,~~ letter of eligibility or is a trusteed reinsurer or an
1372 accredited ~~or a satisfactory non-approved~~ reinsurer in this
1373 state possessing a consolidated GAAP net worth of at least $500
1374 million and a consolidated debt to total capital ratio of not
1375 greater than 0.50.

457546

1376 Section 42. Paragraph (a) of subsection (2) and paragraph
1377 (a) of subsection (3) of section 628.909, Florida Statutes, are
1378 amended to read:
1379 628.909 Applicability of other laws.—
1380 (2) The following provisions of the Florida Insurance Code
1381 apply to captive insurers who are not industrial insured captive
1382 insurers to the extent that such provisions are not inconsistent
1383 with this part:
1384 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1385 624.40851, 624.4095, 624.411, 624.425, and 624.426.
1386 (3) The following provisions of the Florida Insurance Code
1387 apply to industrial insured captive insurers to the extent that
1388 such provisions are not inconsistent with this part:
1389 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1390 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).
1391 Section 43. Subsection (8) of section 634.406, Florida
1392 Statutes, is renumbered as subsection (7), and present
1393 subsections (6) and (7) of that section are amended, to read:
1394 634.406 Financial requirements.—
1395 (6) An association that ~~which~~ holds a license under this
1396 part ~~and which does not hold any other license under this~~
1397 ~~chapter~~ may allow its premiums for service warranties written
1398 under this part to exceed the ratio to net assets limitations of
1399 this section if the association meets all of the following:
1400 (a) Maintains net assets of at least $750,000.
1401 (b) Utilizes a contractual liability insurance policy
1402 approved by the office which:
1403 1. Reimburses the service warranty association for 100
1404 percent of its claims liability and is issued by an insurer that

457546

1405 maintains a policyholder surplus of at least $100 million; or
1406 2. Complies with the requirements of subsection (3) and is
1407 issued by an insurer that maintains a policyholder surplus of at
1408 least $200 million.
1409 (c) The insurer issuing the contractual liability insurance
1410 policy:
1411 ~~1. Maintains a policyholder surplus of at least $100~~
1412 ~~million.~~
1413 1.~~2.~~ Is rated "A" or higher by A.M. Best Company or an
1414 equivalent rating by another national rating service acceptable
1415 to the office.
1416 ~~3. Is in no way affiliated with the warranty association.~~
1417 2.~~4.~~ In conjunction with the warranty association's filing
1418 of the quarterly and annual reports, provides, on a form
1419 prescribed by the commission, a statement certifying the gross
1420 written premiums in force reported by the warranty association
1421 and a statement that all of the warranty association's gross
1422 written premium in force is covered under the contractual
1423 liability policy, whether or not it has been reported.
1424 ~~(7) A contractual liability policy must insure 100 percent~~
1425 ~~of an association's claims exposure under all of the~~
1426 ~~association's service warranty contracts, wherever written,~~
1427 ~~unless all of the following are satisfied:~~
1428 ~~(a) The contractual liability policy contains a clause that~~
1429 ~~specifically names the service warranty contract holders as sole~~
1430 ~~beneficiaries of the contractual liability policy and claims are~~
1431 ~~paid directly to the person making a claim under the contract;~~
1432 ~~(b) The contractual liability policy meets all other~~
1433 ~~requirements of this part, including subsection (3) of this~~

457546

1434 ~~section, which are not inconsistent with this subsection;~~
1435 ~~(c) The association has been in existence for at least 5~~
1436 ~~years or the association is a wholly owned subsidiary of a~~
1437 ~~corporation that has been in existence and has been licensed as~~
1438 ~~a service warranty association in the state for at least 5~~
1439 ~~years, and:~~
1440 ~~1. Is listed and traded on a recognized stock exchange; is~~
1441 ~~listed in NASDAQ (National Association of Security Dealers~~
1442 ~~Automated Quotation system) and publicly traded in the over-the-~~
1443 ~~counter securities market; is required to file either of Form~~
1444 ~~10-K, Form 100, or Form 20-C with the United States Securities~~
1445 ~~and Exchange Commission; or has American Depository Receipts~~
1446 ~~listed on a recognized stock exchange and publicly traded or is~~
1447 ~~the wholly owned subsidiary of a corporation that is listed and~~
1448 ~~traded on a recognized stock exchange; is listed in NASDAQ~~
1449 ~~(National Association of Security Dealers Automated Quotation~~
1450 ~~system) and publicly traded in the over-the-counter securities~~
1451 ~~market; is required to file Form 10-K, Form 100, or Form 20-C~~
1452 ~~with the United States Securities and Exchange Commission; or~~
1453 ~~has American Depository Receipts listed on a recognized stock~~
1454 ~~exchange and is publicly traded;~~
1455 ~~2. Maintains outstanding debt obligations, if any, rated in~~
1456 ~~the top four rating categories by a recognized rating service;~~
1457 ~~3. Has and maintains at all times a minimum net worth of~~
1458 ~~not less than $10 million as evidenced by audited financial~~
1459 ~~statements prepared by an independent certified public~~
1460 ~~accountant in accordance with generally accepted accounting~~
1461 ~~principles and submitted to the office annually; and~~
1462 ~~4. Is authorized to do business in this state; and~~

457546

1463 ~~(d) The insurer issuing the contractual liability policy:~~
1464 ~~1. Maintains and has maintained for the preceding 5 years,~~
1465 ~~policyholder surplus of at least $100 million and is rated "A"~~
1466 ~~or higher by A.M. Best Company or has an equivalent rating by~~
1467 ~~another rating company acceptable to the office;~~
1468 ~~2. Holds a certificate of authority to do business in this~~
1469 ~~state and is approved to write this type of coverage; and~~
1470 ~~3. Acknowledges to the office quarterly that it insures all~~
1471 ~~of the association's claims exposure under contracts delivered~~
1472 ~~in this state.~~
1473
1474 ~~If all the preceding conditions are satisfied, then the scope of~~
1475 ~~coverage under a contractual liability policy shall not be~~
1476 ~~required to exceed an association's claims exposure under~~
1477 ~~service warranty contracts delivered in this state.~~
1478 Section 44. This act shall take effect upon becoming a law.
1479
1480 ========== T I T L E A M E N D M E N T ==========
1481 And the title is amended as follows:
1482 Delete everything before the enacting clause
1483 and insert:
1484 A bill to be entitled
1485 An act relating to insurance; amending s. 215.555,
1486 F.S.; deleting the future repeal of an exemption of
1487 medical malpractice insurance premiums from emergency
1488 assessments imposed to fund certain obligations,
1489 costs, and expenses of the Florida Hurricane
1490 Catastrophe Fund and the Florida Hurricane Catastrophe
1491 Fund Finance Corporation; amending s. 316.646, F.S.;

457546

1492 authorizing a uniform motor vehicle proof-of-insurance
1493 card to be in an electronic format; providing
1494 construction with respect to the parameters of a
1495 person’s consent to access information on an
1496 electronic device presented to provide proof of
1497 insurance; providing immunity from liability to a law
1498 enforcement officer for damage to an electronic device
1499 presented to provide proof of insurance; authorizing
1500 the Department of Highway Safety and Motor Vehicles to
1501 adopt rules; amending s. 320.02, F.S.; authorizing
1502 insurers to furnish uniform proof-of-purchase cards in
1503 an electronic format for use by insureds to prove the
1504 purchase of required insurance coverage when
1505 registering a motor vehicle; amending s. 554.1021,
1506 F.S.; defining the term “authorized inspection
1507 agency”; amending s. 554.107, F.S.; requiring the
1508 chief inspector of the state boiler inspection program
1509 to issue a certificate of competency as a special
1510 inspector to certain individuals; specifying how long
1511 such certificate remains in effect; amending s.
1512 554.109, F.S.; authorizing specified insurers to
1513 contract with an authorized inspection agency for
1514 boiler inspections; requiring such insurers to
1515 annually report the identity of contracted authorized
1516 inspection agencies to the Department of Financial
1517 Services; amending s. 624.413, F.S.; revising a
1518 specified time period applicable to a certified
1519 examination that must be filed by a foreign or alien
1520 insurer applying for a certificate of authority;

457546

1521 amending s. 626.0428, F.S.; requiring each insurance
1522 agency to be under the control of an agent licensed to
1523 transact certain lines of insurance; authorizing an
1524 agent to be in charge of more than one branch office
1525 under certain circumstances; providing requirements
1526 relating to the designation of an agent in charge;
1527 prohibiting an insurance agency from conducting
1528 insurance business at a location without a designated
1529 agent in charge; providing a definition for the term
1530 “agent in charge”; providing that the designated agent
1531 in charge is liable for certain acts of misconduct;
1532 providing grounds for the Department of Financial
1533 Services to order operations to cease at certain
1534 insurance agency locations until an agent in charge is
1535 properly designated; amending s. 626.112, F.S.;
1536 providing licensure exemptions that allow specified
1537 individuals or entities to conduct insurance business
1538 at specified locations under certain circumstances;
1539 revising licensure requirements and penalties with
1540 respect to registered insurance agencies; providing
1541 that the registration of an approved registered
1542 insurance agency automatically converts to an
1543 insurance agency license on a specified date; amending
1544 s. 626.172, F.S.; revising requirements relating to
1545 applications for insurance agency licenses; conforming
1546 provisions to changes made by the act; amending s.
1547 626.321, F.S.; providing that a limited license to
1548 offer motor vehicle rental insurance issued to a
1549 business that rents or leases motor vehicles

457546

1550 encompasses the employees of such business; amending
1551 s. 626.382, F.S.; providing that an insurance agency
1552 license continues in force until canceled, suspended,
1553 revoked, or terminated; amending s. 626.601, F.S.;
1554 revising terminology relating to investigations
1555 conducted by the Department of Financial Services and
1556 the Office of Insurance Regulation with respect to
1557 individuals and entities involved in the insurance
1558 industry; repealing s. 626.747, F.S., relating to
1559 branch agencies, agents in charge, and the payment of
1560 additional county tax under certain circumstances;
1561 amending s. 626.8411, F.S.; conforming a cross-
1562 reference; amending s. 626.9914, F.S.; conforming a
1563 provision to changes made by the act; repealing s.
1564 626.99175, F.S., relating to the registration of life
1565 expectancy providers; amending ss. 626.9919, 626.992,
1566 626.9925, and 626.99278, F.S.; conforming provisions
1567 to changes made by the act; amending s. 627.062, F.S.;
1568 requiring the Office of Insurance Regulation to use
1569 certain models or straight averages of certain models
1570 to estimate hurricane losses when determining whether
1571 the rates in a rate filing are excessive, inadequate,
1572 or unfairly discriminatory; amending s. 627.0628,
1573 F.S.; increasing the length of time during which an
1574 insurer must adhere to certain findings made by the
1575 Commission on Hurricane Loss Projection Methodology
1576 with respect to certain methods, principles,
1577 standards, models, or output ranges used in a rate
1578 finding; providing that the requirement to adhere to

457546

1579 such findings does not limit an insurer from using a
1580 straight average of results of certain models or
1581 output ranges under specified circumstances; amending
1582 s. 627.072, F.S.; authorizing retrospective rating
1583 plans relating to workers' compensation and employer's
1584 liability insurance to allow negotiations between
1585 certain employers and insurers with respect to rating
1586 factors used to calculate premiums; amending s.
1587 627.281, F.S.; conforming a cross-reference; repealing
1588 s. 627.3519, F.S., relating to an annual report from
1589 the Financial Services Commission to the Legislature
1590 of aggregate net probable maximum losses, financing
1591 options, and potential assessments of the Florida
1592 Hurricane Catastrophe Fund and Citizens Property
1593 Insurance Corporation; amending s. 627.4133, F.S.;
1594 increasing the amount of prior notice required with
1595 respect to the nonrenewal, cancellation, or
1596 termination of certain insurance policies; deleting
1597 certain provisions that require extended periods of
1598 prior notice with respect to the nonrenewal,
1599 cancellation, or termination of certain insurance
1600 policies; prohibiting the cancellation of certain
1601 policies that have been in effect for a specified
1602 amount of time except under certain circumstances;
1603 amending s. 627.4137, F.S.; adding licensed company
1604 adjusters to the list of persons who may respond to a
1605 claimant's written request for information relating to
1606 liability insurance coverage; amending s. 627.421,
1607 F.S.; authorizing the electronic delivery of certain

457546

1608 insurance documents; amending s. 627.43141, F.S.;
1609 authorizing a notice of change in policy terms to be
1610 sent in a separate mailing to an insured under certain
1611 circumstances; requiring an insurer to provide such
1612 notice to insured's insurance agent; amending s.
1613 627.701, F.S.; revising requirements to issue or renew
1614 personal lines residential property insurance after a
1615 certain date; amending s. 627.7015, F.S.; revising the
1616 rulemaking authority of the department with respect to
1617 qualifications and specified types of penalties
1618 covered under the property insurance mediation
1619 program; creating s. 627.70151, F.S.; providing
1620 criteria for an insurer or policyholder to challenge
1621 the impartiality of a loss appraisal umpire for
1622 purposes of disqualifying such umpire; amending s.
1623 627.706, F.S.; revising the definition of the term
1624 "neutral evaluator"; amending s. 627.7074, F.S.;
1625 requiring the department to adopt rules relating to
1626 the certification of neutral evaluators; amending s.
1627 627.736, F.S.; revising the time period for
1628 applicability of certain Medicare fee schedules or
1629 payment limitations; amending s. 627.745, F.S.;
1630 revising qualifications for approval as a mediator by
1631 the department; providing grounds for the department
1632 to deny an application, or suspend or revoke approval
1633 of a mediator or certification of a neutral evaluator;
1634 authorizing the department to adopt rules; amending s.
1635 627.952, F.S.; providing that certain persons who are
1636 not residents of this state must be licensed and

457546

1637 appointed as nonresident surplus lines agents in this
1638 state in order to engage in specified activities with
1639 respect to servicing insurance contracts,
1640 certificates, or agreements for purchasing or risk
1641 retention groups; deleting a fidelity bond requirement
1642 applicable to certain nonresident agents who are
1643 licensed as surplus lines agents in another state;
1644 amending ss. 627.971 and 627.972, F.S.; including
1645 licensed mutual insurers in financial guaranty
1646 insurance corporations; amending s. 628.901, F.S.;
1647 revising the definition of the term "qualifying
1648 reinsurer parent company"; amending s. 628.909, F.S.;
1649 providing for applicability of certain provisions of
1650 the Insurance Code to specified captive insurers;
1651 amending s. 634.406, F.S.; revising criteria
1652 authorizing premiums of certain service warranty
1653 associations to exceed their specified net assets
1654 limitations; revising requirements relating to
1655 contractual liability policies that insure warranty
1656 associations; providing an effective date.

517280

LEGISLATIVE ACTION

Senate . House
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The Committee on Banking and Insurance (Diaz de la Portilla) recommended the following:

1 **Senate Amendment to Amendment (457546) (with title**
2 **amendment)**
3
4 Delete lines 5 - 131.
5
6 ========== T I T L E A M E N D M E N T ==========
7 And the title is amended as follows:
8 Delete lines 1485 - 1491
9 and insert:
10 An act relating to insurance; amending s. 316.646,
11 F.S.;

267252

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
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	.	
	.	

The Committee on Banking and Insurance (Montford) recommended the following:

1 **Senate Amendment to Amendment (457546) (with title**
2 **amendment)**
3
4 Before line 214
5 insert:
6 Section 4. Section 409.9022, Florida Statutes, is created
7 to read:
8 409.9022 Medicaid eligibility; burial expense exemption.—
9 (1) Notwithstanding any other provision of law, the
10 department, in determining an applicant's eligibility for
11 Medicaid, shall exempt the value of a life insurance policy,
12 annuity, or group certificate if:

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13 (a) The life insurance policy, annuity, or group
14 certificate:
15 1. Is issued pursuant to part IV of chapter 497 to fund an
16 irrevocable preneed contract;
17 2. Is irrevocably designated to pay the owner's final
18 burial expenses and has a face amount that does not exceed the
19 limits established under s. 626.785(3); or
20 3. Includes terms that preclude the use of its proceeds for
21 anything other than the payment of the owner's final burial
22 expense and has a face amount that does not exceed the limits
23 established under s. 626.785(3); and
24 (b) The owner of such policy, annuity, or group
25 certificate:
26 1. Has named the state as the irrevocable beneficiary such
27 that any proceeds of the life insurance policy, annuity, or
28 group certificate which exceed the owner's final burial expenses
29 shall be remitted to the state up to the amount of Medicaid
30 benefits provided; and
31 2. Is provided with an opportunity to name a contingent
32 beneficiary if the proceeds from the policy exceed the cost of
33 the owner's final burial expenses and the amount of Medicaid
34 benefits provided to the owner.
35 (2) The department may adopt rules to administer this
36 section.
37
38 ========== T I T L E A M E N D M E N T ==========
39 And the title is amended as follows:
40 Delete line 1505
41 and insert:

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42 registering a motor vehicle; creating s. 409.9022,
43 F.S.; exempting the value of a Medicaid applicant’s
44 life insurance policy, annuity, or group certificate
45 from the determination of the applicant’s Medicaid
46 eligibility under certain circumstances; authorizing
47 the Department of Children and Families to adopt
48 rules; amending s. 554.1021,

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

Senate Amendment to Amendment (457546) (with title amendment)

Between lines 674 and 675
insert:
Section 16. Section 626.931, Florida Statutes, is amended to read:
626.931 ~~Agent affidavit and~~ Insurer reporting requirements.—
~~(1) Each surplus lines agent shall on or before the 45th day following each calendar quarter file with the Florida Surplus Lines Service Office an affidavit, on forms as~~

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13 ~~prescribed and furnished by the Florida Surplus Lines Service~~
14 ~~Office, stating that all surplus lines insurance transacted by~~
15 ~~him or her during such calendar quarter has been submitted to~~
16 ~~the Florida Surplus Lines Service Office as required.~~
17 ~~(2) The affidavit of the surplus lines agent shall include~~
18 ~~efforts made to place coverages with authorized insurers and the~~
19 ~~results thereof.~~
20 (1) ~~(3)~~ Each foreign insurer accepting premiums shall, on or
21 before the end of the month following each calendar quarter,
22 file with the Florida Surplus Lines Service Office a verified
23 report of all surplus lines insurance transacted by such insurer
24 for insurance risks located in this state during such calendar
25 quarter.
26 (2) ~~(4)~~ Each alien insurer accepting premiums shall, on or
27 before June 30 of each year, file with the Florida Surplus Lines
28 Service Office a verified report of all surplus lines insurance
29 transacted by such insurer for insurance risks located in this
30 state during the preceding calendar year.
31 (3) ~~(5)~~ The department may waive the filing requirements
32 described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.
33 (4) ~~(6)~~ Each insurer's report and supporting information
34 shall be in a computer-readable format as determined by the
35 Florida Surplus Lines Service Office or shall be submitted on
36 forms prescribed by the Florida Surplus Lines Service Office and
37 shall show for each applicable agent:
38 (a) A listing of all policies, certificates, cover notes,
39 or other forms of confirmation of insurance coverage or any
40 substitutions thereof or endorsements thereto and the
41 identifying number; and

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42 (b) Any additional information required by the department
43 or Florida Surplus Lines Service Office.
44 Section 17. Paragraph (a) of subsection (2) of section
45 626.932, Florida Statutes, is amended to read:
46 626.932 Surplus lines tax.—
47 (2)(a) The surplus lines agent shall make payable to the
48 department the tax related to each calendar quarter's business
49 as reported to the Florida Surplus Lines Service Office, and
50 remit the tax to the Florida Surplus Lines Service Office on or
51 before the 45th day following each calendar quarter ~~at the same~~
52 ~~time as provided for the filing of the quarterly affidavit,~~
53 ~~under s. 626.931~~. The Florida Surplus Lines Service Office shall
54 forward to the department the taxes and any interest collected
55 pursuant to paragraph (b), within 10 days after ~~of~~ receipt.
56 Section 18. Subsection (1) of section 626.935, Florida
57 Statutes, is amended to read:
58 626.935 Suspension, revocation, or refusal of surplus lines
59 agent's license.—
60 (1) The department shall deny an application for, suspend,
61 revoke, or refuse to renew the appointment of a surplus lines
62 agent and all other licenses and appointments held by the
63 licensee under this code, on any of the following grounds:
64 (a) Removal of the licensee's office from the licensee's
65 state of residence.
66 (b) Removal of the accounts and records of his or her
67 surplus lines business from this state or the licensee's state
68 of residence during the period when such accounts and records
69 are required to be maintained under s. 626.930.
70 (c) Closure of the licensee's office for more than 30

863774

71 consecutive days.
72 ~~(d) Failure to make and file his or her affidavit or~~
73 ~~reports when due as required by s. 626.931.~~
74 (d) ~~(e)~~ Failure to pay the tax or service fee on surplus
75 lines premiums, as provided in the Surplus Lines Law.
76 (e) ~~(f)~~ Suspension, revocation, or refusal to renew or
77 continue the license or appointment as a general lines agent,
78 service representative, or managing general agent.
79 (f) ~~(g)~~ Lack of qualifications as for an original surplus
80 lines agent's license.
81 (g) ~~(h)~~ Violation of this Surplus Lines Law.
82 (h) ~~(i)~~ For any other applicable cause for which the license
83 of a general lines agent could be suspended, revoked, or refused
84 under s. 626.611 or s. 626.621.
85 Section 19. Subsection (1) of section 626.936, Florida
86 Statutes, is amended to read:
87 626.936 Failure to file reports or pay tax or service fee;
88 administrative penalty.—
89 (1) Any licensed surplus lines agent who neglects to file a
90 report ~~or an affidavit~~ in the form and within the time required
91 or provided for in the Surplus Lines Law may be fined up to $50
92 per day for each day the neglect continues, beginning the day
93 after the report ~~or affidavit~~ was due until the date the report
94 ~~or affidavit~~ is received. All sums collected under this section
95 shall be deposited into the Insurance Regulatory Trust Fund.
96
97 ========== T I T L E A M E N D M E N T ==========
98 And the title is amended as follows:
99 Delete line 1562

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100 and insert:
101 reference; amending s. 626.931, F.S.; deleting
102 provisions requiring a surplus lines agent to file a
103 quarterly affidavit with the Florida Surplus Lines
104 Service Office; amending s. 626.932, F.S.; revising
105 due date of surplus lines tax; amending s. 626.935,
106 F.S.; conforming provision to changes made by the act;
107 amending s. 626.936, F.S.; conforming provisions to
108 changes made by the act; amending s. 626.9914, F.S.;
109 conforming a

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LEGISLATIVE ACTION

Senate . House

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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment to Amendment (457546) (with title**
2 **amendment)**
3
4 Delete lines 709 - 710
5 and insert:
6 Section 17. Subsections (1), (2), (3), (4), (5), (7), (8),
7 (9), (10), (11), (12), and (13) of section 626.99175, Florida
8 Statutes, are repealed.
9
10 ========== T I T L E A M E N D M E N T ==========
11 And the title is amended as follows:
12 Delete line 1564

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13 and insert:
14 626.99175(1), (2), (3), (4), (5), (7), (8), (9), (10),
15 (11), (12) and (13), F.S., relating to the
16 registration of life

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment to Amendment (457546)**
2
3 Delete line 1020
4 and insert:
5 provision of law, an insurer may allow a policyholder of
6 personal lines insurance to

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LEGISLATIVE ACTION

Senate . House

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The Committee on Banking and Insurance (Negron) recommended the following:

1 **Senate Amendment to Amendment (457546) (with title**
2 **amendment)**
3
4 Delete lines 1038 - 1055.
5
6 ========== T I T L E A M E N D M E N T ==========
7 And the title is amended as follows:
8 Delete lines 1613 - 1615
9 and insert:
10 627.7015, F.S.; revising the

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Montford) recommended the following:

1 **Senate Amendment to Amendment (457546) (with title**
2 **amendment)**
3
4 Delete lines 1045 - 1048
5 and insert:
6 ~~1997~~, the insurer must, at a minimum, offer a deductible equal
7 to $750, and a deductible equal to 1 percent of the policy
8 dwelling limits if such amount is not less than $750, ~~$500~~
9 applicable to losses from perils other than hurricane. Beginning
10 July 1, 2018, and every 5 years thereafter, the office shall
11 calculate and publish an adjustment to the $750 deductible based
12 on the average percentage change in the Consumer Price Index for

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13 All Urban Consumers, U.S. City Average, all items, compiled by
14 the United States Department of Labor for the immediately
15 preceding 5 calendar years. The adjustment to the $750
16 deductible shall be rounded to the nearest $50 increment and
17 take effect on the January 1 following the publication of the
18 adjustment by the office. The first initial adjusted deductible
19 shall take effect upon the renewal or issuance of policies on or
20 after January 1, 2019. ~~The insurer must provide the policyholder~~
21 ~~with~~
22
23 ========== T I T L E A M E N D M E N T ==========
24 And the title is amended as follows:
25 Delete line 1615
26 and insert:
27 certain date; increasing the deductible amount for
28 losses from perils other than hurricane; amending s.
29 627.7015, F.S.; revising the

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

Senate Amendment to Amendment (457546) (with title amendment)

Before line 1289
insert:
Section 38. Subsection (4) of section 627.841, Florida Statutes, is amended to read:
627.841 Delinquency, collection, cancellation, and payment ~~check~~ return charge ~~charges~~; attorney ~~attorney's~~ fees.—
(4) In the event that a payment is made to a premium finance company by debit, credit, electronic funds transfer, check, or draft and such payment ~~the instrument~~ is returned,

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13 declined, or cannot be processed due to ~~because of~~ insufficient
14 funds ~~to pay it~~, the premium finance company may, if the premium
15 finance agreement so provides, impose a return payment charge of
16 $15.
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Between lines 1634 and 1635
21 insert:
22 627.841, F.S.; providing that an insurance premium
23 finance company may impose a fee for payments returned
24 due to insufficient funds; amending s.

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment to Amendment (457546) (with title**
2 **amendment)**
3
4 Delete lines 1366 - 1390
5 and insert:
6 Section 41. Subsections (8), (9), and (13) of section
7 628.901, Florida Statutes, are amended to read:
8 628.901 Definitions.—As used in this part, the term:
9 (8) “Industrial insured” means an insured that:
10 (a) Has gross assets in excess of $50 million;
11 (b) Procures insurance through the use of a full-time
12 employee of the insured who acts as an insurance manager or

149498

13 buyer or through the services of a person licensed as a property
14 and casualty insurance agent, broker, or consultant in such
15 person's state of domicile;
16 (c) Has at least 100 full-time employees; and
17 (d) Pays annual premiums of at least $200,000 for each line
18 of insurance purchased from the industrial insured captive
19 insurance company ~~insurer~~ or at least $75,000 for any line of
20 coverage in excess of at least $25 million in the annual
21 aggregate. The purchase of umbrella or general liability
22 coverage in excess of $25 million in the annual aggregate shall
23 be deemed to be the purchase of a single line of insurance.
24 (9) "Industrial insured captive insurance company" means a
25 ~~captive insurance~~ company that provides insurance only to the
26 industrial insureds that are its stockholders or members, and
27 affiliates thereof, or to the stockholders, and affiliates
28 thereof, of its parent corporation. An industrial insured
29 captive insurance company can also provide reinsurance to
30 insurers only on risks written by such insurers for the
31 industrial insureds that are the stockholders or members, and
32 affiliates thereof, of the industrial insured captive insurance
33 company ~~insurer~~, or the stockholders, and affiliates thereof, of
34 the parent corporation of the industrial insured captive
35 insurance company ~~insurer~~.
36 (13) "Qualifying reinsurer parent company" means a
37 reinsurer that ~~which~~ currently holds a certificate of authority~~,~~
38 ~~letter of eligibility~~ or is an accredited or trusteed under s.
39 624.610(3)(c) ~~a satisfactory non-approved~~ reinsurer in this
40 state possessing a consolidated GAAP net worth of at least $500
41 million and a consolidated debt to total capital ratio of not

149498

42 greater than 0.50.
43 Section 42. Subsections (1), (2), (4), and (5) of section
44 628.905, Florida Statutes, are amended to read:
45 628.905 Licensing; authority.—
46 (1) A captive insurance company ~~insurer~~, if permitted by
47 its charter or articles of incorporation, may apply to the
48 office for a license to do any and all insurance authorized
49 under the insurance code, other than workers' compensation and
50 employer's liability, life, health, personal motor vehicle, and
51 personal residential property insurance, except that:
52 (a) A pure captive insurance company may not insure any
53 risks other than those of its parent, affiliated companies,
54 controlled unaffiliated businesses, or a combination thereof.
55 (b) An industrial insured captive insurance company may not
56 insure any risks other than those of the industrial insureds
57 that comprise the industrial insured group and their affiliated
58 companies, or its stockholders or members, and affiliates
59 thereof, of the industrial insured captive, or the stockholders
60 or affiliates of the parent corporation of the industrial
61 insured captive insurance company.
62 (c) A special purpose captive insurance company may insure
63 only the risks of its parent.
64 (d) A captive insurance company may not accept or cede
65 reinsurance except as provided in this part.
66 (e) An industrial insured captive insurance company with
67 unencumbered capital and surplus of at least $20 million may be
68 licensed to provide workers' compensation and employer's
69 liability insurance in excess of $25 million in the annual
70 aggregate. An industrial insured captive insurance company must

149498

71 maintain unencumbered capital and surplus of at least $20
72 million to continue to write excess workers' compensation
73 insurance.
74 (2) To conduct insurance business in this state, a captive
75 insurance company ~~insurer~~ must:
76 (a) Obtain from the office a license authorizing it to
77 conduct insurance business in this state;
78 (b) Hold at least one board of directors' meeting each year
79 in this state;
80 (c) Maintain its principal place of business in this state;
81 and
82 (d) Appoint a resident registered agent to accept service
83 of process and to otherwise act on its behalf in this state. In
84 the case of a captive insurance company formed as a corporation
85 or a nonprofit corporation, if the registered agent cannot with
86 reasonable diligence be found at the registered office of the
87 captive insurance company, the Chief Financial Officer of this
88 state must be an agent of the captive insurance company upon
89 whom any process, notice, or demand may be served.
90 (4) A captive insurance company or captive reinsurance
91 company must pay to the office a nonrefundable fee of $1,500 for
92 processing its application for license.
93 (a) A captive insurance company or captive reinsurance
94 company must also pay an annual renewal fee of $1,000.
95 (b) The office may charge a fee of $5 for any document
96 requiring certification of authenticity or the signature of the
97 office ~~commissioner or his or her designee~~.
98 (5) If the office ~~commissioner~~ is satisfied that the
99 documents and statements filed by the captive insurance company

149498

100 comply with this chapter, the office ~~commissioner~~ may grant a
101 license authorizing the company to conduct insurance business in
102 this state until the next succeeding March 1, at which time the
103 license may be renewed.
104 Section 43. Subsection (1) of section 628.907, Florida
105 Statutes, is amended to read:
106 628.907 Minimum capital and net assets requirements;
107 restriction on payment of dividends.—
108 (1) A captive insurance company ~~insurer~~ may not be issued a
109 license unless it possesses and thereafter maintains unimpaired
110 paid-in capital of:
111 (a) In the case of a pure captive insurance company, at
112 least $100,000.
113 (b) In the case of an industrial insured captive insurance
114 company incorporated as a stock insurer, at least $200,000.
115 (c) In the case of a special purpose captive insurance
116 company, an amount determined by the office after giving due
117 consideration to the company's business plan, feasibility study,
118 and pro forma financial statements and projections, including
119 the nature of the risks to be insured.
120 Section 44. Section 628.909, Florida Statutes, is amended
121 to read:
122 628.909 Applicability of other laws.—
123 (1) The Florida Insurance Code does not apply to captive
124 insurance companies ~~insurers~~ or industrial insured captive
125 insurance companies ~~insurers~~ except as provided in this part and
126 subsections (2) and (3).
127 (2) The following provisions of the Florida Insurance Code
128 apply to captive insurance companies ~~insurers~~ who are not

149498

129 industrial insured captive insurance companies ~~insurers~~ to the
130 extent that such provisions are not inconsistent with this part:
131 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
132 624.40851, 624.4095, 624.411, 624.425, and 624.426.
133 (b) Chapter 625, part II.
134 (c) Chapter 626, part IX.
135 (d) Sections 627.730-627.7405, when no-fault coverage is
136 provided.
137 (e) Chapter 628.
138 (3) The following provisions of the Florida Insurance Code
139 apply to industrial insured captive insurance companies ~~insurers~~
140 to the extent that such provisions are not inconsistent with
141 this part:
142 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
143 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).
144 (b) Chapter 625, part II, if the industrial insured captive
145 insurance companies ~~insurer~~ is incorporated in this state.
146 (c) Chapter 626, part IX.
147 (d) Sections 627.730-627.7405 when no-fault coverage is
148 provided.
149 (e) Chapter 628, except for ss. 628.341, 628.351, and
150 628.6018.
151 Section 45. Subsection (2) of section 628.9142, Florida
152 Statutes, is amended to read:
153 628.9142 Reinsurance; effect on reserves.—
154 (2) A captive insurance company may take credit for
155 reserves on risks or portions of risks ceded to authorized
156 insurers or reinsurers and unauthorized insurers or reinsurers
157 complying with s. 624.610. A captive insurance company ~~insurer~~

149498

158 may not take credit for reserves on risks or portions of risks
159 ceded to an unauthorized insurer or reinsurer if the insurer or
160 reinsurer is not in compliance with s. 624.610.
161 Section 46. Section 628.915, Florida Statutes, is amended
162 to read:
163 628.915 Exemption from compulsory association.—
164 (1) A ~~No~~ captive insurance company may not ~~insurer shall be~~
165 ~~permitted to~~ join or contribute financially to any joint
166 underwriting association or guaranty fund in this state; nor
167 shall any captive insurance company ~~insurer~~, its insured, or its
168 parent or any affiliated company receive any benefit from any
169 such joint underwriting association or guaranty fund for claims
170 arising out of the operations of such captive insurer.
171 (2) An ~~No~~ industrial insured captive insurance company may
172 not ~~insurer shall be permitted to~~ join or contribute financially
173 to any joint underwriting association or guaranty fund in this
174 state; nor shall any industrial insured captive insurance
175 company ~~insurer~~, its industrial insured, or its parent or any
176 affiliated company receive any benefit from any such joint
177 underwriting association or guaranty fund for claims arising out
178 of the operations of such industrial insured captive insurance
179 company ~~insurer~~.
180 Section 47. Section 628.917, Florida Statutes, is amended
181 to read:
182 628.917 Insolvency and liquidation.—In the event that a
183 captive insurance company ~~insurer~~ is insolvent as defined in
184 chapter 631, the office shall liquidate the captive insurance
185 company ~~insurer~~ pursuant to the provisions of part I of chapter
186 631.~~; except that~~ The office may not ~~shall make no~~ attempt to

149498

187 rehabilitate such insurer.
188 Section 48. Section 628.919, Florida Statutes, is amended
189 to read:
190 628.919 Standards to ensure risk management control by
191 parent company.—A pure captive insurance company shall submit to
192 the office for approval ~~The Financial Services Commission shall~~
193 ~~adopt rules establishing~~ standards to ensure that a parent or
194 affiliated company is able to exercise control of the risk
195 management function of any controlled unaffiliated business to
196 be insured by the pure captive insurance company.
197
198 ========== T I T L E A M E N D M E N T ==========
199 And the title is amended as follows:
200 Delete lines 1647 - 1650
201 and insert:
202 revising the definition of terms applicable to captive
203 insurers; amending s. 628.905, F.S.; authorizing an
204 industrial insured captive insurance company to write
205 workers compensation and employer liability insurance
206 in excess of a certain amount under certain
207 conditions; conforming provisions to changes made by
208 the act; redesignating the Office of Insurance
209 Regulation instead of the Insurance Commissioner as
210 the collector of certain fees and issuer of licenses;
211 amending s. 628.907, F.S.; conforming provisions to
212 changes made by the act; amending s. 628.909, F.S.;
213 providing for applicability of certain provisions of
214 the Insurance Code to specified captive insurers;
215 conforming provisions to changes made by the act;

149498

216 amending s. 628.9142, F.S.; conforming provisions to
217 changes made by the act; amending s. 628.915, F.S.;
218 conforming provisions to changes made by the act;
219 amending s. 628.917, F.S.; conforming provisions to
220 changes made by the act; amending s. 628.919, F.S.;
221 requiring a pure captive insurance company to submit
222 certain risk management standards to the Office of
223 Insurance Regulation;

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Substitute for Amendment (457546) (with title**
2 **amendment)**
3
4 Delete everything after the enacting clause
5 and insert:
6 Section 1. Subsection (1) of section 316.646, Florida
7 Statutes, is amended, and subsection (5) is added to that
8 section, to read:
9 316.646 Security required; proof of security and display
10 thereof; dismissal of cases.—
11 (1) A ~~Any~~ person required by s. 324.022 to maintain
12 property damage liability security, required by s. 324.023 to

511142

13 maintain liability security for bodily injury or death, or
14 required by s. 627.733 to maintain personal injury protection
15 security on a motor vehicle shall have in his or her immediate
16 possession at all times while operating such motor vehicle
17 proper proof of maintenance of the required security. Such proof
18 shall be a uniform proof-of-insurance card, in paper or
19 electronic format, in a form prescribed by the department, a
20 valid insurance policy, an insurance policy binder, a
21 certificate of insurance, or such other proof as may be
22 prescribed by the department. If a person presents an electronic
23 device to a law enforcement officer for the purpose of
24 displaying a proof-of-insurance card in an electronic format:
25 (a) The person presenting the device is not deemed to
26 consent to access to any information on the electronic device
27 other than the displayed proof-of-insurance card.
28 (b) The law enforcement officer is not liable for damage to
29 the electronic device.
30 (5) The department may adopt rules to implement this
31 section.
32 Section 2. Paragraph (a) of subsection (5) of section
33 320.02, Florida Statutes, is amended to read:
34 320.02 Registration required; application for registration;
35 forms.—
36 (5)(a) Proof that personal injury protection benefits have
37 been purchased when required under s. 627.733, that property
38 damage liability coverage has been purchased as required under
39 s. 324.022, that bodily injury or death coverage has been
40 purchased if required under s. 324.023, and that combined bodily
41 liability insurance and property damage liability insurance have

511142

42 been purchased when required under s. 627.7415 shall be provided
43 in the manner prescribed by law by the applicant at the time of
44 application for registration of any motor vehicle that is
45 subject to such requirements. The issuing agent shall refuse to
46 issue registration if such proof of purchase is not provided.
47 Insurers shall furnish uniform proof-of-purchase cards, in paper
48 or electronic format, in a form prescribed by the department and
49 shall include the name of the insured's insurance company, the
50 coverage identification number, and the make, year, and vehicle
51 identification number of the vehicle insured. The card must
52 ~~shall~~ contain a statement notifying the applicant of the penalty
53 specified in s. 316.646(4). The card or insurance policy,
54 insurance policy binder, or certificate of insurance or a
55 photocopy of any of these; an affidavit containing the name of
56 the insured's insurance company, the insured's policy number,
57 and the make and year of the vehicle insured; or such other
58 proof as may be prescribed by the department constitutes ~~shall~~
59 ~~constitute~~ sufficient proof of purchase. If an affidavit is
60 provided as proof, it must ~~shall~~ be in substantially the
61 following form:
62
63 Under penalty of perjury, I ...(Name of insured)... do hereby
64 certify that I have ...(Personal Injury Protection, Property
65 Damage Liability, and, when required, Bodily Injury
66 Liability)... Insurance currently in effect with ...(Name of
67 insurance company)... under ...(policy number)... covering
68 ...(make, year, and vehicle identification number of
69 vehicle).... ...(Signature of Insured)...
70

511142

71 Such affidavit shall include the following warning:
72
73 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
74 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
75 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
76 SUBJECT TO PROSECUTION.
77
78 When an application is made through a licensed motor vehicle
79 dealer as required in s. 319.23, the original or a photostatic
80 copy of such card, insurance policy, insurance policy binder, or
81 certificate of insurance or the original affidavit from the
82 insured shall be forwarded by the dealer to the tax collector of
83 the county or the Department of Highway Safety and Motor
84 Vehicles for processing. By executing the aforesaid affidavit,
85 no licensed motor vehicle dealer will be liable in damages for
86 any inadequacy, insufficiency, or falsification of any statement
87 contained therein. A card shall also indicate the existence of
88 any bodily injury liability insurance voluntarily purchased.
89 Section 3. Subsection (8) is added to section 554.1021,
90 Florida Statutes, to read:
91 554.1021 Definitions.—As used in ss. 554.1011-554.115:
92 (8) “Authorized inspection agency” means:
93 (a) A county, city, town, or other governmental subdivision
94 that has adopted and administers, at a minimum, Section I of the
95 A.S.M.E. Boiler and Pressure Vessel Code as a legal requirement
96 and whose inspectors hold valid certificates of competency in
97 accordance with s. 554.113; or
98 (b) An insurance company that is licensed or registered by
99 an appropriate authority of any state of the United States or

511142

100 province of Canada and whose inspectors hold valid certificates
101 of competency in accordance with s. 554.113.
102 Section 4. Section 554.107, Florida Statutes, is amended to
103 read:
104 554.107 Special inspectors.—
105 (1) Upon application by ~~any~~ an authorized inspection agency
106 ~~company licensed to insure boilers in this state~~, the chief
107 inspector shall issue a certificate of competency as a special
108 inspector to an ~~any~~ inspector employed by the agency if he or
109 she ~~company, provided that such inspector~~ satisfies the
110 competency requirements for inspectors as provided in s.
111 554.113.
112 (2) The certificate of competency of a special inspector
113 remains ~~shall remain~~ in effect only so long as the special
114 inspector is employed by an authorized inspection agency ~~a~~
115 ~~company licensed to insure boilers in this state~~. Upon
116 termination of employment with such agency ~~company~~, a special
117 inspector shall, in writing, notify the chief inspector of such
118 termination. Such notice shall be given within 15 days following
119 the date of termination.
120 Section 5. Subsection (1) of section 554.109, Florida
121 Statutes, is amended to read:
122 554.109 Exemptions.—
123 (1) An ~~Any~~ insurance company that insures ~~insuring~~ a boiler
124 located in a public assembly location in this state shall
125 inspect or contract with an authorized inspection agency to
126 inspect such boiler ~~so insured,~~ and shall annually report to the
127 department the identity of the authorized inspection agency that
128 performs a required boiler inspection on behalf of the company.

511142

129 A ~~any~~ county, city, town, or other governmental subdivision that
130 ~~which~~ has adopted into law the Boiler and Pressure Vessel Code
131 of the American Society of Mechanical Engineers and the National
132 Board Inspection Code for the construction, installation,
133 inspection, maintenance, and repair of boilers, regulating such
134 boilers in public assembly locations, shall inspect such boilers
135 so regulated; provided that such inspection shall be conducted
136 by a special inspector licensed pursuant to ss. 554.1011-
137 554.115. Upon filing of a report of satisfactory inspection with
138 the department, such boiler is exempt from inspection by the
139 department.
140 Section 6. Paragraph (f) of subsection (1) of section
141 624.413, Florida Statutes, is amended to read:
142 624.413 Application for certificate of authority.—
143 (1) To apply for a certificate of authority, an insurer
144 shall file its application therefor with the office, upon a form
145 adopted by the commission and furnished by the office, showing
146 its name; location of its home office and, if an alien insurer,
147 its principal office in the United States; kinds of insurance to
148 be transacted; state or country of domicile; and such additional
149 information as the commission reasonably requires, together with
150 the following documents:
151 (f) If a foreign or alien insurer, a copy of the report of
152 the most recent examination of the insurer certified by the
153 public official having supervision of insurance in its state of
154 domicile or of entry into the United States. The end of the most
155 recent year covered by the examination must be within the 5-year
156 ~~3-year~~ period preceding the date of application. In lieu of the
157 certified examination report, the office may accept an audited

511142

158 certified public accountant's report prepared on a basis
159 consistent with the insurance laws of the insurer's state of
160 domicile, certified by the public official having supervision of
161 insurance in its state of domicile or of entry into the United
162 States.
163 Section 7. Subsection (4) is added to section 626.0428,
164 Florida Statutes, to read:
165 626.0428 Agency personnel powers, duties, and limitations.—
166 (4)(a) Each place of business established by an agent or
167 agency, firm, corporation, or association must be in the active
168 full-time charge of a licensed and appointed agent holding the
169 required agent licenses to transact the lines of insurance being
170 handled at the location.
171 (b) Notwithstanding paragraph (a), the licensed agent in
172 charge of an insurance agency may also be the agent in charge of
173 additional branch office locations of the agency if insurance
174 activities requiring licensure as an insurance agent do not
175 occur at any location when the agent is not physically present
176 and unlicensed employees at the location do not engage in
177 insurance activities requiring licensure as an insurance agent
178 or customer representative.
179 (c) An insurance agency and each branch place of business
180 of an insurance agency shall designate an agent in charge and
181 file the name and license number of the agent in charge and the
182 physical address of the insurance agency location with the
183 department at the department's designated website. The
184 designation of the agent in charge may be changed at the option
185 of the agency. A change of the designated agent in charge is
186 effective upon notification to the department, which shall be

511142

187 provided within 30 days after such change.
188 (d) For the purposes of this subsection, an "agent in
189 charge" is the licensed and appointed agent who is responsible
190 for the supervision of all individuals within an insurance
191 agency location, regardless of whether such individuals deal
192 with the general public in the solicitation or negotiation of
193 insurance contracts or the collection or accounting of moneys.
194 (e) An agent in charge of an insurance agency is
195 accountable for wrongful acts, misconduct, or violations of
196 provisions of this code committed by the agent or by any person
197 under his or her supervision while acting on behalf of the
198 agency. This section may not be construed to render the agent in
199 charge criminally liable for an act unless he or she personally
200 committed or knew or should have known of the act and of the
201 facts constituting a violation of this chapter.
202 (f) An insurance agency location may not conduct the
203 business of insurance unless the agency designates an agent in
204 charge at all times. If the agency fails to update the
205 designation of the agent in charge within 90 days after the date
206 of a change in designation, the department shall automatically
207 revoke the agency's license.
208 Section 8. Subsection (7) of section 626.112, Florida
209 Statutes, is amended to read:
210 626.112 License and appointment required; agents, customer
211 representatives, adjusters, insurance agencies, service
212 representatives, managing general agents.—
213 (7)(a) ~~Effective October 1, 2006,~~ No individual, firm,
214 partnership, corporation, association, or any other entity shall
215 act in its own name or under a trade name, directly or

511142

216 indirectly, as an insurance agency, unless it complies with s.
217 626.172 with respect to possessing an insurance agency license
218 for each place of business at which it engages in an ~~any~~
219 activity that ~~which~~ may be performed only by a licensed
220 insurance agent. However, an insurance agency that is owned and
221 operated by a single licensed agent conducting business in his
222 or her individual name and not employing or otherwise using the
223 services of or appointing other licensees is exempt from the
224 agency licensing requirements of this subsection. A branch place
225 of business that is established by a licensed agency is
226 considered a branch agency and is not required to be licensed so
227 long as it transacts business under the same name and federal
228 tax identification number as the licensed agency and has
229 designated a licensed agent in charge of the location as
230 required by s. 626.0428 and the address and telephone number of
231 the location have been submitted to the department for inclusion
232 in the licensing record of the licensed agency within 30 days
233 after insurance transactions begin at the location ~~Each agency~~
234 ~~engaged in business in this state before January 1, 2003, which~~
235 ~~is wholly owned by insurance agents currently licensed and~~
236 ~~appointed under this chapter, each incorporated agency whose~~
237 ~~voting shares are traded on a securities exchange, each agency~~
238 ~~designated and subject to supervision and inspection as a branch~~
239 ~~office under the rules of the National Association of Securities~~
240 ~~Dealers, and each agency whose primary function is offering~~
241 ~~insurance as a service or member benefit to members of a~~
242 ~~nonprofit corporation may file an application for registration~~
243 ~~in lieu of licensure in accordance with s. 626.172(3)~~. ~~Each~~
244 ~~agency engaged in business before October 1, 2006, shall file an~~

511142

245 ~~application for licensure or registration on or before October~~
246 ~~1, 2006.~~
247 (b)~~1.~~ If an agency is required to be licensed but fails to
248 file an application for licensure in accordance with this
249 section, the department shall impose on the agency an
250 administrative penalty in an amount of up to $10,000.
251 ~~2. If an agency is eligible for registration but fails to~~
252 ~~file an application for registration or an application for~~
253 ~~licensure in accordance with this section, the department shall~~
254 ~~impose on the agency an administrative penalty in an amount of~~
255 ~~up to $5,000.~~
256 (c)~~(b)~~ Effective October 1, 2013, the department must
257 automatically convert the registration of an approved ~~a~~
258 registered insurance agency to ~~shall, as a condition precedent~~
259 ~~to continuing business, obtain~~ an insurance agency license ~~if~~
260 ~~the department finds that, with respect to any majority owner,~~
261 ~~partner, manager, director, officer, or other person who manages~~
262 ~~or controls the agency, any person has:~~
263 ~~1. Been found guilty of, or has pleaded guilty or nolo~~
264 ~~contendere to, a felony in this state or any other state~~
265 ~~relating to the business of insurance or to an insurance agency,~~
266 ~~without regard to whether a judgment of conviction has been~~
267 ~~entered by the court having jurisdiction of the cases~~.
268 ~~2. Employed any individual in a managerial capacity or in a~~
269 ~~capacity dealing with the public who is under an order of~~
270 ~~revocation or suspension issued by the department. An insurance~~
271 ~~agency may request, on forms prescribed by the department,~~
272 ~~verification of any person's license status. If a request is~~
273 ~~mailed within 5 working days after an employee is hired, and the~~

511142

274 ~~employee's license is currently suspended or revoked, the agency~~
275 ~~shall not be required to obtain a license, if the unlicensed~~
276 ~~person's employment is immediately terminated.~~
277 ~~3. Operated the agency or permitted the agency to be~~
278 ~~operated in violation of s. 626.747.~~
279 ~~4. With such frequency as to have made the operation of the~~
280 ~~agency hazardous to the insurance-buying public or other~~
281 ~~persons:~~
282 ~~a. Solicited or handled controlled business. This~~
283 ~~subparagraph shall not prohibit the licensing of any lending or~~
284 ~~financing institution or creditor, with respect to insurance~~
285 ~~only, under credit life or disability insurance policies of~~
286 ~~borrowers from the institutions, which policies are subject to~~
287 ~~part IX of chapter 627.~~
288 ~~b. Misappropriated, converted, or unlawfully withheld~~
289 ~~moneys belonging to insurers, insureds, beneficiaries, or others~~
290 ~~and received in the conduct of business under the license.~~
291 ~~c. Unlawfully rebated, attempted to unlawfully rebate, or~~
292 ~~unlawfully divided or offered to divide commissions with~~
293 ~~another.~~
294 ~~d. Misrepresented any insurance policy or annuity contract,~~
295 ~~or used deception with regard to any policy or contract, done~~
296 ~~either in person or by any form of dissemination of information~~
297 ~~or advertising.~~
298 ~~e. Violated any provision of this code or any other law~~
299 ~~applicable to the business of insurance in the course of dealing~~
300 ~~under the license.~~
301 ~~f. Violated any lawful order or rule of the department.~~
302 ~~g. Failed or refused, upon demand, to pay over to any~~

511142

303 ~~insurer he or she represents or has represented any money coming~~
304 ~~into his or her hands belonging to the insurer.~~
305 ~~h. Violated the provision against twisting as defined in s.~~
306 ~~626.9541(1)(l).~~
307 ~~i. In the conduct of business, engaged in unfair methods of~~
308 ~~competition or in unfair or deceptive acts or practices, as~~
309 ~~prohibited under part IX of this chapter.~~
310 ~~j. Willfully overinsured any property insurance risk.~~
311 ~~k. Engaged in fraudulent or dishonest practices in the~~
312 ~~conduct of business arising out of activities related to~~
313 ~~insurance or the insurance agency.~~
314 ~~l. Demonstrated lack of fitness or trustworthiness to~~
315 ~~engage in the business of insurance arising out of activities~~
316 ~~related to insurance or the insurance agency.~~
317 ~~m. Authorized or knowingly allowed individuals to transact~~
318 ~~insurance who were not then licensed as required by this code.~~
319 ~~5. Knowingly employed any person who within the preceding 3~~
320 ~~years has had his or her relationship with an agency terminated~~
321 ~~in accordance with paragraph (d).~~
322 ~~6. Willfully circumvented the requirements or prohibitions~~
323 ~~of this code.~~
324 Section 9. Subsections (2), (3), and (4) of section
325 626.172, Florida Statutes, are amended to read:
326 626.172 Application for insurance agency license.—
327 (2) An application for an insurance agency license must
328 ~~shall~~ be signed by the owner or owners of the agency. If the
329 agency is incorporated, the application must ~~shall~~ be signed by
330 the president and secretary of the corporation. The application
331 for an insurance agency license must ~~shall~~ include:

511142

332 (a) The name of each majority owner, partner, officer, and
333 director of the insurance agency.
334 (b) The residence address of each person required to be
335 listed in the application under paragraph (a).
336 (c) The name of the insurance agency, ~~and~~ its principal
337 business street address and a valid e-mail address of the
338 insurance agency.
339 (d) The physical address ~~location~~ of each branch agency,
340 including its name, e-mail address, and telephone number and the
341 date that the branch location began transacting insurance ~~office~~
342 ~~and the name under which each agency office conducts or will~~
343 ~~conduct business~~.
344 (e) The name of each agent to be in full-time charge of an
345 agency office and specification of which office, including
346 branch locations.
347 (f) The fingerprints of each of the following:
348 1. A sole proprietor;
349 2. Each partner;
350 3. Each owner of an unincorporated agency;
351 4. Each owner who directs or participates in the management
352 or control of an incorporated agency whose shares are not traded
353 on a securities exchange;
354 5. The president, senior vice presidents, treasurer,
355 secretary, and directors of the agency; and
356 6. Any other person who directs or participates in the
357 management or control of the agency, whether through the
358 ownership of voting securities, by contract, by ownership of
359 agency bank accounts, or otherwise.
360

511142

361 Fingerprints must be taken by a law enforcement agency or other
362 entity approved by the department and must be accompanied by the
363 fingerprint processing fee specified in s. 624.501. Fingerprints
364 must ~~shall~~ be processed in accordance with s. 624.34. However,
365 fingerprints need not be filed for an ~~any~~ individual who is
366 currently licensed and appointed under this chapter. This
367 paragraph does not apply to corporations whose voting shares are
368 traded on a securities exchange.
369 (g) Such additional information as the department requires
370 by rule to ascertain the trustworthiness and competence of
371 persons required to be listed on the application and to
372 ascertain that such persons meet the requirements of this code.
373 However, the department may not require that credit or character
374 reports be submitted for persons required to be listed on the
375 application.
376 (h) ~~Beginning October 1, 2005,~~ The department must ~~shall~~
377 accept the uniform application for nonresident agency licensure.
378 The department may adopt by rule revised versions of the uniform
379 application.
380 ~~(3) The department shall issue a registration as an~~
381 ~~insurance agency to any agency that files a written application~~
382 ~~with the department and qualifies for registration. The~~
383 ~~application for registration shall require the agency to provide~~
384 ~~the same information required for an agency licensed under~~
385 ~~subsection (2), the agent identification number for each owner~~
386 ~~who is a licensed agent, proof that the agency qualifies for~~
387 ~~registration as provided in s. 626.112(7), and any other~~
388 ~~additional information that the department determines is~~
389 ~~necessary in order to demonstrate that the agency qualifies for~~

511142

390 ~~registration. The application must be signed by the owner or~~
391 ~~owners of the agency. If the agency is incorporated, the~~
392 ~~application must be signed by the president and the secretary of~~
393 ~~the corporation. An agent who owns the agency need not file~~
394 ~~fingerprints with the department if the agent obtained a license~~
395 ~~under this chapter and the license is currently valid.~~
396 ~~(a) If an application for registration is denied, the~~
397 ~~agency must file an application for licensure no later than 30~~
398 ~~days after the date of the denial of registration.~~
399 ~~(b) A registered insurance agency must file an application~~
400 ~~for licensure no later than 30 days after the date that any~~
401 ~~person who is not a licensed and appointed agent in this state~~
402 ~~acquires any ownership interest in the agency. If an agency~~
403 ~~fails to file an application for licensure in compliance with~~
404 ~~this paragraph, the department shall impose an administrative~~
405 ~~penalty in an amount of up to $5,000 on the agency.~~
406 ~~(c) Sections 626.6115 and 626.6215 do not apply to agencies~~
407 ~~registered under this subsection.~~
408 (3) ~~(4)~~ The department must ~~shall~~ issue a license ~~or~~
409 ~~registration~~ to each agency upon approval of the application,
410 and each agency location must ~~shall~~ display the license ~~or~~
411 ~~registration~~ prominently in a manner that makes it clearly
412 visible to a ~~any~~ customer or potential customer who enters the
413 agency.
414 Section 10. Paragraph (d) of subsection (1) of section
415 626.321, Florida Statutes, is amended to read:
416 626.321 Limited licenses.—
417 (1) The department shall issue to a qualified applicant a
418 license as agent authorized to transact a limited class of

511142

419 business in any of the following categories of limited lines
420 insurance:
421 (d) *Motor vehicle rental insurance.*—
422 1. License covering only insurance of the risks set forth
423 in this paragraph when offered, sold, or solicited with and
424 incidental to the rental or lease of a motor vehicle and which
425 applies only to the motor vehicle that is the subject of the
426 lease or rental agreement and the occupants of the motor
427 vehicle:
428 a. Excess motor vehicle liability insurance providing
429 coverage in excess of the standard liability limits provided by
430 the lessor in the lessor's lease to a person renting or leasing
431 a motor vehicle from the licensee's employer for liability
432 arising in connection with the negligent operation of the leased
433 or rented motor vehicle.
434 b. Insurance covering the liability of the lessee to the
435 lessor for damage to the leased or rented motor vehicle.
436 c. Insurance covering the loss of or damage to baggage,
437 personal effects, or travel documents of a person renting or
438 leasing a motor vehicle.
439 d. Insurance covering accidental personal injury or death
440 of the lessee and any passenger who is riding or driving with
441 the covered lessee in the leased or rented motor vehicle.
442 2. Insurance under a motor vehicle rental insurance license
443 may be issued only if the lease or rental agreement is for no
444 more than 60 days, the lessee is not provided coverage for more
445 than 60 consecutive days per lease period, and the lessee is
446 given written notice that his or her personal insurance policy
447 providing coverage on an owned motor vehicle may provide

511142

448 coverage of such risks and that the purchase of the insurance is
449 not required in connection with the lease or rental of a motor
450 vehicle. If the lease is extended beyond 60 days, the coverage
451 may be extended one time only for a period not to exceed an
452 additional 60 days. Insurance may be provided to the lessee as
453 an additional insured on a policy issued to the licensee's
454 employer.
455 3. The license may be issued only to the full-time salaried
456 employee of a licensed general lines agent or to a business
457 entity that offers motor vehicles for rent or lease if insurance
458 sales activities authorized by the license are in connection
459 with and incidental to the rental or lease of a motor vehicle.
460 a. A license issued to a business entity that offers motor
461 vehicles for rent or lease encompasses each office, branch
462 office, employee, or place of business making use of the
463 entity's business name in order to offer, solicit, and sell
464 insurance pursuant to this paragraph.
465 b. The application for licensure must list the name,
466 address, and phone number for each office, branch office, or
467 place of business that is to be covered by the license. The
468 licensee shall notify the department of the name, address, and
469 phone number of any new location that is to be covered by the
470 license before the new office, branch office, or place of
471 business engages in the sale of insurance pursuant to this
472 paragraph. The licensee must notify the department within 30
473 days after closing or terminating an office, branch office, or
474 place of business. Upon receipt of the notice, the department
475 shall delete the office, branch office, or place of business
476 from the license.

511142

c. A licensed and appointed entity is directly responsible and accountable for all acts of the licensee's employees.

Section 11. Section 626.382, Florida Statutes, is amended to read:

626.382 Continuation, expiration of license; insurance agencies.—An insurance agency license continues ~~The license of any insurance agency shall be issued for a period of 3 years and shall continue~~ in force until it is canceled, suspended, revoked, or otherwise terminated. ~~A license may be renewed by submitting a renewal request to the department on a form adopted by department rule.~~

Section 12. Section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(1) The department or office may, upon its own motion or upon a written complaint signed by an ~~any~~ interested person and filed with the department or office, inquire into any alleged improper conduct of a ~~any~~ licensed, approved, or certified insurance agency, agent, adjuster, service representative, managing general agent, customer representative, title insurance agent, title insurance agency, mediator, neutral evaluator, continuing education course provider, instructor, school official, or monitor group under this code. The department or office may thereafter initiate an investigation of ~~any~~ such individual or entity ~~licensee~~ if it has reasonable cause to believe that the individual or entity ~~licensee~~ has violated any provision of the insurance code. During the course of its investigation, the department or office shall contact the individual or entity ~~licensee~~ being investigated unless it

511142

506 determines that contacting such individual or entity ~~person~~
507 could jeopardize the successful completion of the investigation
508 or cause injury to the public.
509 (2) In the investigation by the department or office of the
510 alleged misconduct, the individual or entity ~~licensee~~ shall,
511 whenever so required by the department or office, cause the
512 individual's or entity's ~~his or her~~ books and records to be open
513 for inspection for the purpose of such inquiries.
514 (3) The complaints against an individual or entity ~~any~~
515 ~~licensee~~ may be informally alleged and are not required to
516 include language ~~need not be in any such language as is~~
517 necessary to charge a crime on an indictment or information.
518 (4) The expense for ~~any~~ hearings or investigations
519 conducted under this law, as well as the fees and mileage of
520 witnesses, may be paid out of the appropriate fund.
521 (5) If the department or office, after investigation, has
522 reason to believe that an individual ~~a licensee~~ may have been
523 found guilty of or pleaded guilty or nolo contendere to a felony
524 or a crime related to the business of insurance in this or any
525 other state or jurisdiction, the department or office may
526 require the individual ~~licensee~~ to file with the department or
527 office a complete set of his or her fingerprints, which must
528 ~~shall~~ be accompanied by the fingerprint processing fee set forth
529 in s. 624.501. The fingerprints shall be taken by an authorized
530 law enforcement agency or other department-approved entity.
531 (6) The complaint and ~~any~~ information obtained pursuant to
532 the investigation by the department or office are confidential
533 and are exempt from ~~the provisions of~~ s. 119.07, unless the
534 department or office files a formal administrative complaint,

511142

535 emergency order, or consent order against the individual or
536 entity ~~licensee~~. ~~Nothing in~~ This subsection does not ~~shall be~~
537 ~~construed to~~ prevent the department or office from disclosing
538 the complaint or such information as it deems necessary to
539 conduct the investigation, to update the complainant as to the
540 status and outcome of the complaint, or to share such
541 information with a ~~any~~ law enforcement agency.
542 Section 13. Section 626.747, Florida Statutes, is repealed.
543 Section 14. Paragraph (b) of subsection (1) of section
544 626.8411, Florida Statutes, is amended to read:
545 626.8411 Application of Florida Insurance Code provisions
546 to title insurance agents or agencies.—
547 (1) The following provisions of part II applicable to
548 general lines agents or agencies also apply to title insurance
549 agents or agencies:
550 (b) Section 626.0428(4)(a) and (b) ~~626.747~~, relating to
551 branch agencies.
552 Section 15. Paragraph (c) of subsection (2) and subsection
553 (3) of section 626.8805, Florida Statutes, is amended to read:
554 626.8805 Certificate of authority to act as administrator.—
555 (2) The administrator shall file with the office an
556 application for a certificate of authority upon a form to be
557 adopted by the commission and furnished by the office, which
558 application shall include or have attached the following
559 information and documents:
560 (c) The names, addresses, official positions, and
561 professional qualifications of the individuals who are employed
562 or retained by the administrator and who are responsible for the
563 conduct of the affairs of the administrator, including all

511142

564 members of the board of directors, board of trustees, executive
565 committee, or other governing board or committee, and the
566 principal officers in the case of a corporation or~~,~~ the partners
567 or members in the case of a partnership or association of the
568 administrator~~, and any other person who exercises control or~~
569 ~~influence over the affairs of the administrator~~.
570 (3) The applicant shall make available for inspection by
571 the office copies of all contracts relating to services provided
572 by the administrator to ~~with~~ insurers or other persons utilizing
573 the services of the administrator.
574 Section 16. Subsections (1) and (3) of section 626.8817,
575 Florida Statutes, are amended to read:
576 626.8817 Responsibilities of insurance company with respect
577 to administration of coverage insured.—
578 (1) If an insurer uses the services of an administrator,
579 the insurer is responsible for determining the benefits, premium
580 rates, underwriting criteria, and claims payment procedures
581 applicable to the coverage and for securing reinsurance, if any.
582 The rules pertaining to these matters shall be provided~~,~~ in
583 writing~~,~~ by the insurer, or its designee, to the administrator.
584 The responsibilities of the administrator as to any of these
585 matters shall be set forth in a ~~the~~ written agreement binding
586 upon ~~between~~ the administrator and the insurer.
587 (3) In cases in which an administrator administers benefits
588 for more than 100 certificateholders on behalf of an insurer,
589 the insurer shall, at least semiannually, conduct a review of
590 the operations of the administrator. At least one such review
591 must be an onsite audit of the operations of the administrator.
592 The insurer may contract with a qualified third party to conduct

511142

593 such examination.
594 Section 17. Subsections (1) and (4) of section 626.882,
595 Florida Statutes, are amended to read:
596 626.882 Agreement between administrator and insurer;
597 required provisions; maintenance of records.—
598 (1) A ~~No~~ person may not act as an administrator without a
599 written agreement, as required under s. 626.8817, which
600 specifies the rights, duties and obligations of the ~~between such~~
601 ~~person as~~ administrator and ~~an~~ insurer.
602 (4) If a policy is issued to a trustee or trustees, a copy
603 of the trust agreement and any amendments to that agreement
604 shall be furnished to the insurer or its designee by the
605 administrator and shall be retained as part of the official
606 records of both the administrator and the insurer for the
607 duration of the policy and for 5 years thereafter.
608 Section 18. Subsections (3), (4), and (5) of section
609 626.883, Florida Statutes, are amended to read:
610 626.883 Administrator as intermediary; collections held in
611 fiduciary capacity; establishment of account; disbursement;
612 payments on behalf of insurer.—
613 (3) If charges or premiums deposited in a fiduciary account
614 have been collected on behalf of or for more than one insurer,
615 the administrator shall keep records clearly recording the
616 deposits in and withdrawals from such account on behalf of or
617 for each insurer. The administrator shall, upon request of an
618 insurer or its designee, furnish such insurer with copies of
619 records pertaining to deposits and withdrawals on behalf of or
620 for such insurer.
621 (4) The administrator may not pay a ~~any~~ claim by

511142

622 withdrawals from a fiduciary account. Withdrawals from such
623 account shall be made as provided in the written agreement
624 required under ss. 626.8817 and 626.882 ~~between the~~
625 ~~administrator and the insurer~~ for any of the following:
626 (a) Remittance to an insurer entitled to such remittance.
627 (b) Deposit in an account maintained in the name of such
628 insurer.
629 (c) Transfer to and deposit in a claims-paying account,
630 with claims to be paid as provided by such insurer.
631 (d) Payment to a group policyholder for remittance to the
632 insurer entitled to such remittance.
633 (e) Payment to the administrator of the commission, fees,
634 or charges of the administrator.
635 (f) Remittance of return premium to the person or persons
636 entitled to such return premium.
637 (5) All claims paid by the administrator from funds
638 collected on behalf of the insurer shall be paid only on drafts
639 of, and as authorized by, such insurer or its designee.
640 Section 19. Subsection (3) of section 626.884, Florida
641 Statutes, is amended to read:
642 626.884 Maintenance of records by administrator; access;
643 confidentiality.—
644 (3) The insurer shall retain the right of continuing access
645 to books and records maintained by the administrator sufficient
646 to permit the insurer to fulfill all of its contractual
647 obligations to insured persons, subject to any restrictions in
648 the written agreement pertaining to ~~between the insurer and the~~
649 ~~administrator on~~ the proprietary rights of the parties in such
650 books and records.

511142

651 Section 20. Subsections (1) and (2) of section 626.89,
652 Florida Statutes, are amended to read:
653 626.89 Annual financial statement and filing fee; notice of
654 change of ownership.—
655 (1) Each authorized administrator shall file with the
656 office a full and true statement of its financial condition,
657 transactions, and affairs. The statement shall be filed annually
658 on or before April ~~March~~ 1 or within such extension of time
659 therefor as the office for good cause may have granted and shall
660 be for the preceding calendar year or fiscal year, if the
661 administrator's accounting is on a fiscal year basis. The
662 statement shall be in such form and contain such matters as the
663 commission prescribes and shall be verified by at least two
664 officers of such administrator. ~~An administrator whose sole~~
665 ~~stockholder is an association representing health care providers~~
666 ~~which is not an affiliate of an insurer, an administrator of a~~
667 ~~pooled governmental self-insurance program, or an administrator~~
668 ~~that is a university may submit the preceding fiscal year's~~
669 ~~statement within 2 months after its fiscal year end.~~
670 (2) Each authorized administrator shall also file an
671 audited financial statement performed by an independent
672 certified public accountant. The audited financial statement
673 shall be filed with the office on or before July ~~June~~ 1 for the
674 preceding calendar or fiscal year ~~ending December 31~~. ~~An~~
675 ~~administrator whose sole stockholder is an association~~
676 ~~representing health care providers which is not an affiliate of~~
677 ~~an insurer, an administrator of a pooled governmental self-~~
678 ~~insurance program, or an administrator that is a university may~~
679 ~~submit the preceding fiscal year's audited financial statement~~

511142

680 ~~within 5 months after the end of its fiscal year.~~ An audited
681 financial statement prepared on a consolidated basis must
682 include a columnar consolidating or combining worksheet that
683 must be filed with the statement and must comply with the
684 following:
685 (a) Amounts shown on the consolidated audited financial
686 statement must be shown on the worksheet;
687 (b) Amounts for each entity must be stated separately; and
688 (c) Explanations of consolidating and eliminating entries
689 must be included.
690 Section 21. Section 626.931, Florida Statutes, is amended
691 to read:
692 626.931 ~~Agent affidavit and~~ Insurer reporting
693 requirements.—
694 ~~(1) Each surplus lines agent shall on or before the 45th~~
695 ~~day following each calendar quarter file with the Florida~~
696 ~~Surplus Lines Service Office an affidavit, on forms as~~
697 ~~prescribed and furnished by the Florida Surplus Lines Service~~
698 ~~Office, stating that all surplus lines insurance transacted by~~
699 ~~him or her during such calendar quarter has been submitted to~~
700 ~~the Florida Surplus Lines Service Office as required.~~
701 ~~(2) The affidavit of the surplus lines agent shall include~~
702 ~~efforts made to place coverages with authorized insurers and the~~
703 ~~results thereof.~~
704 (1) ~~(3)~~ Each foreign insurer accepting premiums shall, on or
705 before the end of the month following each calendar quarter,
706 file with the Florida Surplus Lines Service Office a verified
707 report of all surplus lines insurance transacted by such insurer
708 for insurance risks located in this state during such calendar

511142

709 quarter.
710 (2) ~~(4)~~ Each alien insurer accepting premiums shall, on or
711 before June 30 of each year, file with the Florida Surplus Lines
712 Service Office a verified report of all surplus lines insurance
713 transacted by such insurer for insurance risks located in this
714 state during the preceding calendar year.
715 (3) ~~(5)~~ The department may waive the filing requirements
716 described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.
717 (4) ~~(6)~~ Each insurer's report and supporting information
718 shall be in a computer-readable format as determined by the
719 Florida Surplus Lines Service Office or shall be submitted on
720 forms prescribed by the Florida Surplus Lines Service Office and
721 shall show for each applicable agent:
722 (a) A listing of all policies, certificates, cover notes,
723 or other forms of confirmation of insurance coverage or any
724 substitutions thereof or endorsements thereto and the
725 identifying number; and
726 (b) Any additional information required by the department
727 or Florida Surplus Lines Service Office.
728 Section 22. Paragraph (a) of subsection (2) of section
729 626.932, Florida Statutes, is amended to read:
730 626.932 Surplus lines tax.—
731 (2)(a) The surplus lines agent shall make payable to the
732 department the tax related to each calendar quarter's business
733 as reported to the Florida Surplus Lines Service Office, and
734 remit the tax to the Florida Surplus Lines Service Office on or
735 before the 45th day following each calendar quarter ~~at the same~~
736 ~~time as provided for the filing of the quarterly affidavit,~~
737 ~~under s. 626.931~~. The Florida Surplus Lines Service Office shall

511142

738 forward to the department the taxes and any interest collected
739 pursuant to paragraph (b), within 10 days after ~~of~~ receipt.
740 Section 23. Subsection (1) of section 626.935, Florida
741 Statutes, is amended to read:
742 626.935 Suspension, revocation, or refusal of surplus lines
743 agent's license.—
744 (1) The department shall deny an application for, suspend,
745 revoke, or refuse to renew the appointment of a surplus lines
746 agent and all other licenses and appointments held by the
747 licensee under this code, on any of the following grounds:
748 (a) Removal of the licensee's office from the licensee's
749 state of residence.
750 (b) Removal of the accounts and records of his or her
751 surplus lines business from this state or the licensee's state
752 of residence during the period when such accounts and records
753 are required to be maintained under s. 626.930.
754 (c) Closure of the licensee's office for more than 30
755 consecutive days.
756 ~~(d) Failure to make and file his or her affidavit or~~
757 ~~reports when due as required by s. 626.931.~~
758 (d) ~~(e)~~ Failure to pay the tax or service fee on surplus
759 lines premiums, as provided in the Surplus Lines Law.
760 (e) ~~(f)~~ Suspension, revocation, or refusal to renew or
761 continue the license or appointment as a general lines agent,
762 service representative, or managing general agent.
763 (f) ~~(g)~~ Lack of qualifications as for an original surplus
764 lines agent's license.
765 (g) ~~(h)~~ Violation of this Surplus Lines Law.
766 (h) ~~(i)~~ For any other applicable cause for which the license

511142

767 of a general lines agent could be suspended, revoked, or refused
768 under s. 626.611 or s. 626.621.
769 Section 24. Subsection (1) of section 626.936, Florida
770 Statutes, is amended to read:
771 626.936 Failure to file reports or pay tax or service fee;
772 administrative penalty.—
773 (1) A ~~Any~~ licensed surplus lines agent who neglects to file
774 a report ~~or an affidavit~~ in the form and within the time
775 required or provided for in the Surplus Lines Law may be fined
776 up to $50 per day for each day the neglect continues, beginning
777 the day after the report ~~or affidavit~~ was due until the date the
778 report ~~or affidavit~~ is received. All sums collected under this
779 section shall be deposited into the Insurance Regulatory Trust
780 Fund.
781 Section 25. Subsection (1) of section 626.9914, Florida
782 Statutes, is amended to read:
783 626.9914 Suspension, revocation, denial, or nonrenewal of
784 viatical settlement provider license; grounds; administrative
785 fine.—
786 (1) The office shall suspend, revoke, deny, or refuse to
787 renew the license of a ~~any~~ viatical settlement provider if the
788 office finds that the licensee:
789 (a) Has made a misrepresentation in the application for the
790 license;
791 (b) Has engaged in fraudulent or dishonest practices, or
792 otherwise has been shown to be untrustworthy or incompetent to
793 act as a viatical settlement provider;
794 (c) Demonstrates a pattern of unreasonable payments to
795 viators;

511142

796 (d) Has been found guilty of, or has pleaded guilty or nolo
797 contendere to, a ~~any~~ felony, or a misdemeanor involving fraud or
798 moral turpitude, regardless of whether a judgment of conviction
799 has been entered by the court;
800 (e) Has issued viatical settlement contracts that have not
801 been approved pursuant to this act;
802 (f) Has failed to honor contractual obligations related to
803 the business of viatical settlement contracts;
804 (g) Deals in bad faith with viators;
805 (h) Has violated any provision of the insurance code or of
806 this act;
807 (i) Employs a ~~any~~ person who materially influences the
808 licensee's conduct and who fails to meet the requirements of
809 this act; or
810 (j) No longer meets the requirements for initial licensure~~;~~
811 ~~or~~
812 ~~(k) Obtains or utilizes life expectancies from life~~
813 ~~expectancy providers who are not registered with the office~~
814 ~~pursuant to this act~~.
815 Section 26. Section 626.99175, Florida Statutes, is amended
816 to read:
817 626.99175 Life expectancy providers~~; registration required;~~
818 ~~denial, suspension, revocation~~.~~—~~
819 ~~(1) After July 1, 2006, a person may not perform the~~
820 ~~functions of a life expectancy provider without first having~~
821 ~~registered as a life expectancy provider, except as provided in~~
822 ~~subsection (6).~~
823 ~~(2) Application for registration as a life expectancy~~
824 ~~provider must be made to the office by the applicant on a form~~

511142

825 ~~prescribed by the office, under oath and signed by the~~
826 ~~applicant. The application must be accompanied by a fee of $500.~~
827 ~~(3) A completed application shall be evidenced on a form~~
828 ~~and in a manner prescribed by the office and shall require the~~
829 ~~registered life expectancy provider to update such information~~
830 ~~and renew such registration as required by the office.~~
831 ~~(4) In the application, the applicant must provide all of~~
832 ~~the following:~~
833 ~~(a) The full name, age, residence address, and business~~
834 ~~address, and all occupations engaged in by the applicant during~~
835 ~~the 5 years preceding the date of the application.~~
836 ~~(b) A copy of the applicant's basic organizational~~
837 ~~documents, if any, including the articles of incorporation,~~
838 ~~articles of association, partnership agreement, trust agreement,~~
839 ~~or other similar documents, together with all amendments to such~~
840 ~~documents.~~
841 ~~(c) Copies of all bylaws, rules, regulations, or similar~~
842 ~~documents regulating the conduct of the applicant's internal~~
843 ~~affairs.~~
844 ~~(d) A list showing the name, business and residence~~
845 ~~addresses, and official position of each individual who is~~
846 ~~responsible for conduct of the applicant's affairs, including,~~
847 ~~but not limited to, any member of the board of directors, board~~
848 ~~of trustees, executive committee, or other governing board or~~
849 ~~committee and any other person or entity owning or having the~~
850 ~~right to acquire 10 percent or more of the voting securities of~~
851 ~~the applicant, and any person performing life expectancies by~~
852 ~~the applicant.~~
853 ~~(e) A sworn biographical statement on forms supplied by the~~

511142

854 ~~office with respect to each individual identified under~~
855 ~~paragraph (d), including whether such individual has been~~
856 ~~associated with any other life expectancy provider or has~~
857 ~~performed any services for a person in the business of viatical~~
858 ~~settlements.~~
859 ~~(f) A sworn statement of any criminal and civil actions~~
860 ~~pending or final against the registrant or any individual~~
861 ~~identified under paragraph (d).~~
862 ~~(g) A general description of the following policies and~~
863 ~~procedures covering all life expectancy determination criteria~~
864 ~~and protocols:~~
865 ~~1. The plan or plans of policies and procedures used to~~
866 ~~determine life expectancies.~~
867 ~~2. A description of the training, including continuing~~
868 ~~training, of the individuals who determine life expectancies.~~
869 ~~3. A description of how the life expectancy provider~~
870 ~~updates its manuals, underwriting guides, mortality tables, and~~
871 ~~other reference works and ensures that the provider bases its~~
872 ~~determination of life expectancies on current data.~~
873 ~~(h) A plan for assuring confidentiality of personal,~~
874 ~~medical, and financial information in accordance with federal~~
875 ~~and state laws.~~
876 ~~(i) An anti-fraud plan as required pursuant to s.~~
877 ~~626.99278.~~
878 ~~(j) A list of any agreements, contracts, or any other~~
879 ~~arrangement to provide life expectancies to a viatical~~
880 ~~settlement provider, viatical settlement broker, or any other~~
881 ~~person in the business of viatical settlements in connection~~
882 ~~with any viatical settlement contract or viatical settlement~~

511142

883 ~~investment.~~
884 ~~(5) As part of the application, and on or before March 1 of~~
885 ~~every 3 years thereafter, a registered life expectancy provider~~
886 ~~shall file with the office an audit of all life expectancies by~~
887 ~~the life expectancy provider for the 5 calendar years~~
888 ~~immediately preceding such audit, which audit shall be conducted~~
889 ~~and certified by a nationally recognized actuarial firm and~~
890 ~~shall include only the following:~~
891 ~~(a) A mortality table.~~
892 ~~(b) The number, percentage, and an actual-to-expected ratio~~
893 ~~of life expectancies in the following categories: life~~
894 ~~expectancies of less than 24 months, life expectancies of 25~~
895 ~~months to 48 months, life expectancies of 49 months to 72~~
896 ~~months, life expectancies of 73 months to 108 months, life~~
897 ~~expectancies of 109 months to 144 months, life expectancies of~~
898 ~~145 months to 180 months, and life expectancies of more than 180~~
899 ~~months.~~
900 ~~(6)~~ A ~~No~~ viatical settlement broker, viatical settlement
901 provider, or insurance agent in the business of viatical
902 settlements in this state may not ~~shall~~ directly or indirectly
903 own or be an officer, director, or employee of a life expectancy
904 provider.
905 ~~(7) Each registered life expectancy provider shall provide~~
906 ~~the office, as applicable, at least 30 days' advance notice of~~
907 ~~any change in the registrant's name, residence address,~~
908 ~~principal business address, or mailing address.~~
909 ~~(8) A person required to be registered by this section~~
910 ~~shall for 5 years retain copies of all life expectancies and~~
911 ~~supporting documents and medical records unless those personal~~

511142

912 ~~medical records are subject to different retention or~~
913 ~~destruction requirements of a federal or state personal health~~
914 ~~information law.~~
915 ~~(9) An application for life expectancy provider~~
916 ~~registration shall be approved or denied by the commissioner~~
917 ~~within 60 calendar days following receipt of a completed~~
918 ~~application by the commissioner. The office shall notify the~~
919 ~~applicant that the application is complete. A completed~~
920 ~~application that is not approved or denied in 60 calendar days~~
921 ~~following its receipt shall be deemed approved.~~
922 ~~(10) The office may, in its discretion, deny the~~
923 ~~application for a life expectancy provider registration or~~
924 ~~suspend, revoke, or refuse to renew or continue the registration~~
925 ~~of a life expectancy provider if the office finds:~~
926 ~~(a) Any cause for which registration could have been~~
927 ~~refused had it then existed and been known to the office;~~
928 ~~(b) A violation of any provision of this code or of any~~
929 ~~other law applicable to the applicant or registrant;~~
930 ~~(c) A violation of any lawful order or rule of the~~
931 ~~department, commission, or office; or~~
932 ~~(d) That the applicant or registrant:~~
933 ~~1. Has been found guilty of or pled guilty or nolo~~
934 ~~contendere to a felony or a crime punishable by imprisonment of~~
935 ~~1 year or more under the law of the United States of America or~~
936 ~~of any state thereof or under the law of any other country;~~
937 ~~2. Has knowingly and willfully aided, assisted, procured,~~
938 ~~advised, or abetted any person in the violation of a provision~~
939 ~~of the insurance code or any order or rule of the department,~~
940 ~~commission, or office;~~

511142

941 ~~3. Has knowingly and with intent to defraud, provided a~~
942 ~~life expectancy that does not conform to an applicant's or~~
943 ~~registrant's general practice;~~
944 ~~4. Does not have a good business reputation or does not~~
945 ~~have experience, training, or education that qualifies the~~
946 ~~applicant or registrant to conduct the business of a life~~
947 ~~expectancy provider; or~~
948 ~~5. Has demonstrated a lack of fitness or trustworthiness to~~
949 ~~engage in the business of issuing life expectancies.~~
950 ~~(11) The office may, in lieu of or in addition to any~~
951 ~~suspension or revocation, assess an administrative fine not to~~
952 ~~exceed $2,500 for each nonwillful violation or $10,000 for each~~
953 ~~willful violation by a registered life expectancy provider. The~~
954 ~~office may also place a registered life expectancy provider on~~
955 ~~probation for a period not to exceed 2 years.~~
956 ~~(12) It is a violation of this section for a person to~~
957 ~~represent, orally or in writing, that a life expectancy~~
958 ~~provider's registration pursuant to this act is in any way a~~
959 ~~recommendation or approval of the entity or means that the~~
960 ~~qualifications or abilities have in any way been approved of.~~
961 ~~(13) The Financial Services Commission may, by rule,~~
962 ~~require that all or part of the statements or filings required~~
963 ~~under this section be submitted by electronic means and in a~~
964 ~~computer-readable format specified by the commission.~~
965 Section 27. Section 626.9919, Florida Statutes, is amended
966 to read:
967 626.9919 Notice of change of licensee ~~or registrant's~~
968 address or name.—Each viatical settlement provider licensee ~~and~~
969 ~~registered life expectancy provider~~ must provide the office at

511142

970 least 30 days' advance notice of any change in the licensee's ~~or~~
971 ~~registrant's~~ name, residence address, principal business
972 address, or mailing address.
973 Section 28. Section 626.992, Florida Statutes, is amended
974 to read:
975 626.992 Use of licensed viatical settlement providers and~~,~~
976 viatical settlement brokers~~, and registered life expectancy~~
977 ~~providers required~~.~~—~~
978 (1) A licensed viatical settlement provider may not use a
979 ~~any~~ person to perform the functions of a viatical settlement
980 broker as defined in this act unless such person holds a
981 current, valid life agent license and has appointed himself or
982 herself in conformance with this chapter.
983 (2) A viatical settlement broker may not use a ~~any~~ person
984 to perform the functions of a viatical settlement provider as
985 defined in this act unless such person holds a current, valid
986 license as a viatical settlement provider.
987 ~~(3) After July 1, 2006, a person may not operate as a life~~
988 ~~expectancy provider unless such person is registered as a life~~
989 ~~expectancy provider pursuant to this act.~~
990 ~~(4) After July 1, 2006, a viatical settlement provider,~~
991 ~~viatical settlement broker, or any other person in the business~~
992 ~~of viatical settlements may not obtain life expectancies from a~~
993 ~~person who is not registered as a life expectancy provider~~
994 ~~pursuant to this act.~~
995 Section 29. Section 626.9925, Florida Statutes, is amended
996 to read:
997 626.9925 Rules.—The commission may adopt rules to
998 administer this act, including rules establishing standards for

511142

999 evaluating advertising by licensees; rules providing for the
1000 collection of data, for disclosures to viators, and for the
1001 reporting of life expectancies~~, and for the registration of life~~
1002 ~~expectancy providers~~; and rules defining terms used in this act
1003 and prescribing recordkeeping requirements relating to executed
1004 viatical settlement contracts.
1005 Section 30. Section 626.99278, Florida Statutes, is amended
1006 to read:
1007 626.99278 Viatical provider anti-fraud plan.—Every licensed
1008 viatical settlement provider ~~and registered life expectancy~~
1009 ~~provider~~ must adopt an anti-fraud plan and file it with the
1010 Division of Insurance Fraud of the department. Each anti-fraud
1011 plan shall include:
1012 (1) A description of the procedures for detecting and
1013 investigating possible fraudulent acts and procedures for
1014 resolving material inconsistencies between medical records and
1015 insurance applications.
1016 (2) A description of the procedures for the mandatory
1017 reporting of possible fraudulent insurance acts and prohibited
1018 practices set forth in s. 626.99275 to the Division of Insurance
1019 Fraud of the department.
1020 (3) A description of the plan for anti-fraud education and
1021 training of its underwriters or other personnel.
1022 (4) A written description or chart outlining the
1023 organizational arrangement of the anti-fraud personnel who are
1024 responsible for the investigation and reporting of possible
1025 fraudulent insurance acts and for the investigation of
1026 unresolved material inconsistencies between medical records and
1027 insurance applications.

511142

1028 (5) For viatical settlement providers, a description of the
1029 procedures used to perform initial and continuing review of the
1030 accuracy of life expectancies used in connection with a viatical
1031 settlement contract or viatical settlement investment.
1032 Section 31. Paragraph (b) of subsection (2) of section
1033 627.062, Florida Statutes, is amended to read:
1034 627.062 Rate standards.—
1035 (2) As to all such classes of insurance:
1036 (b) Upon receiving a rate filing, the office shall review
1037 the filing to determine if a rate is excessive, inadequate, or
1038 unfairly discriminatory. In making that determination, the
1039 office shall, in accordance with generally accepted and
1040 reasonable actuarial techniques, consider the following factors:
1041 1. Past and prospective loss experience within and without
1042 this state.
1043 2. Past and prospective expenses.
1044 3. The degree of competition among insurers for the risk
1045 insured.
1046 4. Investment income reasonably expected by the insurer,
1047 consistent with the insurer’s investment practices, from
1048 investable premiums anticipated in the filing, plus any other
1049 expected income from currently invested assets representing the
1050 amount expected on unearned premium reserves and loss reserves.
1051 The commission may adopt rules using reasonable techniques of
1052 actuarial science and economics to specify the manner in which
1053 insurers calculate investment income attributable to classes of
1054 insurance written in this state and the manner in which
1055 investment income is used to calculate insurance rates. Such
1056 manner must contemplate allowances for an underwriting profit

511142

1057 factor and full consideration of investment income which produce
1058 a reasonable rate of return; however, investment income from
1059 invested surplus may not be considered.
1060 5. The reasonableness of the judgment reflected in the
1061 filing.
1062 6. Dividends, savings, or unabsorbed premium deposits
1063 allowed or returned to Florida policyholders, members, or
1064 subscribers.
1065 7. The adequacy of loss reserves.
1066 8. The cost of reinsurance. The office may not disapprove a
1067 rate as excessive solely due to the insurer having obtained
1068 catastrophic reinsurance to cover the insurer's estimated 250-
1069 year probable maximum loss or any lower level of loss.
1070 9. Trend factors, including trends in actual losses per
1071 insured unit for the insurer making the filing.
1072 10. Conflagration and catastrophe hazards, if applicable.
1073 11. Projected hurricane losses, if applicable, which must
1074 be estimated using a model or method, or a straight average of
1075 model results or output ranges, independently found to be
1076 acceptable or reliable by the Florida Commission on Hurricane
1077 Loss Projection Methodology, and as further provided in s.
1078 627.0628.
1079 12. A reasonable margin for underwriting profit and
1080 contingencies.
1081 13. The cost of medical services, if applicable.
1082 14. Other relevant factors that affect the frequency or
1083 severity of claims or expenses.
1084 Section 32. Paragraph (d) of subsection (3) of section
1085 627.0628, Florida Statutes, is amended to read:

511142

1086 627.0628 Florida Commission on Hurricane Loss Projection
1087 Methodology; public records exemption; public meetings
1088 exemption.—
1089 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—
1090 (d) With respect to a rate filing under s. 627.062, an
1091 insurer shall employ and may not modify or adjust actuarial
1092 methods, principles, standards, models, or output ranges found
1093 by the commission to be accurate or reliable in determining
1094 hurricane loss factors for use in a rate filing under s.
1095 627.062. An insurer shall employ and may not modify or adjust
1096 models found by the commission to be accurate or reliable in
1097 determining probable maximum loss levels pursuant to paragraph
1098 (b) with respect to a rate filing under s. 627.062 made more
1099 than 180 ~~60~~ days after the commission has made such findings.
1100 This paragraph does not prohibit an insurer from using a
1101 straight average of model results or output ranges or using
1102 straight averages for the purposes of a rate filing under s.
1103 627.062.
1104 Section 33. Present subsections (2) through (4) of section
1105 627.072, Florida Statutes, are renumbered as subsections (3)
1106 through (5), respectively, and a new subsection (2) is added to
1107 that section, to read:
1108 627.072 Making and use of rates.—
1109 (2) A retrospective rating plan may contain a provision
1110 that allows negotiation between the employer and the insurer to
1111 determine the retrospective rating factors used to calculate the
1112 premium for employers that have exposure in more than one state
1113 and an estimated annual countrywide standard premium of $1
1114 million or more for workers' compensation.

511142

1115 Section 34. Subsection (2) of section 627.281, Florida
1116 Statutes, is amended to read:
1117 627.281 Appeal from rating organization; workers'
1118 compensation and employer's liability insurance filings.—
1119 (2) If such appeal is based upon the failure of the rating
1120 organization to make a filing on behalf of such member or
1121 subscriber which is based on a system of expense provisions
1122 which differs, in accordance with the right granted in s.
1123 627.072(3) ~~627.072(2)~~, from the system of expense provisions
1124 included in a filing made by the rating organization, the office
1125 shall, if it grants the appeal, order the rating organization to
1126 make the requested filing for use by the appellant. In deciding
1127 such appeal, the office shall apply the applicable standards set
1128 forth in ss. 627.062 and 627.072.
1129 Section 35. Section 627.3519, Florida Statutes, is
1130 repealed.
1131 Section 36. Paragraph (b) of subsection (2) of section
1132 627.4133, Florida Statutes, is amended to read:
1133 627.4133 Notice of cancellation, nonrenewal, or renewal
1134 premium.—
1135 (2) With respect to any personal lines or commercial
1136 residential property insurance policy, including, but not
1137 limited to, any homeowner's, mobile home owner's, farmowner's,
1138 condominium association, condominium unit owner's, apartment
1139 building, or other policy covering a residential structure or
1140 its contents:
1141 (b) The insurer shall give the first-named insured written
1142 notice of nonrenewal, cancellation, or termination at least 120
1143 ~~100~~ days before the effective date of the nonrenewal,

511142

1144 cancellation, or termination. ~~However, the insurer shall give at~~
1145 ~~least 100 days' written notice, or written notice by June 1,~~
1146 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
1147 ~~termination that would be effective between June 1 and November~~
1148 ~~30.~~ The notice must include the reason or reasons for the
1149 nonrenewal, cancellation, or termination, except that:
1150 ~~1. The insurer shall give the first-named insured written~~
1151 ~~notice of nonrenewal, cancellation, or termination at least 120~~
1152 ~~days prior to the effective date of the nonrenewal,~~
1153 ~~cancellation, or termination for a first-named insured whose~~
1154 ~~residential structure has been insured by that insurer or an~~
1155 ~~affiliated insurer for at least a 5-year period immediately~~
1156 ~~prior to the date of the written notice.~~
1157 1.~~2.~~ If cancellation is for nonpayment of premium, at least
1158 10 days' written notice of cancellation accompanied by the
1159 reason therefor must be given. As used in this subparagraph, the
1160 term "nonpayment of premium" means failure of the named insured
1161 to discharge when due her or his obligations for ~~in connection~~
1162 ~~with~~ the payment of premiums on a policy or an ~~any~~ installment
1163 of such premium, whether the premium is payable directly to the
1164 insurer or its agent or indirectly under a ~~any~~ premium finance
1165 plan or extension of credit, or failure to maintain membership
1166 in an organization if such membership is a condition precedent
1167 to insurance coverage. The term also means the failure of a
1168 financial institution to honor an insurance applicant's check
1169 after delivery to a licensed agent for payment of a premium,
1170 even if the agent has previously delivered or transferred the
1171 premium to the insurer. If a dishonored check represents the
1172 initial premium payment, the contract and all contractual

511142

1173 obligations are void ab initio unless the nonpayment is cured
1174 within the earlier of 5 days after actual notice by certified
1175 mail is received by the applicant or 15 days after notice is
1176 sent to the applicant by certified mail or registered mail.~~, and~~
1177 If the contract is void, any premium received by the insurer
1178 from a third party must be refunded to that party in full.
1179 2.~~3.~~ If ~~such~~ cancellation or termination occurs during the
1180 first 90 days the insurance is in force and the insurance is
1181 canceled or terminated for reasons other than nonpayment of
1182 premium, at least 20 days' written notice of cancellation or
1183 termination accompanied by the reason therefor must be given
1184 unless there has been a material misstatement or
1185 misrepresentation or failure to comply with the underwriting
1186 requirements established by the insurer.
1187 3. After the policy has been in effect for 90 days, the
1188 policy may not be canceled by the insurer unless there has been
1189 a material misstatement, a nonpayment of premium, a failure to
1190 comply with underwriting requirements established by the insurer
1191 within 90 days after the date of effectuation of coverage, a
1192 substantial change in the risk covered by the policy, or the
1193 cancellation is for all insureds under such policies for a given
1194 class of insureds. This subparagraph does not apply to
1195 individually rated risks having a policy term of less than 90
1196 days.
1197 ~~4. The requirement for providing written notice by June 1~~
1198 ~~of any nonrenewal that would be effective between June 1 and~~
1199 ~~November 30 does not apply to the following situations, but the~~
1200 ~~insurer remains subject to the requirement to provide such~~
1201 ~~notice at least 100 days before the effective date of~~

511142

1202 ~~nonrenewal:~~
1203 ~~a. A policy that is nonrenewed due to a revision in the~~
1204 ~~coverage for sinkhole losses and catastrophic ground cover~~
1205 ~~collapse pursuant to s. 627.706.~~
1206 4.~~b.~~ A policy that is nonrenewed by Citizens Property
1207 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1208 that has been assumed by an authorized insurer offering
1209 replacement coverage to the policyholder is exempt from the
1210 notice requirements of paragraph (a) and this paragraph. In such
1211 cases, the corporation must give the named insured written
1212 notice of nonrenewal at least 45 days before the effective date
1213 of the nonrenewal.
1214
1215 ~~After the policy has been in effect for 90 days, the policy may~~
1216 ~~not be canceled by the insurer unless there has been a material~~
1217 ~~misstatement, a nonpayment of premium, a failure to comply with~~
1218 ~~underwriting requirements established by the insurer within 90~~
1219 ~~days after the date of effectuation of coverage, or a~~
1220 ~~substantial change in the risk covered by the policy or if the~~
1221 ~~cancellation is for all insureds under such policies for a given~~
1222 ~~class of insureds. This paragraph does not apply to individually~~
1223 ~~rated risks having a policy term of less than 90 days.~~
1224 5. Notwithstanding any other provision of law, an insurer
1225 may cancel or nonrenew a property insurance policy after at
1226 least 45 days' notice if the office finds that the early
1227 cancellation of some or all of the insurer's policies is
1228 necessary to protect the best interests of the public or
1229 policyholders and the office approves the insurer's plan for
1230 early cancellation or nonrenewal of some or all of its policies.

511142

1231 The office may base such finding upon the financial condition of
1232 the insurer, lack of adequate reinsurance coverage for hurricane
1233 risk, or other relevant factors. The office may condition its
1234 finding on the consent of the insurer to be placed under
1235 administrative supervision pursuant to s. 624.81 or to the
1236 appointment of a receiver under chapter 631.
1237 6. A policy covering both a home and motor vehicle may be
1238 nonrenewed for any reason applicable to ~~either~~ the property or
1239 motor vehicle insurance after providing 90 days' notice.
1240 Section 37. Subsection (1) of section 627.4137, Florida
1241 Statutes, is amended to read:
1242 627.4137 Disclosure of certain information required.—
1243 (1) Each insurer that provides ~~which does~~ or may provide
1244 liability insurance coverage to pay all or a portion of a ~~any~~
1245 claim that ~~which~~ might be made shall provide, within 30 days
1246 after ~~of~~ the written request of the claimant, a statement, under
1247 oath, of a corporate officer or the insurer's claims manager, ~~or~~
1248 superintendent, or licensed company adjuster setting forth the
1249 following information with regard to each known policy of
1250 insurance, including excess or umbrella insurance:
1251 (a) The name of the insurer.
1252 (b) The name of each insured.
1253 (c) The limits of the liability coverage.
1254 (d) A statement of any policy or coverage defense that the
1255 ~~which such~~ insurer reasonably believes is available to the ~~such~~
1256 insurer at the time of filing such statement.
1257 (e) A copy of the policy.
1258
1259 In addition, the insured, or her or his insurance agent, upon

511142

1260 written request of the claimant or the claimant's attorney,
1261 shall disclose the name and coverage of each known insurer to
1262 the claimant and shall forward such request for information as
1263 required by this subsection to all affected insurers. The
1264 insurer shall then supply the information required in this
1265 subsection to the claimant within 30 days after ~~of~~ receipt of
1266 such request.
1267 Section 38. Subsection (1) of section 627.421, Florida
1268 Statutes, is amended to read:
1269 627.421 Delivery of policy.—
1270 (1) Subject to the insurer's requirement as to payment of
1271 premium, every policy shall be mailed or delivered to the
1272 insured or to the person entitled thereto not later than 60 days
1273 after the effectuation of coverage. Notwithstanding any other
1274 provision of law, an insurer may allow a policyholder of
1275 personal lines insurance to affirmatively elect delivery of the
1276 policy documents, including, but not limited to, policies,
1277 endorsements, notices, or documents, by electronic means in lieu
1278 of delivery by mail.
1279 Section 39. Subsection (2) of section 627.43141, Florida
1280 Statutes, is amended to read:
1281 627.43141 Notice of change in policy terms.—
1282 (2) A renewal policy may contain a change in policy terms.
1283 If a renewal policy contains ~~does contain~~ such change, the
1284 insurer must give the named insured written notice of the
1285 change, which may either ~~must~~ be enclosed along with the written
1286 notice of renewal premium required by ss. 627.4133 and 627.728
1287 or sent in a separate notice that complies with the nonrenewal
1288 mailing time requirement for that particular line of business.

511142

1289 The insurer must also provide a sample copy of the notice to the
1290 insured's insurance agent before or at the same time that notice
1291 is given to the insured. Such notice shall be entitled "Notice
1292 of Change in Policy Terms."
1293 Section 40. Section 627.6484, Florida Statutes, is amended
1294 to read:
1295 627.6484 Dissolution of association; termination of
1296 enrollment; availability of other coverage.—
1297 (1) The association shall accept applications for insurance
1298 only until June 30, 1991, after which date no further
1299 applications may be accepted. ~~Upon receipt of an application for~~
1300 ~~insurance, the association shall issue coverage for an eligible~~
1301 ~~applicant. When appropriate, the administrator shall forward a~~
1302 ~~copy of the application to a market assistance plan created by~~
1303 ~~the office, which shall conduct a diligent search of the private~~
1304 ~~marketplace for a carrier willing to accept the application.~~
1305 (2) Coverage for each policyholder of the association
1306 terminates at midnight, June 30, 2014, or on the date that
1307 health insurance coverage is effective with another insurer,
1308 whichever occurs first, and such coverage may not be renewed.
1309 (3) The association shall provide assistance to each
1310 policyholder concerning how to obtain health insurance coverage.
1311 Such assistance must include:
1312 (a) The identification of insurers and health maintenance
1313 organizations offering coverage in the individual market,
1314 including coverage inside and outside of the Health Insurance
1315 Exchange;
1316 (b) A basic explanation of the levels of coverage
1317 available; and

511142

1318 (c) Specific information relating to local and online
1319 sources from which a policyholder may obtain detailed policy and
1320 premium comparisons and directly obtain coverage.
1321 (4) The association shall provide written notice to all
1322 policyholders by September 1, 2013, which informs each
1323 policyholder with respect to:
1324 (a) The date that coverage with the association is
1325 terminated and that such coverage may not be renewed.
1326 (b) The opportunity for the policyholder to obtain
1327 individual health insurance coverage on a guaranteed-issue
1328 basis, regardless of policyholder's health status, from a health
1329 insurer or health maintenance organization that offers coverage
1330 in the individual market, including the dates of open enrollment
1331 periods for obtaining such coverage.
1332 (c) How to access coverage through the Health Insurance
1333 Exchange established for this state pursuant to the Patient
1334 Protection and Affordable Care Act and the potential for
1335 obtaining reduced premiums and cost-sharing provisions depending
1336 on the policyholder's family income level.
1337 (d) Contact information for a representative of the
1338 association who is able to provide additional information about
1339 obtaining individual health insurance coverage both inside and
1340 outside of the Health Insurance Exchange.
1341 (5) After termination of coverage, the association must
1342 continue to receive and process timely submitted claims in
1343 accordance with the laws of this state.
1344 (6) By March 15, 2015, the association shall determine the
1345 final assessment to be collected from insurers for funding
1346 claims and administrative expenses of the association or, if

511142

1347 surplus funds remain, shall determine the refund amount to be
1348 provided to each insurer based on the same pro rata formula used
1349 for determining each insurer's assessment.
1350 (7) By September 1, 2015, the board must:
1351 (a) Complete performance of all program responsibilities.
1352 (b) Sell or otherwise dispose of all physical assets of the
1353 association.
1354 (c) Make a final accounting of the finances of the
1355 association.
1356 (d) Transfer all records to the Office of Insurance
1357 Regulation, which shall serve as custodian of such records.
1358 (e) Execute a legal dissolution of the association and
1359 report such action to the Chief Financial Officer, the Insurance
1360 Commissioner, the President of the Senate, and the Speaker of
1361 the House of Representatives.
1362 ~~(2) The office shall, after consultation with the health~~
1363 ~~insurers licensed in this state, adopt a market assistance plan~~
1364 ~~to assist in the placement of risks of Florida Comprehensive~~
1365 ~~Health Association applicants. All health insurers and health~~
1366 ~~maintenance organizations licensed in this state shall~~
1367 ~~participate in the plan.~~
1368 ~~(3) Guidelines for the use of such program shall be a part~~
1369 ~~of the association's plan of operation. The guidelines shall~~
1370 ~~describe which types of applications are to be exempt from~~
1371 ~~submission to the market assistance plan. An exemption shall be~~
1372 ~~based upon a determination that due to a specific health~~
1373 ~~condition an applicant is ineligible for coverage in the~~
1374 ~~standard market. The guidelines shall also describe how the~~
1375 ~~market assistance plan is to be conducted, and how the periodic~~

511142

1376 ~~reviews to depopulate the association are to be conducted.~~
1377 ~~(4) If a carrier is found through the market assistance~~
1378 ~~plan, the individual shall apply to that company. If the~~
1379 ~~individual's application is accepted, association coverage shall~~
1380 ~~terminate upon the effective date of the coverage with the~~
1381 ~~private carrier. For the purpose of applying a preexisting~~
1382 ~~condition limitation or exclusion, any carrier accepting a risk~~
1383 ~~pursuant to this section shall provide coverage as if it began~~
1384 ~~on the date coverage was effectuated on behalf of the~~
1385 ~~association, and shall be indemnified by the association for~~
1386 ~~claims costs incurred as a result of utilizing such effective~~
1387 ~~date.~~
1388 ~~(5) The association shall establish a policyholder~~
1389 ~~assistance program by July 1, 1991, to assist in placing~~
1390 ~~eligible policyholders in other coverage programs, including~~
1391 ~~Medicare and Medicaid.~~
1392 Section 41. Section 627.64872, Florida Statutes, is
1393 repealed.
1394 Section 42. Effective October 1, 2015, sections 627.648,
1395 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649,
1396 627.6492, 627.6494, 627.6496, 627.6498, and 627.6499, Florida
1397 Statutes, are repealed.
1398 Section 43. Subsection (7) of section 627.701, Florida
1399 Statutes, is amended to read:
1400 627.701 Liability of insureds; coinsurance; deductibles.—
1401 (7) Before ~~Prior to~~ issuing a personal lines residential
1402 property insurance policy on or after January 1, 2014 ~~April 1,~~
1403 ~~1997~~, or before ~~prior to~~ the first renewal of a residential
1404 property insurance policy on or after January 1, 2014 ~~April 1,~~

511142

1405 ~~1997~~, the insurer must, at a minimum, offer a deductible equal
1406 to $750 and a deductible equal to 1 percent of the policy
1407 dwelling limits if such amount is not less than $750, ~~$500~~
1408 applicable to losses from perils other than hurricane. Beginning
1409 July 1, 2018, and every 5 years thereafter, the office shall
1410 calculate and publish an adjustment to the $750 deductible based
1411 on the average percentage change in the Consumer Price Index for
1412 All Urban Consumers, U.S. City Average, all items, compiled by
1413 the United States Department of Labor for the immediately
1414 preceding 5 calendar years. The adjustment to the $750
1415 deductible shall be rounded to the nearest $50 increment and
1416 take effect on the January 1 following the publication of the
1417 adjustment by the office. The first initial adjusted deductible
1418 shall take effect upon the renewal or issuance of policies on or
1419 after January 1, 2019 ~~The insurer must provide the policyholder~~
1420 ~~with notice of the availability of the deductible specified in~~
1421 ~~this subsection in a form approved by the office at least once~~
1422 ~~every 3 years~~. ~~The failure to provide such notice constitutes a~~
1423 ~~violation of this code but does not affect the coverage provided~~
1424 ~~under the policy.~~ An insurer may require a higher deductible
1425 only as part of a deductible program lawfully in effect on June
1426 1, 1996, or as part of a similar deductible program.
1427 Section 44. Paragraph (b) of subsection (4) of section
1428 627.7015, Florida Statutes, is amended to read:
1429 627.7015 Alternative procedure for resolution of disputed
1430 property insurance claims.—
1431 (4) The department shall adopt by rule a property insurance
1432 mediation program to be administered by the department or its
1433 designee. The department may also adopt special rules which are

511142

1434 applicable in cases of an emergency within the state. The rules
1435 shall be modeled after practices and procedures set forth in
1436 mediation rules of procedure adopted by the Supreme Court. The
1437 rules shall provide for:
1438 (b) Qualifications, denial of application, suspension,
1439 revocation, and other penalties for ~~of~~ mediators as provided in
1440 s. 627.745 and in the Florida Rules of Certified and Court
1441 Appointed Mediators~~, and for such other individuals as are~~
1442 ~~qualified by education, training, or experience as the~~
1443 ~~department determines to be appropriate~~.
1444 Section 45. Section 627.70151, Florida Statutes, is created
1445 to read:
1446 627.70151 Appraisal; conflicts of interest.—An insurer that
1447 offers residential coverage, as defined in s. 627.4025, or a
1448 policyholder that uses an appraisal clause in the property
1449 insurance contract to establish a process of estimating or
1450 evaluating the amount of the loss through the use of an
1451 impartial umpire may challenge the umpire's impartiality and
1452 disqualify the proposed umpire only if:
1453 (1) A familial relationship within the third degree exists
1454 between the umpire and any party or a representative of any
1455 party;
1456 (2) The umpire has previously represented any party or a
1457 representative of any party in a professional capacity in the
1458 same or a substantially related matter;
1459 (3) The umpire has represented another person in a
1460 professional capacity on the same or a substantially related
1461 matter, which includes the claim, same property, or an adjacent
1462 property and that other person's interests are materially

511142

1463 adverse to the interests of any party; or
1464 (4) The umpire has worked as an employer or employee of any
1465 party within the preceding 5 years.
1466 Section 46. Paragraph (c) of subsection (2) of section
1467 627.706, Florida Statutes, is amended to read:
1468 627.706 Sinkhole insurance; catastrophic ground cover
1469 collapse; definitions.—
1470 (2) As used in ss. 627.706-627.7074, and as used in
1471 connection with any policy providing coverage for a catastrophic
1472 ground cover collapse or for sinkhole losses, the term:
1473 (c) "Neutral evaluator" means a professional engineer or a
1474 professional geologist who has completed a course of study in
1475 alternative dispute resolution designed or approved by the
1476 department for use in the neutral evaluation process, ~~and~~ who is
1477 determined by the department to be fair and impartial, and who
1478 is not otherwise ineligible for certification as provided in s.
1479 627.7074.
1480 Section 47. Subsection (1) of section 627.7074, Florida
1481 Statutes, is amended to read:
1482 627.7074 Alternative procedure for resolution of disputed
1483 sinkhole insurance claims.—
1484 (1) The department shall:
1485 (a) Certify and maintain a list of persons who are neutral
1486 evaluators.
1487 (b) Adopt rules for certifying, denying certification,
1488 suspending certification, and revoking certification as a
1489 neutral evaluator, in keeping with qualifications specified in
1490 this section and ss. 627.706 and 627.745(4).
1491 (c) ~~(b)~~ Prepare a consumer information pamphlet for

511142

1492 distribution by insurers to policyholders which clearly
1493 describes the neutral evaluation process and includes
1494 information necessary for the policyholder to request a neutral
1495 evaluation.
1496 Section 48. Paragraph (a) of subsection (5) of section
1497 627.736, Florida Statutes, is amended to read:
1498 627.736 Required personal injury protection benefits;
1499 exclusions; priority; claims.—
1500 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—
1501 (a) A physician, hospital, clinic, or other person or
1502 institution lawfully rendering treatment to an injured person
1503 for a bodily injury covered by personal injury protection
1504 insurance may charge the insurer and injured party only a
1505 reasonable amount pursuant to this section for the services and
1506 supplies rendered, and the insurer providing such coverage may
1507 pay for such charges directly to such person or institution
1508 lawfully rendering such treatment if the insured receiving such
1509 treatment or his or her guardian has countersigned the properly
1510 completed invoice, bill, or claim form approved by the office
1511 upon which such charges are to be paid for as having actually
1512 been rendered, to the best knowledge of the insured or his or
1513 her guardian. However, such a charge may not exceed the amount
1514 the person or institution customarily charges for like services
1515 or supplies. In determining whether a charge for a particular
1516 service, treatment, or otherwise is reasonable, consideration
1517 may be given to evidence of usual and customary charges and
1518 payments accepted by the provider involved in the dispute,
1519 reimbursement levels in the community and various federal and
1520 state medical fee schedules applicable to motor vehicle and

511142

1521 other insurance coverages, and other information relevant to the
1522 reasonableness of the reimbursement for the service, treatment,
1523 or supply.
1524 1. The insurer may limit reimbursement to 80 percent of the
1525 following schedule of maximum charges:
1526 a. For emergency transport and treatment by providers
1527 licensed under chapter 401, 200 percent of Medicare.
1528 b. For emergency services and care provided by a hospital
1529 licensed under chapter 395, 75 percent of the hospital's usual
1530 and customary charges.
1531 c. For emergency services and care as defined by s. 395.002
1532 provided in a facility licensed under chapter 395 rendered by a
1533 physician or dentist, and related hospital inpatient services
1534 rendered by a physician or dentist, the usual and customary
1535 charges in the community.
1536 d. For hospital inpatient services, other than emergency
1537 services and care, 200 percent of the Medicare Part A
1538 prospective payment applicable to the specific hospital
1539 providing the inpatient services.
1540 e. For hospital outpatient services, other than emergency
1541 services and care, 200 percent of the Medicare Part A Ambulatory
1542 Payment Classification for the specific hospital providing the
1543 outpatient services.
1544 f. For all other medical services, supplies, and care, 200
1545 percent of the allowable amount under:
1546 (I) The participating physicians fee schedule of Medicare
1547 Part B, except as provided in sub-sub-subparagraphs (II) and
1548 (III).
1549 (II) Medicare Part B, in the case of services, supplies,

511142

1550 and care provided by ambulatory surgical centers and clinical
1551 laboratories.
1552 (III) The Durable Medical Equipment Prosthetics/Orthotics
1553 and Supplies fee schedule of Medicare Part B, in the case of
1554 durable medical equipment.
1555
1556 However, if such services, supplies, or care is not reimbursable
1557 under Medicare Part B, as provided in this sub-subparagraph, the
1558 insurer may limit reimbursement to 80 percent of the maximum
1559 reimbursable allowance under workers' compensation, as
1560 determined under s. 440.13 and rules adopted thereunder which
1561 are in effect at the time such services, supplies, or care is
1562 provided. Services, supplies, or care that is not reimbursable
1563 under Medicare or workers' compensation is not required to be
1564 reimbursed by the insurer.
1565 2. For purposes of subparagraph 1., the applicable fee
1566 schedule or payment limitation under Medicare is the fee
1567 schedule or payment limitation in effect on March 1 of the year
1568 in which the services, supplies, or care is rendered and for the
1569 area in which such services, supplies, or care is rendered, and
1570 the applicable fee schedule or payment limitation applies from
1571 March 1 until the last day of the following February ~~throughout~~
1572 ~~the remainder of that year~~, notwithstanding any subsequent
1573 change made to the fee schedule or payment limitation, except
1574 that it may not be less than the allowable amount under the
1575 applicable schedule of Medicare Part B for 2007 for medical
1576 services, supplies, and care subject to Medicare Part B.
1577 3. Subparagraph 1. does not allow the insurer to apply any
1578 limitation on the number of treatments or other utilization

511142

1579 limits that apply under Medicare or workers' compensation. An
1580 insurer that applies the allowable payment limitations of
1581 subparagraph 1. must reimburse a provider who lawfully provided
1582 care or treatment under the scope of his or her license,
1583 regardless of whether such provider is entitled to reimbursement
1584 under Medicare due to restrictions or limitations on the types
1585 or discipline of health care providers who may be reimbursed for
1586 particular procedures or procedure codes. However, subparagraph
1587 1. does not prohibit an insurer from using the Medicare coding
1588 policies and payment methodologies of the federal Centers for
1589 Medicare and Medicaid Services, including applicable modifiers,
1590 to determine the appropriate amount of reimbursement for medical
1591 services, supplies, or care if the coding policy or payment
1592 methodology does not constitute a utilization limit.
1593 4. If an insurer limits payment as authorized by
1594 subparagraph 1., the person providing such services, supplies,
1595 or care may not bill or attempt to collect from the insured any
1596 amount in excess of such limits, except for amounts that are not
1597 covered by the insured's personal injury protection coverage due
1598 to the coinsurance amount or maximum policy limits.
1599 5. Effective July 1, 2012, an insurer may limit payment as
1600 authorized by this paragraph only if the insurance policy
1601 includes a notice at the time of issuance or renewal that the
1602 insurer may limit payment pursuant to the schedule of charges
1603 specified in this paragraph. A policy form approved by the
1604 office satisfies this requirement. If a provider submits a
1605 charge for an amount less than the amount allowed under
1606 subparagraph 1., the insurer may pay the amount of the charge
1607 submitted.

511142

1608 Section 49. Subsection (3) of section 627.745, Florida
1609 Statutes, is amended, present subsections (4) and (5) of that
1610 section are renumbered as subsections (5) and (6), respectively,
1611 and a new subsection (4) is added to that section, to read:
1612 627.745 Mediation of claims.—
1613 (3)(a) The department shall approve mediators to conduct
1614 mediations pursuant to this section. All mediators must file an
1615 application under oath for approval as a mediator.
1616 (b) To qualify for approval as a mediator, an individual ~~a~~
1617 ~~person~~ must meet one of the following qualifications:
1618 1. Possess an active certification as a Florida Circuit
1619 Court Mediator. A Florida Circuit Court Mediator in a lapsed,
1620 suspended, or decertified status is not eligible to participate
1621 in the mediation program ~~a masters or doctorate degree in~~
1622 ~~psychology, counseling, business, accounting, or economics, be a~~
1623 ~~member of The Florida Bar, be licensed as a certified public~~
1624 ~~accountant, or demonstrate that the applicant for approval has~~
1625 ~~been actively engaged as a qualified mediator for at least 4~~
1626 ~~years prior to July 1, 1990~~.
1627 2. Be an approved department mediator as of July 1, 2013,
1628 and have conducted at least one mediation on behalf of the
1629 department within 4 years immediately preceding that ~~the~~ date
1630 ~~the application for approval is filed with the department, have~~
1631 ~~completed a minimum of a 40-hour training program approved by~~
1632 ~~the department and successfully passed a final examination~~
1633 ~~included in the training program and approved by the department~~.
1634 ~~The training program shall include and address all of the~~
1635 ~~following:~~
1636 ~~a. Mediation theory.~~

511142

1637 ~~b. Mediation process and techniques.~~
1638 ~~c. Standards of conduct for mediators.~~
1639 ~~d. Conflict management and intervention skills.~~
1640 ~~e. Insurance nomenclature.~~
1641 (4) The department shall deny an application, or suspend or
1642 revoke its approval of a mediator or its certification of a
1643 neutral evaluator to serve in such capacity, if it finds that
1644 any of the following grounds exist:
1645 (a) Lack of one or more of the qualifications specified in
1646 this section for approval or certification.
1647 (b) Material misstatement, misrepresentation, or fraud in
1648 obtaining or attempting to obtain the approval or certification.
1649 (c) Demonstrated lack of fitness or trustworthiness to act
1650 as a mediator or neutral evaluator.
1651 (d) Fraudulent or dishonest practices in the conduct of
1652 mediation or neutral evaluation or in the conduct of business in
1653 the financial services industry.
1654 (e) Violation of any provision of this code, a lawful order
1655 or rule of the department, the Florida Rules for Certified and
1656 Court-Appointed Mediators, or aiding, instructing, or
1657 encouraging another party in committing such a violation.
1658
1659 The department may adopt rules to administer this subsection.
1660 Section 50. Subsection (4) of section 627.841, Florida
1661 Statutes, is amended to read:
1662 627.841 Delinquency, collection, cancellation, and payment
1663 ~~check~~ return charge ~~charges~~; attorney ~~attorney's~~ fees.—
1664 (4) In the event that a payment is made to a premium
1665 finance company by debit, credit, electronic funds transfer,

511142

1666 check, or draft and such payment ~~the instrument~~ is returned,
1667 declined, or cannot be processed due to ~~because of~~ insufficient
1668 funds ~~to pay it~~, the premium finance company may, if the premium
1669 finance agreement so provides, impose a return payment charge of
1670 $15.
1671 Section 51. Paragraph (b) of subsection (1) of section
1672 627.952, Florida Statutes, is amended to read:
1673 627.952 Risk retention and purchasing group agents.—
1674 (1) Any person offering, soliciting, selling, purchasing,
1675 administering, or otherwise servicing insurance contracts,
1676 certificates, or agreements for any purchasing group or risk
1677 retention group to a ~~any~~ resident of this state, either directly
1678 or indirectly, by the use of mail, advertising, or other means
1679 of communication, shall obtain a license and appointment to act
1680 as a resident general lines agent, if a resident of this state,
1681 or a nonresident general lines agent if not a resident. Any such
1682 person shall be subject to all requirements of the Florida
1683 Insurance Code.
1684 (b) A ~~Any~~ person required to be licensed and appointed
1685 under this subsection, in order to place business through
1686 Florida eligible surplus lines carriers, must, if a resident of
1687 this state, be licensed and appointed as a surplus lines agent.
1688 If not a resident of this state, such person must be licensed
1689 and appointed as a nonresident surplus lines agent in this ~~her~~
1690 ~~or his~~ state ~~of residence and file and maintain a fidelity bond~~
1691 ~~in favor of the people of the State of Florida executed by a~~
1692 ~~surety company admitted in this state and payable to the State~~
1693 ~~of Florida; however, such nonresident is limited to the~~
1694 ~~provision of insurance for purchasing groups~~. ~~The bond must be~~

511142

1695 ~~continuous in form and in the amount of not less than $50,000,~~
1696 ~~aggregate liability. The bond must remain in force and effect~~
1697 ~~until the surety is released from liability by the department or~~
1698 ~~until the bond is canceled by the surety. The surety may cancel~~
1699 ~~the bond and be released from further liability upon 30 days'~~
1700 ~~prior written notice to the department. The cancellation does~~
1701 ~~not affect any liability incurred or accrued before the~~
1702 ~~termination of the 30-day period. Upon receipt of a notice of~~
1703 ~~cancellation, the department shall immediately notify the agent.~~
1704 Section 52. Subsection (6) of section 627.971, Florida
1705 Statutes, is amended to read:
1706 627.971 Definitions.—As used in this part:
1707 (6) "Financial guaranty insurance corporation" means a
1708 stock or mutual insurer licensed to transact financial guaranty
1709 insurance business in this state.
1710 Section 53. Subsection (1) of section 627.972, Florida
1711 Statutes, is amended to read:
1712 627.972 Organization; financial requirements.—
1713 (1) A financial guaranty insurance corporation must be
1714 organized and licensed in the manner prescribed in this code for
1715 stock or mutual property and casualty insurers except that:
1716 (a) A corporation organized to transact financial guaranty
1717 insurance may, subject to the provisions of this code, be
1718 licensed to transact:
1719 1. Residual value insurance, as defined by s. 624.6081;
1720 2. Surety insurance, as defined by s. 624.606;
1721 3. Credit insurance, as defined by s. 624.605(1)(i); and
1722 4. Mortgage guaranty insurance as defined in s. 635.011,
1723 provided that the provisions of chapter 635 are met.

511142

1724 (b)1. Before ~~Prior to~~ the issuance of a license, a
1725 corporation must submit to the office for approval~~,~~ a plan of
1726 operation detailing:
1727 a. The types and projected diversification of guaranties to
1728 be issued;
1729 b. The underwriting procedures to be followed;
1730 c. The managerial oversight methods;
1731 d. The investment policies; and
1732 e. ~~Any~~ Other matters prescribed by the office;
1733 2. An insurer which is writing only the types of insurance
1734 allowed under this part on July 1, 1988, and otherwise meets the
1735 requirements of this part, is exempt from the requirements of
1736 this paragraph.
1737 (c) An insurer transacting financial guaranty insurance is
1738 subject to all provisions of this code that are applicable to
1739 property and casualty insurers to the extent that those
1740 provisions are not inconsistent with this part.
1741 (d) The investments of an insurer transacting financial
1742 guaranty insurance in an ~~any~~ entity insured by the corporation
1743 may not exceed 2 percent of its admitted assets as of the end of
1744 the prior calendar year.
1745 (e) An insurer transacting financial guaranty insurance may
1746 only assume those lines of insurance for which it is licensed to
1747 write direct business.
1748 Section 54. Subsections (8), (9), and (13) of section
1749 628.901, Florida Statutes, are amended to read:
1750 628.901 Definitions.—As used in this part, the term:
1751 (8) “Industrial insured” means an insured that:
1752 (a) Has gross assets in excess of $50 million;

511142

1753 (b) Procures insurance through the use of a full-time
1754 employee of the insured who acts as an insurance manager or
1755 buyer or through the services of a person licensed as a property
1756 and casualty insurance agent, broker, or consultant in such
1757 person's state of domicile;
1758 (c) Has at least 100 full-time employees; and
1759 (d) Pays annual premiums of at least $200,000 for each line
1760 of insurance purchased from the industrial insured captive
1761 insurance company ~~insurer~~ or at least $75,000 for any line of
1762 coverage in excess of at least $25 million in the annual
1763 aggregate. The purchase of umbrella or general liability
1764 coverage in excess of $25 million in the annual aggregate shall
1765 be deemed to be the purchase of a single line of insurance.
1766 (9) "Industrial insured captive insurance company" means a
1767 ~~captive insurance~~ company that provides insurance only to the
1768 industrial insureds that are its stockholders or members, and
1769 affiliates thereof, or to the stockholders, and affiliates
1770 thereof, of its parent corporation. An industrial insured
1771 captive insurance company can also provide reinsurance to
1772 insurers only on risks written by such insurers for the
1773 industrial insureds that are the stockholders or members, and
1774 affiliates thereof, of the industrial insured captive insurance
1775 company ~~insurer~~, or the stockholders, and affiliates thereof, of
1776 the parent corporation of the industrial insured captive
1777 insurance company ~~insurer~~.
1778 (13) "Qualifying reinsurer parent company" means a
1779 reinsurer that ~~which~~ currently holds a certificate of authority~~,~~
1780 ~~letter of eligibility~~ or is an accredited or trusteed under s.
1781 624.610(3)(c) ~~a satisfactory non-approved~~ reinsurer in this

511142

1782 state possessing a consolidated GAAP net worth of at least $500
1783 million and a consolidated debt to total capital ratio of not
1784 greater than 0.50.
1785 Section 55. Subsections (1), (2), (4), and (5) of section
1786 628.905, Florida Statutes, are amended to read:
1787 628.905 Licensing; authority.—
1788 (1) A captive insurance company ~~insurer~~, if permitted by
1789 its charter or articles of incorporation, may apply to the
1790 office for a license to do any and all insurance authorized
1791 under the insurance code, other than workers' compensation and
1792 employer's liability, life, health, personal motor vehicle, and
1793 personal residential property insurance, except that:
1794 (a) A pure captive insurance company may not insure ~~any~~
1795 risks other than those of its parent, affiliated companies,
1796 controlled unaffiliated businesses, or a combination thereof.
1797 (b) An industrial insured captive insurance company may not
1798 insure ~~any~~ risks other than those of the industrial insureds
1799 that comprise the industrial insured group and their affiliated
1800 companies, or its stockholders or members, and affiliates
1801 thereof, of the industrial insured captive, or the stockholders
1802 or affiliates of the parent corporation of the industrial
1803 insured captive insurance company.
1804 (c) A special purpose captive insurance company may insure
1805 only the risks of its parent.
1806 (d) A captive insurance company may not accept or cede
1807 reinsurance except as provided in this part.
1808 (e) An industrial insured captive insurance company with
1809 unencumbered capital and surplus of at least $20 million may be
1810 licensed to provide workers' compensation and employer's

511142

1811 liability insurance in excess of $25 million in the annual
1812 aggregate. An industrial insured captive insurance company must
1813 maintain unencumbered capital and surplus of at least $20
1814 million to continue to write excess workers' compensation
1815 insurance.
1816 (2) To conduct insurance business in this state, a captive
1817 insurance company ~~insurer~~ must:
1818 (a) Obtain from the office a license authorizing it to
1819 conduct insurance business in this state;
1820 (b) Hold at least one board of directors' meeting each year
1821 in this state;
1822 (c) Maintain its principal place of business in this state;
1823 and
1824 (d) Appoint a resident registered agent to accept service
1825 of process and to otherwise act on its behalf in this state. In
1826 the case of a captive insurance company formed as a corporation
1827 or a nonprofit corporation, if the registered agent cannot with
1828 reasonable diligence be found at the registered office of the
1829 captive insurance company, the Chief Financial Officer of this
1830 state must be an agent of the captive insurance company upon
1831 whom ~~any~~ process, notice, or demand may be served.
1832 (4) A captive insurance company or captive reinsurance
1833 company must pay to the office a nonrefundable fee of $1,500 for
1834 processing its application for license.
1835 (a) A captive insurance company or captive reinsurance
1836 company must also pay an annual renewal fee of $1,000.
1837 (b) The office may charge a fee of $5 for a ~~any~~ document
1838 requiring certification of authenticity or the signature of the
1839 office ~~commissioner or his or her designee~~.

511142

1840 (5) If the office ~~commissioner~~ is satisfied that the
1841 documents and statements filed by the captive insurance company
1842 comply with this chapter, the office ~~commissioner~~ may grant a
1843 license authorizing the company to conduct insurance business in
1844 this state until the next succeeding March 1, at which time the
1845 license may be renewed.
1846 Section 56. Subsection (1) of section 628.907, Florida
1847 Statutes, is amended to read:
1848 628.907 Minimum capital and net assets requirements;
1849 restriction on payment of dividends.—
1850 (1) A captive insurance company ~~insurer~~ may not be issued a
1851 license unless it possesses and thereafter maintains unimpaired
1852 paid-in capital of:
1853 (a) In the case of a pure captive insurance company, at
1854 least $100,000.
1855 (b) In the case of an industrial insured captive insurance
1856 company incorporated as a stock insurer, at least $200,000.
1857 (c) In the case of a special purpose captive insurance
1858 company, an amount determined by the office after giving due
1859 consideration to the company's business plan, feasibility study,
1860 and pro forma financial statements and projections, including
1861 the nature of the risks to be insured.
1862 Section 57. Section 628.909, Florida Statutes, is amended
1863 to read:
1864 628.909 Applicability of other laws.—
1865 (1) The Florida Insurance Code does not apply to captive
1866 insurance companies ~~insurers~~ or industrial insured captive
1867 insurance companies ~~insurers~~ except as provided in this part and
1868 subsections (2) and (3).

511142

1869 (2) The following provisions of the Florida Insurance Code
1870 apply to captive insurance companies ~~insurers~~ who are not
1871 industrial insured captive insurance companies ~~insurers~~ to the
1872 extent that such provisions are not inconsistent with this part:
1873 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1874 624.40851, 624.4095, 624.411, 624.425, and 624.426.
1875 (b) Chapter 625, part II.
1876 (c) Chapter 626, part IX.
1877 (d) Sections 627.730-627.7405, when no-fault coverage is
1878 provided.
1879 (e) Chapter 628.
1880 (3) The following provisions of the Florida Insurance Code
1881 apply to industrial insured captive insurance companies ~~insurers~~
1882 to the extent that such provisions are not inconsistent with
1883 this part:
1884 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1885 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).
1886 (b) Chapter 625, part II, if the industrial insured captive
1887 insurance companies ~~insurer~~ is incorporated in this state.
1888 (c) Chapter 626, part IX.
1889 (d) Sections 627.730-627.7405 when no-fault coverage is
1890 provided.
1891 (e) Chapter 628, except for ss. 628.341, 628.351, and
1892 628.6018.
1893 Section 58. Subsection (2) of section 628.9142, Florida
1894 Statutes, is amended to read:
1895 628.9142 Reinsurance; effect on reserves.—
1896 (2) A captive insurance company may take credit for
1897 reserves on risks or portions of risks ceded to authorized

511142

1898 insurers or reinsurers and unauthorized insurers or reinsurers
1899 complying with s. 624.610. A captive insurance company ~~insurer~~
1900 may not take credit for reserves on risks or portions of risks
1901 ceded to an unauthorized insurer or reinsurer if the insurer or
1902 reinsurer is not in compliance with s. 624.610.
1903 Section 59. Section 628.915, Florida Statutes, is amended
1904 to read:
1905 628.915 Exemption from compulsory association.—
1906 (1) A ~~No~~ captive insurance company may not ~~insurer shall be~~
1907 ~~permitted to~~ join or contribute financially to a ~~any~~ joint
1908 underwriting association or guaranty fund in this state, and a ~~;~~
1909 ~~nor shall any~~ captive insurance company ~~insurer~~, its insured, or
1910 its parent or any affiliated company may not receive any benefit
1911 from any such joint underwriting association or guaranty fund
1912 for claims arising out of the operations of such captive
1913 insurer.
1914 (2) An ~~No~~ industrial insured captive insurance company may
1915 not ~~insurer shall be permitted to~~ join or contribute financially
1916 to any joint underwriting association or guaranty fund in this
1917 state; nor shall any industrial insured captive insurance
1918 company ~~insurer~~, its industrial insured, or its parent or any
1919 affiliated company receive any benefit from any such joint
1920 underwriting association or guaranty fund for claims arising out
1921 of the operations of such industrial insured captive insurance
1922 company ~~insurer~~.
1923 Section 60. Section 628.917, Florida Statutes, is amended
1924 to read:
1925 628.917 Insolvency and liquidation.—In the event that a
1926 captive insurance company ~~insurer~~ is insolvent as defined in

511142

1927 chapter 631, the office shall liquidate the captive insurance
1928 company ~~insurer~~ pursuant to the provisions of part I of chapter
1929 631.~~; except that~~ The office may not ~~shall make no~~ attempt to
1930 rehabilitate such insurer.
1931 Section 61. Section 628.919, Florida Statutes, is amended
1932 to read:
1933 628.919 Standards to ensure risk management control by
1934 parent company.—A pure captive insurance company shall submit to
1935 the office for approval ~~The Financial Services Commission shall~~
1936 ~~adopt rules establishing~~ standards to ensure that a parent or
1937 affiliated company is able to exercise control of the risk
1938 management function of any controlled unaffiliated business to
1939 be insured by the pure captive insurance company.
1940 Section 62. Subsection (8) of section 634.406, Florida
1941 Statutes, is renumbered as subsection (7), and present
1942 subsections (6) and (7) of that section are amended, to read:
1943 634.406 Financial requirements.—
1944 (6) An association that ~~which~~ holds a license under this
1945 part ~~and which does not hold any other license under this~~
1946 ~~chapter~~ may allow its premiums for service warranties written
1947 under this part to exceed the ratio to net assets limitations of
1948 this section if the association meets all of the following:
1949 (a) Maintains net assets of at least $750,000.
1950 (b) Utilizes a contractual liability insurance policy
1951 approved by the office which:
1952 1. Reimburses the service warranty association for 100
1953 percent of its claims liability and is issued by an insurer that
1954 maintains a policyholder surplus of at least $100 million; or
1955 2. Complies with the requirements of subsection (3) and is

511142

1956 issued by an insurer that maintains a policyholder surplus of at
1957 least $200 million.
1958 (c) The insurer issuing the contractual liability insurance
1959 policy:
1960 ~~1. Maintains a policyholder surplus of at least $100~~
1961 ~~million.~~
1962 1.~~2.~~ Is rated "A" or higher by A.M. Best Company or an
1963 equivalent rating by another national rating service acceptable
1964 to the office.
1965 ~~3. Is in no way affiliated with the warranty association.~~
1966 2.~~4.~~ In conjunction with the warranty association's filing
1967 of the quarterly and annual reports, provides, on a form
1968 prescribed by the commission, a statement certifying the gross
1969 written premiums in force reported by the warranty association
1970 and a statement that all of the warranty association's gross
1971 written premium in force is covered under the contractual
1972 liability policy, whether or not it has been reported.
1973 ~~(7) A contractual liability policy must insure 100 percent~~
1974 ~~of an association's claims exposure under all of the~~
1975 ~~association's service warranty contracts, wherever written,~~
1976 ~~unless all of the following are satisfied:~~
1977 ~~(a) The contractual liability policy contains a clause that~~
1978 ~~specifically names the service warranty contract holders as sole~~
1979 ~~beneficiaries of the contractual liability policy and claims are~~
1980 ~~paid directly to the person making a claim under the contract;~~
1981 ~~(b) The contractual liability policy meets all other~~
1982 ~~requirements of this part, including subsection (3) of this~~
1983 ~~section, which are not inconsistent with this subsection;~~
1984 ~~(c) The association has been in existence for at least 5~~

511142

1985 ~~years or the association is a wholly owned subsidiary of a~~
1986 ~~corporation that has been in existence and has been licensed as~~
1987 ~~a service warranty association in the state for at least 5~~
1988 ~~years, and:~~
1989 ~~1. Is listed and traded on a recognized stock exchange; is~~
1990 ~~listed in NASDAQ (National Association of Security Dealers~~
1991 ~~Automated Quotation system) and publicly traded in the over-the-~~
1992 ~~counter securities market; is required to file either of Form~~
1993 ~~10-K, Form 100, or Form 20-G with the United States Securities~~
1994 ~~and Exchange Commission; or has American Depository Receipts~~
1995 ~~listed on a recognized stock exchange and publicly traded or is~~
1996 ~~the wholly owned subsidiary of a corporation that is listed and~~
1997 ~~traded on a recognized stock exchange; is listed in NASDAQ~~
1998 ~~(National Association of Security Dealers Automated Quotation~~
1999 ~~system) and publicly traded in the over-the-counter securities~~
2000 ~~market; is required to file Form 10-K, Form 100, or Form 20-G~~
2001 ~~with the United States Securities and Exchange Commission; or~~
2002 ~~has American Depository Receipts listed on a recognized stock~~
2003 ~~exchange and is publicly traded;~~
2004 ~~2. Maintains outstanding debt obligations, if any, rated in~~
2005 ~~the top four rating categories by a recognized rating service;~~
2006 ~~3. Has and maintains at all times a minimum net worth of~~
2007 ~~not less than $10 million as evidenced by audited financial~~
2008 ~~statements prepared by an independent certified public~~
2009 ~~accountant in accordance with generally accepted accounting~~
2010 ~~principles and submitted to the office annually; and~~
2011 ~~4. Is authorized to do business in this state; and~~
2012 ~~(d) The insurer issuing the contractual liability policy:~~
2013 ~~1. Maintains and has maintained for the preceding 5 years,~~

511142

2014 ~~policyholder surplus of at least $100 million and is rated "A"~~
2015 ~~or higher by A.M. Best Company or has an equivalent rating by~~
2016 ~~another rating company acceptable to the office;~~
2017 ~~2. Holds a certificate of authority to do business in this~~
2018 ~~state and is approved to write this type of coverage; and~~
2019 ~~3. Acknowledges to the office quarterly that it insures all~~
2020 ~~of the association's claims exposure under contracts delivered~~
2021 ~~in this state.~~
2022
2023 ~~If all the preceding conditions are satisfied, then the scope of~~
2024 ~~coverage under a contractual liability policy shall not be~~
2025 ~~required to exceed an association's claims exposure under~~
2026 ~~service warranty contracts delivered in this state.~~
2027 Section 63. Except as otherwise expressly provided in this
2028 act, this act shall take effect upon becoming a law.
2029
2030 ========== T I T L E A M E N D M E N T ==========
2031 And the title is amended as follows:
2032 Delete everything before the enacting clause
2033 and insert:
2034 A bill to be entitled
2035 An act relating to insurance; amending s. 316.646,
2036 F.S.; authorizing a uniform motor vehicle proof-of-
2037 insurance card to be in an electronic format;
2038 providing construction with respect to the parameters
2039 of a person's consent to access information on an
2040 electronic device presented to provide proof of
2041 insurance; providing immunity from liability to a law
2042 enforcement officer for damage to an electronic device

511142

2043 presented to provide proof of insurance; authorizing
2044 the Department of Highway Safety and Motor Vehicles to
2045 adopt rules; amending s. 320.02, F.S.; authorizing
2046 insurers to furnish uniform proof-of-purchase cards in
2047 an electronic format for use by insureds to prove the
2048 purchase of required insurance coverage when
2049 registering a motor vehicle; amending s. 554.1021,
2050 F.S.; defining the term "authorized inspection
2051 agency"; amending s. 554.107, F.S.; requiring the
2052 chief inspector of the state boiler inspection program
2053 to issue a certificate of competency as a special
2054 inspector to certain individuals; specifying how long
2055 such certificate remains in effect; amending s.
2056 554.109, F.S.; authorizing specified insurers to
2057 contract with an authorized inspection agency for
2058 boiler inspections; requiring such insurers to
2059 annually report the identity of contracted authorized
2060 inspection agencies to the Department of Financial
2061 Services; amending s. 624.413, F.S.; revising a
2062 specified time period applicable to a certified
2063 examination that must be filed by a foreign or alien
2064 insurer applying for a certificate of authority;
2065 amending s. 626.0428, F.S.; requiring each insurance
2066 agency to be under the control of an agent licensed to
2067 transact certain lines of insurance; authorizing an
2068 agent to be in charge of more than one branch office
2069 under certain circumstances; providing requirements
2070 relating to the designation of an agent in charge;
2071 prohibiting an insurance agency from conducting

511142

2072 insurance business at a location without a designated
2073 agent in charge; providing a definition for the term
2074 “agent in charge”; providing that the designated agent
2075 in charge is liable for certain acts of misconduct;
2076 providing grounds for the Department of Financial
2077 Services to order operations to cease at certain
2078 insurance agency locations until an agent in charge is
2079 properly designated; amending s. 626.112, F.S.;
2080 providing licensure exemptions that allow specified
2081 individuals or entities to conduct insurance business
2082 at specified locations under certain circumstances;
2083 revising licensure requirements and penalties with
2084 respect to registered insurance agencies; providing
2085 that the registration of an approved registered
2086 insurance agency automatically converts to an
2087 insurance agency license on a specified date; amending
2088 s. 626.172, F.S.; revising requirements relating to
2089 applications for insurance agency licenses; conforming
2090 provisions to changes made by the act; amending s.
2091 626.321, F.S.; providing that a limited license to
2092 offer motor vehicle rental insurance issued to a
2093 business that rents or leases motor vehicles
2094 encompasses the employees of such business; amending
2095 s. 626.382, F.S.; providing that an insurance agency
2096 license continues in force until canceled, suspended,
2097 revoked, or terminated; amending s. 626.601, F.S.;
2098 revising terminology relating to investigations
2099 conducted by the Department of Financial Services and
2100 the Office of Insurance Regulation with respect to

511142

2101 individuals and entities involved in the insurance
2102 industry; repealing s. 626.747, F.S., relating to
2103 branch agencies, agents in charge, and the payment of
2104 additional county tax under certain circumstances;
2105 amending s. 626.8411, F.S.; conforming a cross-
2106 reference; amending s. 626.8805, F.S.; revising
2107 insurance administrator application requirements;
2108 amending s. 626.8817, F.S.; authorizing an insurer's
2109 designee to provide certain coverage information to an
2110 insurance administrator; authorizing an insurer to
2111 subcontract the audit of an insurance administrator;
2112 amending s. 626.882, F.S.; prohibiting a person from
2113 acting as an insurance administrator without a
2114 specific written agreement; amending s. 626.883, F.S.;
2115 requiring insurance administrators to furnish
2116 fiduciary account records to an insurer's designee;
2117 providing that administrator withdrawals from a
2118 fiduciary account be made according to specific
2119 written agreements; providing that an insurer's
2120 designee may authorize payment of claims; amending s.
2121 626.884, F.S.; revising an insurer's right of access
2122 to certain administrator records; amending s. 626.89,
2123 F.S.; revising the deadline for filing certain
2124 financial statements; amending s. 626.931, F.S.;
2125 deleting provisions requiring a surplus lines agent to
2126 file a quarterly affidavit with the Florida Surplus
2127 Lines Service Office; amending s. 626.932, F.S.;
2128 revising the due date of surplus lines tax; amending
2129 s. 626.935, F.S.; conforming provisions to changes

511142

2130 made by the act; amending s. 626.936, F.S.; conforming
2131 provisions to changes made by the act; amending s.
2132 626.9914, F.S.; conforming a provision to changes made
2133 by the act; amending s. 626.99175, F.S.; deleting
2134 provisions requiring registration of life expectancy
2135 providers; deleting procedures, qualifying criteria,
2136 and violations with respect thereto; amending ss.
2137 626.9919, 626.992, 626.9925, and 626.99278, F.S.;
2138 conforming provisions to changes made by the act;
2139 amending s. 627.062, F.S.; requiring the Office of
2140 Insurance Regulation to use certain models or straight
2141 averages of certain models to estimate hurricane
2142 losses when determining whether the rates in a rate
2143 filing are excessive, inadequate, or unfairly
2144 discriminatory; amending s. 627.0628, F.S.; increasing
2145 the length of time during which an insurer must adhere
2146 to certain findings made by the Commission on
2147 Hurricane Loss Projection Methodology with respect to
2148 certain methods, principles, standards, models, or
2149 output ranges used in a rate finding; providing that
2150 the requirement to adhere to such findings does not
2151 limit an insurer from using a straight average of
2152 results of certain models or output ranges under
2153 specified circumstances; amending s. 627.072, F.S.;
2154 authorizing retrospective rating plans relating to
2155 workers’ compensation and employer’s liability
2156 insurance to allow negotiations between certain
2157 employers and insurers with respect to rating factors
2158 used to calculate premiums; amending s. 627.281, F.S.;

511142

2159 conforming a cross-reference; repealing s. 627.3519,
2160 F.S., relating to an annual report from the Financial
2161 Services Commission to the Legislature of aggregate
2162 net probable maximum losses, financing options, and
2163 potential assessments of the Florida Hurricane
2164 Catastrophe Fund and Citizens Property Insurance
2165 Corporation; amending s. 627.4133, F.S.; increasing
2166 the amount of prior notice required with respect to
2167 the nonrenewal, cancellation, or termination of
2168 certain insurance policies; deleting certain
2169 provisions that require extended periods of prior
2170 notice with respect to the nonrenewal, cancellation,
2171 or termination of certain insurance policies;
2172 prohibiting the cancellation of certain policies that
2173 have been in effect for a specified amount of time
2174 except under certain circumstances; amending s.
2175 627.4137, F.S.; adding licensed company adjusters to
2176 the list of persons who may respond to a claimant’s
2177 written request for information relating to liability
2178 insurance coverage; amending s. 627.421, F.S.;
2179 authorizing the electronic delivery of certain
2180 insurance documents; amending s. 627.43141, F.S.;
2181 authorizing a notice of change in policy terms to be
2182 sent in a separate mailing to an insured under certain
2183 circumstances; requiring an insurer to provide such
2184 notice to the insured’s insurance agent; amending s.
2185 627.6484, F.S.; providing that coverage for each
2186 policyholder of the Florida Comprehensive Health
2187 Association terminates on a specified date; requiring

511142

2188 the association to provide assistance to
2189 policyholders; requiring the association to notify
2190 policyholders of termination of coverage and provide
2191 information concerning how to obtain other coverage;
2192 requiring the association to impose a final assessment
2193 or provide a refund to member insurers, sell or
2194 dispose of physical assets, perform a final
2195 accounting, legally dissolve the association, submit a
2196 required report, and transfer all records to the
2197 Office of Insurance Regulation; repealing s.
2198 627.64872, F.S., relating to the Florida Health
2199 Insurance Plan; providing for the future repeal of ss.
2200 627.648, 627.6482, 627.6484, 627.6486, 627.6488,
2201 627.6489, 627.649, 627.6492, 627.6494, 627.6496,
2202 627.6498, and 627.6499, F.S., relating to the Florida
2203 Comprehensive Health Association Act, definitions,
2204 termination of enrollment and availability of other
2205 coverage, eligibility, the Florida Comprehensive
2206 Health Association, the Disease Management Program,
2207 the administrator of the health insurance plan,
2208 participation of insurers, insurer assessments,
2209 deferment, and assessment limitations, issuing of
2210 policies, minimum benefits coverage and exclusions,
2211 premiums, and deductibles, and reporting by insurers
2212 and third-party administrators, respectively; amending
2213 s. 627.701, F.S.; revising requirements to issue or
2214 renew personal lines residential property insurance
2215 after a certain date; increasing the deductible amount
2216 for losses from perils other than hurricane; amending

511142

2217 s. 627.7015, F.S.; revising the rulemaking authority
2218 of the department with respect to qualifications and
2219 specified types of penalties covered under the
2220 property insurance mediation program; creating s.
2221 627.70151, F.S.; providing criteria for an insurer or
2222 policyholder to challenge the impartiality of a loss
2223 appraisal umpire for purposes of disqualifying such
2224 umpire; amending s. 627.706, F.S.; revising the
2225 definition of the term “neutral evaluator”; amending
2226 s. 627.7074, F.S.; requiring the department to adopt
2227 rules relating to the certification of neutral
2228 evaluators; amending s. 627.736, F.S.; revising the
2229 time period for applicability of certain Medicare fee
2230 schedules or payment limitations; amending s. 627.745,
2231 F.S.; revising qualifications for approval as a
2232 mediator by the department; providing grounds for the
2233 department to deny an application, or suspend or
2234 revoke approval of a mediator or certification of a
2235 neutral evaluator; authorizing the department to adopt
2236 rules; amending s. 627.841, F.S.; providing that an
2237 insurance premium finance company may impose a fee for
2238 payments returned due to insufficient funds; amending
2239 s. 627.952, F.S.; providing that certain persons who
2240 are not residents of this state must be licensed and
2241 appointed as nonresident surplus lines agents in this
2242 state in order to engage in specified activities with
2243 respect to servicing insurance contracts,
2244 certificates, or agreements for purchasing or risk
2245 retention groups; deleting a fidelity bond requirement

511142

2246 applicable to certain nonresident agents who are
2247 licensed as surplus lines agents in another state;
2248 amending ss. 627.971 and 627.972, F.S.; including
2249 licensed mutual insurers in financial guaranty
2250 insurance corporations; amending s. 628.901, F.S.;
2251 revising the definition of terms applicable to captive
2252 insurers; amending s. 628.905, F.S.; authorizing an
2253 industrial insured captive insurance company to write
2254 workers compensation and employer liability insurance
2255 in excess of a certain amount under certain
2256 conditions; conforming provisions to changes made by
2257 the act; redesignating the Office of Insurance
2258 Regulation instead of the Insurance Commissioner as
2259 the collector of certain fees and issuer of licenses;
2260 amending s. 628.907, F.S.; conforming provisions to
2261 changes made by the act; amending s. 628.909, F.S.;
2262 providing for applicability of certain provisions of
2263 the Insurance Code to specified captive insurers;
2264 conforming provisions to changes made by the act;
2265 amending s. 628.9142, F.S.; conforming provisions to
2266 changes made by the act; amending s. 628.915, F.S.;
2267 conforming provisions to changes made by the act;
2268 amending s. 628.917, F.S.; conforming provisions to
2269 changes made by the act; amending s. 628.919, F.S.;
2270 requiring a pure captive insurance company to submit
2271 certain risk management standards to the Office of
2272 Insurance Regulation; amending s. 634.406, F.S.;
2273 revising criteria authorizing premiums of certain
2274 service warranty associations to exceed their

511142

2275 specified net assets limitations; revising
2276 requirements relating to contractual liability
2277 policies that insure warranty associations; providing
2278 an effective date.

444890

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Simmons) recommended the following:

Senate Amendment to Amendment (511142) (with title amendment)

Delete lines 781 - 1031.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete lines 2131 - 2138
and insert:
provisions to changes made by the act;

531060

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Negron) recommended the following:

1 **Senate Amendment to Amendment (511142) (with title**
2 **amendment)**
3
4 Delete lines 1398 - 1426.
5
6 ========== T I T L E A M E N D M E N T ==========
7 And the title is amended as follows:
8 Delete lines 2213 - 2216.

By Senator Brandes

22-00787A-13 20131046__

A bill to be entitled

An act relating to insurance; amending s. 215.555, F.S.; deleting the future repeal of an exemption of medical malpractice insurance premiums from emergency assessments imposed to fund certain obligations, costs, and expenses of the Florida Hurricane Catastrophe Fund and the Florida Hurricane Catastrophe Fund Finance Corporation; amending s. 316.646, F.S.; authorizing a uniform motor vehicle proof-of-insurance card to be in an electronic format; authorizing the Department of Highway Safety and Motor Vehicles to adopt rules; amending s. 320.02, F.S.; authorizing insurers to furnish uniform proof-of-purchase cards in an electronic format for use by insureds to prove the purchase of required insurance coverage when registering a motor vehicle; amending s. 624.413, F.S.; revising a specified time period applicable to a certified examination that must be filed by a foreign or alien insurer applying for a certificate of authority; amending s. 626.321, F.S.; providing that a limited license to offer motor vehicle rental insurance issued to a business that rents or leases motor vehicles encompasses the employees of such business; amending s. 626.601, F.S.; revising terminology relating to investigations conducted by the Department of Financial Services and the Office of Insurance Regulation with respect to individuals and entities involved in the insurance industry; amending s. 626.9914, F.S.; conforming a provision to changes

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22-00787A-13 20131046__

made by the act; amending s. 626.99175, F.S.; deleting provisions requiring registration of life expectancy providers; deleting procedures, qualifying criteria, and violations with respect thereto; amending ss. 626.9919, 626.992, 626.9925, and 626.99278, F.S.; conforming provisions to changes made by the act; amending s. 627.062, F.S.; requiring the Office of Insurance Regulation to use certain models or averages of certain models to estimate hurricane losses when determining whether the rates in a rate filing are excessive, inadequate, or unfairly discriminatory; amending s. 627.0628, F.S.; increasing the length of time during which an insurer must adhere to certain findings made by the Commission on Hurricane Loss Projection Methodology with respect to certain methods, principles, standards, models, or output ranges used in a rate finding; providing that the requirement to adhere to such findings does not limit an insurer from averaging together the results of certain models or output ranges under specified circumstances; amending s. 627.072, F.S.; authorizing retrospective rating plans relating to workers' compensation and employer's liability insurance to allow negotiations between certain employers and insurers with respect to rating factors used to calculate premiums; amending s. 627.281, F.S.; conforming a cross-reference; repealing s. 627.3519, F.S., relating to an annual report from the Financial Services Commission to the Legislature of aggregate

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59 net probable maximum losses, financing options, and
60 potential assessments of the Florida Hurricane
61 Catastrophe Fund and Citizens Property Insurance
62 Corporation; amending s. 627.4133, F.S.; deleting
63 provisions that require extended periods of prior
64 notice with respect to the nonrenewal, cancellation,
65 or termination of certain insurance policies;
66 prohibiting the cancellation of certain policies that
67 have been in effect for a specified amount of time
68 except under certain circumstances; amending s.
69 627.4137, F.S.; adding licensed company adjusters to
70 the list of persons who may respond to a claimant's
71 written request for information relating to liability
72 insurance coverage; amending s. 627.421, F.S.;
73 authorizing the electronic delivery of certain
74 insurance documents; amending s. 627.43141, F.S.;
75 authorizing a notice of change in policy terms to be
76 sent in a separate mailing to an insured under certain
77 circumstances; requiring an insurer to provide such
78 notice to insured's insurance agent; amending s.
79 627.701, F.S.; revising requirements to issue or renew
80 personal lines residential property insurance after a
81 certain date; amending s. 627.7015, F.S.; revising the
82 rulemaking authority of the department with respect to
83 qualifications and specified types of penalties
84 covered under the property insurance mediation
85 program; creating s. 627.70151, F.S.; providing
86 criteria for an insurer or policyholder to challenge
87 the impartiality of a loss appraisal umpire for

88 purposes of disqualifying such umpire; amending s.
89 627.706, F.S.; authorizing the inclusion of
90 deductibles applicable to sinkhole losses in property
91 insurance policies covering nonresidential buildings;
92 revising the definition of the term "neutral
93 evaluator"; amending s. 627.7074, F.S.; requiring the
94 department to adopt rules relating to certification of
95 neutral evaluators; amending s. 627.736, F.S.;
96 revising the time period for applicability of certain
97 Medicare fee schedules or payment limitations;
98 amending s. 627.745, F.S.; revising qualifications for
99 approval as a mediator by the department; providing
100 grounds for the department to deny an application or
101 revoke approval of a mediator or neutral evaluator;
102 authorizing the department to adopt rules; amending s.
103 627.952, F.S.; deleting a fidelity bond requirement
104 applicable to certain nonresident general lines agents
105 who are licensed as surplus lines agents in another
106 state; amending ss. 627.971 and 627.972, F.S.;
107 including licensed mutual insurers in financial
108 guaranty insurance corporations; amending s. 628.901,
109 F.S.; revising the definition of the term "qualifying
110 reinsurer parent company" to delete obsolete language;
111 amending s. 628.909, F.S.; providing for applicability
112 of certain provisions of the Insurance Code to
113 specified captive insurers; amending s. 634.406, F.S.;
114 revising criteria authorizing certain premiums of
115 certain service warranty associations to exceed their
116 specified net assets limitations; revising

117 requirements relating to contractual liability
118 policies that insure warranty associations; providing
119 an effective date.
120
121 Be It Enacted by the Legislature of the State of Florida:
122
123 Section 1. Paragraph (b) of subsection (6) of section
124 215.555, Florida Statutes, is amended to read:
125 215.555 Florida Hurricane Catastrophe Fund.—
126 (6) REVENUE BONDS.—
127 (b) *Emergency assessments.*—
128 1. If the board determines that the amount of revenue
129 produced under subsection (5) is insufficient to fund the
130 obligations, costs, and expenses of the fund and the
131 corporation, including repayment of revenue bonds and that
132 portion of the debt service coverage not met by reimbursement
133 premiums, the board shall direct the Office of Insurance
134 Regulation to levy, by order, an emergency assessment on direct
135 premiums for all property and casualty lines of business in this
136 state, including property and casualty business of surplus lines
137 insurers regulated under part VIII of chapter 626, but not
138 including any workers' compensation premiums or medical
139 malpractice premiums. As used in this subsection, the term
140 "property and casualty business" includes all lines of business
141 identified on Form 2, Exhibit of Premiums and Losses, in the
142 annual statement required of authorized insurers by s. 624.424
143 and any rule adopted under this section, except for those lines
144 identified as accident and health insurance and except for
145 policies written under the National Flood Insurance Program. The

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146 assessment shall be specified as a percentage of direct written
147 premium and is subject to annual adjustments by the board in
148 order to meet debt obligations. The same percentage shall apply
149 to all policies in lines of business subject to the assessment
150 issued or renewed during the 12-month period beginning on the
151 effective date of the assessment.
152 2. A premium is not subject to an annual assessment under
153 this paragraph in excess of 6 percent of premium with respect to
154 obligations arising out of losses attributable to any one
155 contract year, and a premium is not subject to an aggregate
156 annual assessment under this paragraph in excess of 10 percent
157 of premium. An annual assessment under this paragraph shall
158 continue as long as the revenue bonds issued with respect to
159 which the assessment was imposed are outstanding, including any
160 bonds the proceeds of which were used to refund the revenue
161 bonds, unless adequate provision has been made for the payment
162 of the bonds under the documents authorizing issuance of the
163 bonds.
164 3. Emergency assessments shall be collected from
165 policyholders. Emergency assessments shall be remitted by
166 insurers as a percentage of direct written premium for the
167 preceding calendar quarter as specified in the order from the
168 Office of Insurance Regulation. The office shall verify the
169 accurate and timely collection and remittance of emergency
170 assessments and shall report the information to the board in a
171 form and at a time specified by the board. Each insurer
172 collecting assessments shall provide the information with
173 respect to premiums and collections as may be required by the
174 office to enable the office to monitor and verify compliance

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175 with this paragraph.
176 4. With respect to assessments of surplus lines premiums,
177 each surplus lines agent shall collect the assessment at the
178 same time as the agent collects the surplus lines tax required
179 by s. 626.932, and the surplus lines agent shall remit the
180 assessment to the Florida Surplus Lines Service Office created
181 by s. 626.921 at the same time as the agent remits the surplus
182 lines tax to the Florida Surplus Lines Service Office. The
183 emergency assessment on each insured procuring coverage and
184 filing under s. 626.938 shall be remitted by the insured to the
185 Florida Surplus Lines Service Office at the time the insured
186 pays the surplus lines tax to the Florida Surplus Lines Service
187 Office. The Florida Surplus Lines Service Office shall remit the
188 collected assessments to the fund or corporation as provided in
189 the order levied by the Office of Insurance Regulation. The
190 Florida Surplus Lines Service Office shall verify the proper
191 application of such emergency assessments and shall assist the
192 board in ensuring the accurate and timely collection and
193 remittance of assessments as required by the board. The Florida
194 Surplus Lines Service Office shall annually calculate the
195 aggregate written premium on property and casualty business,
196 other than workers' compensation and medical malpractice,
197 procured through surplus lines agents and insureds procuring
198 coverage and filing under s. 626.938 and shall report the
199 information to the board in a form and at a time specified by
200 the board.
201 5. Any assessment authority not used for a particular
202 contract year may be used for a subsequent contract year. If,
203 for a subsequent contract year, the board determines that the

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204 amount of revenue produced under subsection (5) is insufficient
205 to fund the obligations, costs, and expenses of the fund and the
206 corporation, including repayment of revenue bonds and that
207 portion of the debt service coverage not met by reimbursement
208 premiums, the board shall direct the Office of Insurance
209 Regulation to levy an emergency assessment up to an amount not
210 exceeding the amount of unused assessment authority from a
211 previous contract year or years, plus an additional 4 percent
212 provided that the assessments in the aggregate do not exceed the
213 limits specified in subparagraph 2.
214 6. The assessments otherwise payable to the corporation
215 under this paragraph shall be paid to the fund unless and until
216 the Office of Insurance Regulation and the Florida Surplus Lines
217 Service Office have received from the corporation and the fund a
218 notice, which shall be conclusive and upon which they may rely
219 without further inquiry, that the corporation has issued bonds
220 and the fund has no agreements in effect with local governments
221 under paragraph (c). On or after the date of the notice and
222 until the date the corporation has no bonds outstanding, the
223 fund shall have no right, title, or interest in or to the
224 assessments, except as provided in the fund's agreement with the
225 corporation.
226 7. Emergency assessments are not premium and are not
227 subject to the premium tax, to the surplus lines tax, to any
228 fees, or to any commissions. An insurer is liable for all
229 assessments that it collects and must treat the failure of an
230 insured to pay an assessment as a failure to pay the premium. An
231 insurer is not liable for uncollectible assessments.
232 8. When an insurer is required to return an unearned

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233 premium, it shall also return any collected assessment
234 attributable to the unearned premium. A credit adjustment to the
235 collected assessment may be made by the insurer with regard to
236 future remittances that are payable to the fund or corporation,
237 but the insurer is not entitled to a refund.
238 9. When a surplus lines insured or an insured who has
239 procured coverage and filed under s. 626.938 is entitled to the
240 return of an unearned premium, the Florida Surplus Lines Service
241 Office shall provide a credit or refund to the agent or such
242 insured for the collected assessment attributable to the
243 unearned premium before ~~prior to~~ remitting the emergency
244 assessment collected to the fund or corporation.
245 ~~10. The exemption of medical malpractice insurance premiums~~
246 ~~from emergency assessments under this paragraph is repealed May~~
247 ~~31, 2013, and medical malpractice insurance premiums shall be~~
248 ~~subject to emergency assessments attributable to loss events~~
249 ~~occurring in the contract years commencing on June 1, 2013.~~
250 Section 2. Subsection (1) of section 316.646, Florida
251 Statutes, is amended, and subsection (5) is added to that
252 section, to read:
253 316.646 Security required; proof of security and display
254 thereof; dismissal of cases.—
255 (1) Any person required by s. 324.022 to maintain property
256 damage liability security, required by s. 324.023 to maintain
257 liability security for bodily injury or death, or required by s.
258 627.733 to maintain personal injury protection security on a
259 motor vehicle shall have in his or her immediate possession at
260 all times while operating such motor vehicle proper proof of
261 maintenance of the required security. Such proof shall be a

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262 uniform proof-of-insurance card, in paper or electronic format,
263 in a form prescribed by the department, a valid insurance
264 policy, an insurance policy binder, a certificate of insurance,
265 or such other proof as may be prescribed by the department.
266 (5) The department may adopt rules to implement this
267 section.
268 Section 3. Paragraph (a) of subsection (5) of section
269 320.02, Florida Statutes, is amended to read:
270 320.02 Registration required; application for registration;
271 forms.—
272 (5)(a) Proof that personal injury protection benefits have
273 been purchased when required under s. 627.733, that property
274 damage liability coverage has been purchased as required under
275 s. 324.022, that bodily injury or death coverage has been
276 purchased if required under s. 324.023, and that combined bodily
277 liability insurance and property damage liability insurance have
278 been purchased when required under s. 627.7415 shall be provided
279 in the manner prescribed by law by the applicant at the time of
280 application for registration of any motor vehicle that is
281 subject to such requirements. The issuing agent shall refuse to
282 issue registration if such proof of purchase is not provided.
283 Insurers shall furnish uniform proof-of-purchase cards, in paper
284 or electronic format, in a form prescribed by the department and
285 shall include the name of the insured's insurance company, the
286 coverage identification number, and the make, year, and vehicle
287 identification number of the vehicle insured. The card shall
288 contain a statement notifying the applicant of the penalty
289 specified in s. 316.646(4). The card or insurance policy,
290 insurance policy binder, or certificate of insurance or a

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291 photocopy of any of these; an affidavit containing the name of
292 the insured's insurance company, the insured's policy number,
293 and the make and year of the vehicle insured; or such other
294 proof as may be prescribed by the department shall constitute
295 sufficient proof of purchase. If an affidavit is provided as
296 proof, it shall be in substantially the following form:
297
298 Under penalty of perjury, I ...(Name of insured)... do hereby
299 certify that I have ...(Personal Injury Protection, Property
300 Damage Liability, and, when required, Bodily Injury
301 Liability)... Insurance currently in effect with ...(Name of
302 insurance company)... under ...(policy number)... covering
303 ...(make, year, and vehicle identification number of
304 vehicle).... ...(Signature of Insured)...
305
306 Such affidavit shall include the following warning:
307
308 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
309 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
310 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
311 SUBJECT TO PROSECUTION.
312
313 When an application is made through a licensed motor vehicle
314 dealer as required in s. 319.23, the original or a photostatic
315 copy of such card, insurance policy, insurance policy binder, or
316 certificate of insurance or the original affidavit from the
317 insured shall be forwarded by the dealer to the tax collector of
318 the county or the Department of Highway Safety and Motor
319 Vehicles for processing. By executing the aforesaid affidavit,

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320 no licensed motor vehicle dealer will be liable in damages for
321 any inadequacy, insufficiency, or falsification of any statement
322 contained therein. A card shall also indicate the existence of
323 any bodily injury liability insurance voluntarily purchased.
324 Section 4. Paragraph (f) of subsection (1) of section
325 624.413, Florida Statutes, is amended to read:
326 624.413 Application for certificate of authority.—
327 (1) To apply for a certificate of authority, an insurer
328 shall file its application therefor with the office, upon a form
329 adopted by the commission and furnished by the office, showing
330 its name; location of its home office and, if an alien insurer,
331 its principal office in the United States; kinds of insurance to
332 be transacted; state or country of domicile; and such additional
333 information as the commission reasonably requires, together with
334 the following documents:
335 (f) If a foreign or alien insurer, a copy of the report of
336 the most recent examination of the insurer certified by the
337 public official having supervision of insurance in its state of
338 domicile or of entry into the United States. The end of the most
339 recent year covered by the examination must be within the 5-year
340 ~~3-year~~ period preceding the date of application. In lieu of the
341 certified examination report, the office may accept an audited
342 certified public accountant's report prepared on a basis
343 consistent with the insurance laws of the insurer's state of
344 domicile, certified by the public official having supervision of
345 insurance in its state of domicile or of entry into the United
346 States.
347 Section 5. Paragraph (d) of subsection (1) of section
348 626.321, Florida Statutes, is amended to read:

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349 626.321 Limited licenses.—
350 (1) The department shall issue to a qualified applicant a
351 license as agent authorized to transact a limited class of
352 business in any of the following categories of limited lines
353 insurance:
354 (d) *Motor vehicle rental insurance.*—
355 1. License covering only insurance of the risks set forth
356 in this paragraph when offered, sold, or solicited with and
357 incidental to the rental or lease of a motor vehicle and which
358 applies only to the motor vehicle that is the subject of the
359 lease or rental agreement and the occupants of the motor
360 vehicle:
361 a. Excess motor vehicle liability insurance providing
362 coverage in excess of the standard liability limits provided by
363 the lessor in the lessor's lease to a person renting or leasing
364 a motor vehicle from the licensee's employer for liability
365 arising in connection with the negligent operation of the leased
366 or rented motor vehicle.
367 b. Insurance covering the liability of the lessee to the
368 lessor for damage to the leased or rented motor vehicle.
369 c. Insurance covering the loss of or damage to baggage,
370 personal effects, or travel documents of a person renting or
371 leasing a motor vehicle.
372 d. Insurance covering accidental personal injury or death
373 of the lessee and any passenger who is riding or driving with
374 the covered lessee in the leased or rented motor vehicle.
375 2. Insurance under a motor vehicle rental insurance license
376 may be issued only if the lease or rental agreement is for no
377 more than 60 days, the lessee is not provided coverage for more

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378 than 60 consecutive days per lease period, and the lessee is
379 given written notice that his or her personal insurance policy
380 providing coverage on an owned motor vehicle may provide
381 coverage of such risks and that the purchase of the insurance is
382 not required in connection with the lease or rental of a motor
383 vehicle. If the lease is extended beyond 60 days, the coverage
384 may be extended one time only for a period not to exceed an
385 additional 60 days. Insurance may be provided to the lessee as
386 an additional insured on a policy issued to the licensee's
387 employer.
388 3. The license may be issued only to the full-time salaried
389 employee of a licensed general lines agent or to a business
390 entity that offers motor vehicles for rent or lease if insurance
391 sales activities authorized by the license are in connection
392 with and incidental to the rental or lease of a motor vehicle.
393 a. A license issued to a business entity that offers motor
394 vehicles for rent or lease encompasses each office, branch
395 office, employee, or place of business making use of the
396 entity's business name in order to offer, solicit, and sell
397 insurance pursuant to this paragraph.
398 b. The application for licensure must list the name,
399 address, and phone number for each office, branch office, or
400 place of business that is to be covered by the license. The
401 licensee shall notify the department of the name, address, and
402 phone number of any new location that is to be covered by the
403 license before the new office, branch office, or place of
404 business engages in the sale of insurance pursuant to this
405 paragraph. The licensee must notify the department within 30
406 days after closing or terminating an office, branch office, or

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407 place of business. Upon receipt of the notice, the department
408 shall delete the office, branch office, or place of business
409 from the license.
410 c. A licensed and appointed entity is directly responsible
411 and accountable for all acts of the licensee's employees.
412 Section 6. Section 626.601, Florida Statutes, is amended to
413 read:
414 626.601 Improper conduct; inquiry; fingerprinting.—
415 (1) The department or office may, upon its own motion or
416 upon a written complaint signed by any interested person and
417 filed with the department or office, inquire into any alleged
418 improper conduct of any licensed, approved, or certified
419 insurance agency, agent, adjuster, service representative,
420 managing general agent, customer representative, title insurance
421 agent, title insurance agency, mediator, neutral evaluator,
422 continuing education course provider, instructor, school
423 official, or monitor group under this code. The department or
424 office may thereafter initiate an investigation of any such
425 individual or entity ~~licensee~~ if it has reasonable cause to
426 believe that the individual or entity ~~licensee~~ has violated any
427 provision of the insurance code. During the course of its
428 investigation, the department or office shall contact the
429 individual or entity ~~licensee~~ being investigated unless it
430 determines that contacting such individual or entity ~~person~~
431 could jeopardize the successful completion of the investigation
432 or cause injury to the public.
433 (2) In the investigation by the department or office of the
434 alleged misconduct, the individual or entity ~~licensee~~ shall,
435 whenever so required by the department or office, cause the

436 individual's or entity's ~~his or her~~ books and records to be open
437 for inspection for the purpose of such inquiries.
438 (3) The complaints against any individual or entity
439 ~~licensee~~ may be informally alleged and need not be in any such
440 language as is necessary to charge a crime on an indictment or
441 information.
442 (4) The expense for any hearings or investigations under
443 this law, as well as the fees and mileage of witnesses, may be
444 paid out of the appropriate fund.
445 (5) If the department or office, after investigation, has
446 reason to believe that an individual or entity ~~a licensee~~ may
447 have been found guilty of or pleaded guilty or nolo contendere
448 to a felony or a crime related to the business of insurance in
449 this or any other state or jurisdiction, the department or
450 office may require the individual ~~licensee~~ to file with the
451 department or office a complete set of his or her fingerprints,
452 which shall be accompanied by the fingerprint processing fee set
453 forth in s. 624.501. The fingerprints shall be taken by an
454 authorized law enforcement agency or other department-approved
455 entity.
456 (6) The complaint and any information obtained pursuant to
457 the investigation by the department or office are confidential
458 and are exempt from ~~the provisions of~~ s. 119.07, unless the
459 department or office files a formal administrative complaint,
460 emergency order, or consent order against the individual or
461 entity ~~licensee~~. ~~Nothing in~~ This subsection does not ~~shall be~~
462 ~~construed to~~ prevent the department or office from disclosing
463 the complaint or such information as it deems necessary to
464 conduct the investigation, to update the complainant as to the

465 status and outcome of the complaint, or to share such
466 information with any law enforcement agency.
467 Section 7. Paragraphs (i), (j), and (k) of subsection (1)
468 of section 626.9914, Florida Statutes, are amended to read:
469 626.9914 Suspension, revocation, denial, or nonrenewal of
470 viatical settlement provider license; grounds; administrative
471 fine.—
472 (1) The office shall suspend, revoke, deny, or refuse to
473 renew the license of any viatical settlement provider if the
474 office finds that the licensee:
475 (i) Employs any person who materially influences the
476 licensee's conduct and who fails to meet the requirements of
477 this act; or
478 (j) No longer meets the requirements for initial licensure~~;~~
479 ~~or~~
480 ~~(k) Obtains or utilizes life expectancies from life~~
481 ~~expectancy providers who are not registered with the office~~
482 ~~pursuant to this act~~.
483 Section 8. Section 626.99175, Florida Statutes, is amended
484 to read:
485 626.99175 Life expectancy providers~~; registration required;~~
486 ~~denial, suspension, revocation~~.—
487 ~~(1) After July 1, 2006, a person may not perform the~~
488 ~~functions of a life expectancy provider without first having~~
489 ~~registered as a life expectancy provider, except as provided in~~
490 ~~subsection (6).~~
491 ~~(2) Application for registration as a life expectancy~~
492 ~~provider must be made to the office by the applicant on a form~~
493 ~~prescribed by the office, under oath and signed by the~~

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494 ~~applicant. The application must be accompanied by a fee of $500.~~
495 ~~(3) A completed application shall be evidenced on a form~~
496 ~~and in a manner prescribed by the office and shall require the~~
497 ~~registered life expectancy provider to update such information~~
498 ~~and renew such registration as required by the office.~~
499 ~~(4) In the application, the applicant must provide all of~~
500 ~~the following:~~
501 ~~(a) The full name, age, residence address, and business~~
502 ~~address, and all occupations engaged in by the applicant during~~
503 ~~the 5 years preceding the date of the application.~~
504 ~~(b) A copy of the applicant's basic organizational~~
505 ~~documents, if any, including the articles of incorporation,~~
506 ~~articles of association, partnership agreement, trust agreement,~~
507 ~~or other similar documents, together with all amendments to such~~
508 ~~documents.~~
509 ~~(c) Copies of all bylaws, rules, regulations, or similar~~
510 ~~documents regulating the conduct of the applicant's internal~~
511 ~~affairs.~~
512 ~~(d) A list showing the name, business and residence~~
513 ~~addresses, and official position of each individual who is~~
514 ~~responsible for conduct of the applicant's affairs, including,~~
515 ~~but not limited to, any member of the board of directors, board~~
516 ~~of trustees, executive committee, or other governing board or~~
517 ~~committee and any other person or entity owning or having the~~
518 ~~right to acquire 10 percent or more of the voting securities of~~
519 ~~the applicant, and any person performing life expectancies by~~
520 ~~the applicant.~~
521 ~~(e) A sworn biographical statement on forms supplied by the~~
522 ~~office with respect to each individual identified under~~

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523 ~~paragraph (d), including whether such individual has been~~
524 ~~associated with any other life expectancy provider or has~~
525 ~~performed any services for a person in the business of viatical~~
526 ~~settlements.~~
527 ~~(f) A sworn statement of any criminal and civil actions~~
528 ~~pending or final against the registrant or any individual~~
529 ~~identified under paragraph (d).~~
530 ~~(g) A general description of the following policies and~~
531 ~~procedures covering all life expectancy determination criteria~~
532 ~~and protocols:~~
533 ~~1. The plan or plans of policies and procedures used to~~
534 ~~determine life expectancies.~~
535 ~~2. A description of the training, including continuing~~
536 ~~training, of the individuals who determine life expectancies.~~
537 ~~3. A description of how the life expectancy provider~~
538 ~~updates its manuals, underwriting guides, mortality tables, and~~
539 ~~other reference works and ensures that the provider bases its~~
540 ~~determination of life expectancies on current data.~~
541 ~~(h) A plan for assuring confidentiality of personal,~~
542 ~~medical, and financial information in accordance with federal~~
543 ~~and state laws.~~
544 ~~(i) An anti-fraud plan as required pursuant to s.~~
545 ~~626.99278.~~
546 ~~(j) A list of any agreements, contracts, or any other~~
547 ~~arrangement to provide life expectancies to a viatical~~
548 ~~settlement provider, viatical settlement broker, or any other~~
549 ~~person in the business of viatical settlements in connection~~
550 ~~with any viatical settlement contract or viatical settlement~~
551 ~~investment.~~

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552 ~~(5) As part of the application, and on or before March 1 of~~
553 ~~every 3 years thereafter, a registered life expectancy provider~~
554 ~~shall file with the office an audit of all life expectancies by~~
555 ~~the life expectancy provider for the 5 calendar years~~
556 ~~immediately preceding such audit, which audit shall be conducted~~
557 ~~and certified by a nationally recognized actuarial firm and~~
558 ~~shall include only the following:~~
559 ~~(a) A mortality table.~~
560 ~~(b) The number, percentage, and an actual-to-expected ratio~~
561 ~~of life expectancies in the following categories: life~~
562 ~~expectancies of less than 24 months, life expectancies of 25~~
563 ~~months to 48 months, life expectancies of 49 months to 72~~
564 ~~months, life expectancies of 73 months to 108 months, life~~
565 ~~expectancies of 109 months to 144 months, life expectancies of~~
566 ~~145 months to 180 months, and life expectancies of more than 180~~
567 ~~months.~~
568 ~~(6)~~ A ~~No~~ viatical settlement broker, viatical settlement
569 provider, or insurance agent in the business of viatical
570 settlements in this state may not ~~shall~~ directly or indirectly
571 own or be an officer, director, or employee of a life expectancy
572 provider.
573 ~~(7) Each registered life expectancy provider shall provide~~
574 ~~the office, as applicable, at least 30 days' advance notice of~~
575 ~~any change in the registrant's name, residence address,~~
576 ~~principal business address, or mailing address.~~
577 ~~(8) A person required to be registered by this section~~
578 ~~shall for 5 years retain copies of all life expectancies and~~
579 ~~supporting documents and medical records unless those personal~~
580 ~~medical records are subject to different retention or~~

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~~destruction requirements of a federal or state personal health information law.~~

~~(9) An application for life expectancy provider registration shall be approved or denied by the commissioner within 60 calendar days following receipt of a completed application by the commissioner. The office shall notify the applicant that the application is complete. A completed application that is not approved or denied in 60 calendar days following its receipt shall be deemed approved.~~

~~(10) The office may, in its discretion, deny the application for a life expectancy provider registration or suspend, revoke, or refuse to renew or continue the registration of a life expectancy provider if the office finds:~~

~~(a) Any cause for which registration could have been refused had it then existed and been known to the office;~~

~~(b) A violation of any provision of this code or of any other law applicable to the applicant or registrant;~~

~~(c) A violation of any lawful order or rule of the department, commission, or office; or~~

~~(d) That the applicant or registrant:~~

~~1. Has been found guilty of or pled guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country;~~

~~2. Has knowingly and willfully aided, assisted, procured, advised, or abetted any person in the violation of a provision of the insurance code or any order or rule of the department, commission, or office;~~

~~3. Has knowingly and with intent to defraud, provided a~~

~~life expectancy that does not conform to an applicant's or registrant's general practice;~~

~~4. Does not have a good business reputation or does not have experience, training, or education that qualifies the applicant or registrant to conduct the business of a life expectancy provider; or~~

~~5. Has demonstrated a lack of fitness or trustworthiness to engage in the business of issuing life expectancies.~~

~~(11) The office may, in lieu of or in addition to any suspension or revocation, assess an administrative fine not to exceed $2,500 for each nonwillful violation or $10,000 for each willful violation by a registered life expectancy provider. The office may also place a registered life expectancy provider on probation for a period not to exceed 2 years.~~

~~(12) It is a violation of this section for a person to represent, orally or in writing, that a life expectancy provider's registration pursuant to this act is in any way a recommendation or approval of the entity or means that the qualifications or abilities have in any way been approved of.~~

~~(13) The Financial Services Commission may, by rule, require that all or part of the statements or filings required under this section be submitted by electronic means and in a computer-readable format specified by the commission.~~

Section 9. Section 626.9919, Florida Statutes, is amended to read:

626.9919 Notice of change of licensee ~~or registrant's~~ address or name.—Each viatical settlement provider licensee ~~and registered life expectancy provider~~ must provide the office at least 30 days' advance notice of any change in the licensee's ~~or~~

639 ~~registrant's~~ name, residence address, principal business
640 address, or mailing address.
641 Section 10. Section 626.992, Florida Statutes, is amended
642 to read:
643 626.992 Use of licensed viatical settlement providers and~~,~~
644 viatical settlement brokers~~, and registered life expectancy~~
645 ~~providers required~~.—
646 (1) A licensed viatical settlement provider may not use any
647 person to perform the functions of a viatical settlement broker
648 as defined in this act unless such person holds a current, valid
649 life agent license and has appointed himself or herself in
650 conformance with this chapter.
651 (2) A viatical settlement broker may not use any person to
652 perform the functions of a viatical settlement provider as
653 defined in this act unless such person holds a current, valid
654 license as a viatical settlement provider.
655 ~~(3) After July 1, 2006, a person may not operate as a life~~
656 ~~expectancy provider unless such person is registered as a life~~
657 ~~expectancy provider pursuant to this act.~~
658 ~~(4) After July 1, 2006, a viatical settlement provider,~~
659 ~~viatical settlement broker, or any other person in the business~~
660 ~~of viatical settlements may not obtain life expectancies from a~~
661 ~~person who is not registered as a life expectancy provider~~
662 ~~pursuant to this act.~~
663 Section 11. Section 626.9925, Florida Statutes, is amended
664 to read:
665 626.9925 Rules.—The commission may adopt rules to
666 administer this act, including rules establishing standards for
667 evaluating advertising by licensees; rules providing for the

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668 collection of data, for disclosures to viators, and for the
669 reporting of life expectancies~~, and for the registration of life~~
670 ~~expectancy providers~~; and rules defining terms used in this act
671 and prescribing recordkeeping requirements relating to executed
672 viatical settlement contracts.
673 Section 12. Section 626.99278, Florida Statutes, is amended
674 to read:
675 626.99278 Viatical provider anti-fraud plan.—Every licensed
676 viatical settlement provider ~~and registered life expectancy~~
677 ~~provider~~ must adopt an anti-fraud plan and file it with the
678 Division of Insurance Fraud of the department. Each anti-fraud
679 plan shall include:
680 (1) A description of the procedures for detecting and
681 investigating possible fraudulent acts and procedures for
682 resolving material inconsistencies between medical records and
683 insurance applications.
684 (2) A description of the procedures for the mandatory
685 reporting of possible fraudulent insurance acts and prohibited
686 practices set forth in s. 626.99275 to the Division of Insurance
687 Fraud of the department.
688 (3) A description of the plan for anti-fraud education and
689 training of its underwriters or other personnel.
690 (4) A written description or chart outlining the
691 organizational arrangement of the anti-fraud personnel who are
692 responsible for the investigation and reporting of possible
693 fraudulent insurance acts and for the investigation of
694 unresolved material inconsistencies between medical records and
695 insurance applications.
696 (5) For viatical settlement providers, a description of the

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697 procedures used to perform initial and continuing review of the
698 accuracy of life expectancies used in connection with a viatical
699 settlement contract or viatical settlement investment.
700 Section 13. Paragraph (b) of subsection (2) of section
701 627.062, Florida Statutes, is amended to read:
702 627.062 Rate standards.—
703 (2) As to all such classes of insurance:
704 (b) Upon receiving a rate filing, the office shall review
705 the filing to determine if a rate is excessive, inadequate, or
706 unfairly discriminatory. In making that determination, the
707 office shall, in accordance with generally accepted and
708 reasonable actuarial techniques, consider the following factors:
709 1. Past and prospective loss experience within and without
710 this state.
711 2. Past and prospective expenses.
712 3. The degree of competition among insurers for the risk
713 insured.
714 4. Investment income reasonably expected by the insurer,
715 consistent with the insurer's investment practices, from
716 investable premiums anticipated in the filing, plus any other
717 expected income from currently invested assets representing the
718 amount expected on unearned premium reserves and loss reserves.
719 The commission may adopt rules using reasonable techniques of
720 actuarial science and economics to specify the manner in which
721 insurers calculate investment income attributable to classes of
722 insurance written in this state and the manner in which
723 investment income is used to calculate insurance rates. Such
724 manner must contemplate allowances for an underwriting profit
725 factor and full consideration of investment income which produce

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726 a reasonable rate of return; however, investment income from
727 invested surplus may not be considered.
728 5. The reasonableness of the judgment reflected in the
729 filing.
730 6. Dividends, savings, or unabsorbed premium deposits
731 allowed or returned to Florida policyholders, members, or
732 subscribers.
733 7. The adequacy of loss reserves.
734 8. The cost of reinsurance. The office may not disapprove a
735 rate as excessive solely due to the insurer having obtained
736 catastrophic reinsurance to cover the insurer's estimated 250-
737 year probable maximum loss or any lower level of loss.
738 9. Trend factors, including trends in actual losses per
739 insured unit for the insurer making the filing.
740 10. Conflagration and catastrophe hazards, if applicable.
741 11. Projected hurricane losses, if applicable, which must
742 be estimated using a model or method, or models or an average or
743 weighted average of models, independently found to be acceptable
744 or reliable by the Florida Commission on Hurricane Loss
745 Projection Methodology, and as further provided in s. 627.0628.
746 12. A reasonable margin for underwriting profit and
747 contingencies.
748 13. The cost of medical services, if applicable.
749 14. Other relevant factors that affect the frequency or
750 severity of claims or expenses.
751 Section 14. Paragraph (d) of subsection (3) of section
752 627.0628, Florida Statutes, is amended to read:
753 627.0628 Florida Commission on Hurricane Loss Projection
754 Methodology; public records exemption; public meetings

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755 exemption.—
756 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—
757 (d) With respect to a rate filing under s. 627.062, an
758 insurer shall employ and may not modify or adjust actuarial
759 methods, principles, standards, models, or output ranges found
760 by the commission to be accurate or reliable in determining
761 hurricane loss factors for use in a rate filing under s.
762 627.062. An insurer shall employ and may not modify or adjust
763 models found by the commission to be accurate or reliable in
764 determining probable maximum loss levels pursuant to paragraph
765 (b) with respect to a rate filing under s. 627.062 made more
766 than 120 ~~60~~ days after the commission has made such findings.
767 This paragraph does not prohibit an insurer from averaging
768 together the model results or output ranges or using weighted
769 averages for the purposes of a rate filing under s. 627.062.
770 Section 15. Present subsections (2), (3), and (4) of
771 section 627.072, Florida Statutes, are renumbered as subsections
772 (3), (4), and (5), respectively, and a new subsection (2) is
773 added to that section, to read:
774 627.072 Making and use of rates.—
775 (2) A retrospective rating plan may contain a provision
776 that allows negotiation between the employer and the insurer to
777 determine the retrospective rating factors used to calculate the
778 premium for employers having exposure in more than one state and
779 an estimated annual countrywide standard premium of $1 million
780 or more for workers' compensation.
781 Section 16. Subsection (2) of section 627.281, Florida
782 Statutes, is amended to read:
783 627.281 Appeal from rating organization; workers'

784 compensation and employer's liability insurance filings.—
785 (2) If such appeal is based upon the failure of the rating
786 organization to make a filing on behalf of such member or
787 subscriber which is based on a system of expense provisions
788 which differs, in accordance with the right granted in s.
789 627.072(3) ~~627.072(2)~~, from the system of expense provisions
790 included in a filing made by the rating organization, the office
791 shall, if it grants the appeal, order the rating organization to
792 make the requested filing for use by the appellant. In deciding
793 such appeal, the office shall apply the applicable standards set
794 forth in ss. 627.062 and 627.072.
795 Section 17. Section 627.3519, Florida Statutes, is
796 repealed.
797 Section 18. Paragraph (b) of subsection (2) of section
798 627.4133, Florida Statutes, is amended to read:
799 627.4133 Notice of cancellation, nonrenewal, or renewal
800 premium.—
801 (2) With respect to any personal lines or commercial
802 residential property insurance policy, including, but not
803 limited to, any homeowner's, mobile home owner's, farmowner's,
804 condominium association, condominium unit owner's, apartment
805 building, or other policy covering a residential structure or
806 its contents:
807 (b) The insurer shall give the first-named insured written
808 notice of nonrenewal, cancellation, or termination at least 100
809 days before the effective date of the nonrenewal, cancellation,
810 or termination. ~~However, the insurer shall give at least 100~~
811 ~~days' written notice, or written notice by June 1, whichever is~~
812 ~~earlier, for any nonrenewal, cancellation, or termination that~~

813 ~~would be effective between June 1 and November 30.~~ The notice
814 must include the reason or reasons for the nonrenewal,
815 cancellation, or termination, except that:
816 ~~1. The insurer shall give the first-named insured written~~
817 ~~notice of nonrenewal, cancellation, or termination at least 120~~
818 ~~days prior to the effective date of the nonrenewal,~~
819 ~~cancellation, or termination for a first-named insured whose~~
820 ~~residential structure has been insured by that insurer or an~~
821 ~~affiliated insurer for at least a 5-year period immediately~~
822 ~~prior to the date of the written notice.~~
823 1.~~2.~~ If cancellation is for nonpayment of premium, at least
824 10 days' written notice of cancellation accompanied by the
825 reason therefor must be given. As used in this subparagraph, the
826 term "nonpayment of premium" means failure of the named insured
827 to discharge when due her or his obligations for ~~in connection~~
828 ~~with~~ the payment of premiums on a policy or any installment of
829 such premium, whether the premium is payable directly to the
830 insurer or its agent or indirectly under any premium finance
831 plan or extension of credit, or failure to maintain membership
832 in an organization if such membership is a condition precedent
833 to insurance coverage. The term also means the failure of a
834 financial institution to honor an insurance applicant's check
835 after delivery to a licensed agent for payment of a premium,
836 even if the agent has previously delivered or transferred the
837 premium to the insurer. If a dishonored check represents the
838 initial premium payment, the contract and all contractual
839 obligations are void ab initio unless the nonpayment is cured
840 within the earlier of 5 days after actual notice by certified
841 mail is received by the applicant or 15 days after notice is

842 sent to the applicant by certified mail or registered mail.~~, and~~
843 If the contract is void, any premium received by the insurer
844 from a third party must be refunded to that party in full.
845 2.~~3.~~ If ~~such~~ cancellation or termination occurs during the
846 first 90 days the insurance is in force and the insurance is
847 canceled or terminated for reasons other than nonpayment of
848 premium, at least 20 days' written notice of cancellation or
849 termination accompanied by the reason therefor must be given
850 unless there has been a material misstatement or
851 misrepresentation or failure to comply with the underwriting
852 requirements established by the insurer.
853 3. After the policy has been in effect for 90 days, the
854 policy may not be canceled by the insurer unless there has been
855 a material misstatement, a nonpayment of premium, a failure to
856 comply with underwriting requirements established by the insurer
857 within 90 days after the date of effectuation of coverage, or a
858 substantial change in the risk covered by the policy or if the
859 cancellation is for all insureds under such policies for a given
860 class of insureds. This subparagraph does not apply to
861 individually rated risks having a policy term of less than 90
862 days.
863 ~~4. The requirement for providing written notice by June 1~~
864 ~~of any nonrenewal that would be effective between June 1 and~~
865 ~~November 30 does not apply to the following situations, but the~~
866 ~~insurer remains subject to the requirement to provide such~~
867 ~~notice at least 100 days before the effective date of~~
868 ~~nonrenewal:~~
869 ~~a. A policy that is nonrenewed due to a revision in the~~
870 ~~coverage for sinkhole losses and catastrophic ground cover~~

871 ~~collapse pursuant to s. 627.706.~~
872 4.~~b.~~ A policy that is nonrenewed by Citizens Property
873 Insurance Corporation, pursuant to s. 627.351(6), for a policy
874 that has been assumed by an authorized insurer offering
875 replacement coverage to the policyholder is exempt from the
876 notice requirements of paragraph (a) and this paragraph. In such
877 cases, the corporation must give the named insured written
878 notice of nonrenewal at least 45 days before the effective date
879 of the nonrenewal.
880
881 ~~After the policy has been in effect for 90 days, the policy may~~
882 ~~not be canceled by the insurer unless there has been a material~~
883 ~~misstatement, a nonpayment of premium, a failure to comply with~~
884 ~~underwriting requirements established by the insurer within 90~~
885 ~~days after the date of effectuation of coverage, or a~~
886 ~~substantial change in the risk covered by the policy or if the~~
887 ~~cancellation is for all insureds under such policies for a given~~
888 ~~class of insureds. This paragraph does not apply to individually~~
889 ~~rated risks having a policy term of less than 90 days.~~
890 5. Notwithstanding any other provision of law, an insurer
891 may cancel or nonrenew a property insurance policy after at
892 least 45 days' notice if the office finds that the early
893 cancellation of some or all of the insurer's policies is
894 necessary to protect the best interests of the public or
895 policyholders and the office approves the insurer's plan for
896 early cancellation or nonrenewal of some or all of its policies.
897 The office may base such finding upon the financial condition of
898 the insurer, lack of adequate reinsurance coverage for hurricane
899 risk, or other relevant factors. The office may condition its

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900 finding on the consent of the insurer to be placed under
901 administrative supervision pursuant to s. 624.81 or to the
902 appointment of a receiver under chapter 631.
903 6. A policy covering both a home and motor vehicle may be
904 nonrenewed for any reason applicable to ~~either~~ the property or
905 motor vehicle insurance after providing 90 days' notice.
906 Section 19. Subsection (1) of section 627.4137, Florida
907 Statutes, is amended to read:
908 627.4137 Disclosure of certain information required.—
909 (1) Each insurer that provides ~~which does~~ or may provide
910 liability insurance coverage to pay all or a portion of any
911 claim that ~~which~~ might be made shall provide, within 30 days
912 after ~~of~~ the written request of the claimant, a statement, under
913 oath, of a corporate officer or the insurer's claims manager, ~~or~~
914 superintendent, or licensed company adjuster setting forth the
915 following information with regard to each known policy of
916 insurance, including excess or umbrella insurance:
917 (a) The name of the insurer.
918 (b) The name of each insured.
919 (c) The limits of the liability coverage.
920 (d) A statement of any policy or coverage defense that the
921 ~~which such~~ insurer reasonably believes is available to the ~~such~~
922 insurer at the time of filing such statement.
923 (e) A copy of the policy.
924
925 In addition, the insured, or her or his insurance agent, upon
926 written request of the claimant or the claimant's attorney,
927 shall disclose the name and coverage of each known insurer to
928 the claimant and shall forward such request for information as

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929 required by this subsection to all affected insurers. The
930 insurer shall then supply the information required in this
931 subsection to the claimant within 30 days after ~~of~~ receipt of
932 such request.
933 Section 20. Subsection (1) of section 627.421, Florida
934 Statutes, is amended to read:
935 627.421 Delivery of policy.—
936 (1) Subject to the insurer's requirement as to payment of
937 premium, every policy shall be mailed or delivered to the
938 insured or to the person entitled thereto not later than 60 days
939 after the effectuation of coverage. Notwithstanding any other
940 provision of law, an insurer may allow a policyholder to elect
941 delivery of the policy documents, including, but not limited to,
942 policies, endorsements, notices, or documents, by electronic
943 means in lieu of delivery by mail.
944 Section 21. Subsection (2) of section 627.43141, Florida
945 Statutes, is amended to read:
946 627.43141 Notice of change in policy terms.—
947 (2) A renewal policy may contain a change in policy terms.
948 If a renewal policy contains ~~does contain~~ such change, the
949 insurer must give the named insured written notice of the
950 change, which may either ~~must~~ be enclosed along with the written
951 notice of renewal premium required by ss. 627.4133 and 627.728
952 or sent in a separate notice that complies with the nonrenewal
953 mailing time requirement for that particular line of business.
954 The insurer must also provide or make available electronically
955 to the insured's insurance agent such notice before or at the
956 same time notice is given to the insured. Such notice shall be
957 entitled "Notice of Change in Policy Terms."

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958 Section 22. Subsection (7) of section 627.701, Florida
959 Statutes, is amended to read:
960 627.701 Liability of insureds; coinsurance; deductibles.—
961 (7) Before ~~Prior to~~ issuing a personal lines residential
962 property insurance policy on or after January 1, 2014 ~~April 1,~~
963 ~~1997~~, or before ~~prior to~~ the first renewal of a residential
964 property insurance policy on or after January 1, 2014 ~~April 1,~~
965 ~~1997~~, the insurer must offer a deductible equal to $500, or
966 equal to 1 percent of the policy dwelling limits if such amount
967 is not less than $500, applicable to losses from perils other
968 than hurricane. ~~The insurer must provide the policyholder with~~
969 ~~notice of the availability of the deductible specified in this~~
970 ~~subsection in a form approved by the office at least once every~~
971 ~~3 years. The failure to provide such notice constitutes a~~
972 ~~violation of this code but does not affect the coverage provided~~
973 ~~under the policy.~~ An insurer may require a higher deductible
974 only as part of a deductible program lawfully in effect on June
975 1, 1996, or as part of a similar deductible program.
976 Section 23. Paragraph (b) of subsection (4) of section
977 627.7015, Florida Statutes, is amended to read:
978 627.7015 Alternative procedure for resolution of disputed
979 property insurance claims.—
980 (4) The department shall adopt by rule a property insurance
981 mediation program to be administered by the department or its
982 designee. The department may also adopt special rules which are
983 applicable in cases of an emergency within the state. The rules
984 shall be modeled after practices and procedures set forth in
985 mediation rules of procedure adopted by the Supreme Court. The
986 rules shall provide for:

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987 (b) Qualifications, denial of application, suspension,
988 revocation, and other penalties for ~~of~~ mediators as provided in
989 s. 627.745 ~~and in the Florida Rules of Certified and Court~~
990 ~~Appointed Mediators, and for such other individuals as are~~
991 ~~qualified by education, training, or experience as the~~
992 ~~department determines to be appropriate~~.
993 Section 24. Section 627.70151, Florida Statutes, is created
994 to read:
995 627.70151 Appraisal; conflicts of interest.—An insurer that
996 offers residential coverage, as defined in s. 627.4025, or a
997 policyholder that uses an appraisal clause in the property
998 insurance contract to establish a process of estimating or
999 evaluating the amount of the loss through the use of an
1000 impartial umpire may challenge the umpire's impartiality and
1001 disqualify the proposed umpire only if:
1002 (1) A familial relationship within the third degree exists
1003 between the umpire and any party or a representative of any
1004 party;
1005 (2) The umpire has previously represented any party or a
1006 representative of any party in a professional capacity in the
1007 same or a substantially related matter;
1008 (3) The umpire has represented another person in a
1009 professional capacity on the same or a substantially related
1010 matter, including the claim, on the same property, or on an
1011 adjacent property and that other person's interests are
1012 materially adverse to the interests of any party; or
1013 (4) The umpire has worked as an employer or employee of any
1014 party within the preceding 5 years.
1015 Section 25. Subsection (1) and paragraph (c) of subsection

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1016 (2) of section 627.706, Florida Statutes, are amended to read:
1017 627.706 Sinkhole insurance; catastrophic ground cover
1018 collapse; definitions.—
1019 (1)(a) Every insurer authorized to transact property
1020 insurance in this state must provide coverage for a catastrophic
1021 ground cover collapse.
1022 (b) The insurer shall make available, for an appropriate
1023 additional premium, coverage for sinkhole losses on any
1024 structure, including the contents of personal property contained
1025 therein, to the extent provided in the form to which the
1026 coverage attaches. The insurer may require an inspection of the
1027 property before issuance of sinkhole loss coverage. A policy for
1028 ~~residential~~ property insurance may include a deductible amount
1029 applicable to sinkhole losses equal to 1 percent, 2 percent, 5
1030 percent, or 10 percent of the policy's covered building ~~policy~~
1031 ~~dwelling~~ limits, with appropriate premium discounts offered with
1032 each deductible amount.
1033 (c) The insurer may restrict catastrophic ground cover
1034 collapse and sinkhole loss coverage to the principal building,
1035 as defined in the applicable policy.
1036 (2) As used in ss. 627.706-627.7074, and as used in
1037 connection with any policy providing coverage for a catastrophic
1038 ground cover collapse or for sinkhole losses, the term:
1039 (c) "Neutral evaluator" means a professional engineer or a
1040 professional geologist who has completed a course of study in
1041 alternative dispute resolution designed or approved by the
1042 department for use in the neutral evaluation process, ~~and~~ who is
1043 determined by the department to be fair and impartial, and who
1044 is not otherwise ineligible for certification as provided in s.

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1045 627.7074.
1046 Section 26. Subsection (1) of section 627.7074, Florida
1047 Statutes, is amended to read:
1048 627.7074 Alternative procedure for resolution of disputed
1049 sinkhole insurance claims.—
1050 (1) The department shall:
1051 (a) Certify and maintain a list of persons who are neutral
1052 evaluators.
1053 (b) Adopt rules for certifying, denying certification,
1054 suspending certification, and revoking certification as a
1055 neutral evaluator, in keeping with qualifications specified in
1056 this section and ss. 627.706 and 627.745(4).
1057 (c) ~~(b)~~ Prepare a consumer information pamphlet for
1058 distribution by insurers to policyholders which clearly
1059 describes the neutral evaluation process and includes
1060 information necessary for the policyholder to request a neutral
1061 evaluation.
1062 Section 27. Paragraph (a) of subsection (5) of section
1063 627.736, Florida Statutes, is amended to read:
1064 627.736 Required personal injury protection benefits;
1065 exclusions; priority; claims.—
1066 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—
1067 (a) A physician, hospital, clinic, or other person or
1068 institution lawfully rendering treatment to an injured person
1069 for a bodily injury covered by personal injury protection
1070 insurance may charge the insurer and injured party only a
1071 reasonable amount pursuant to this section for the services and
1072 supplies rendered, and the insurer providing such coverage may
1073 pay for such charges directly to such person or institution

1074 lawfully rendering such treatment if the insured receiving such
1075 treatment or his or her guardian has countersigned the properly
1076 completed invoice, bill, or claim form approved by the office
1077 upon which such charges are to be paid for as having actually
1078 been rendered, to the best knowledge of the insured or his or
1079 her guardian. However, such a charge may not exceed the amount
1080 the person or institution customarily charges for like services
1081 or supplies. In determining whether a charge for a particular
1082 service, treatment, or otherwise is reasonable, consideration
1083 may be given to evidence of usual and customary charges and
1084 payments accepted by the provider involved in the dispute,
1085 reimbursement levels in the community and various federal and
1086 state medical fee schedules applicable to motor vehicle and
1087 other insurance coverages, and other information relevant to the
1088 reasonableness of the reimbursement for the service, treatment,
1089 or supply.
1090 1. The insurer may limit reimbursement to 80 percent of the
1091 following schedule of maximum charges:
1092 a. For emergency transport and treatment by providers
1093 licensed under chapter 401, 200 percent of Medicare.
1094 b. For emergency services and care provided by a hospital
1095 licensed under chapter 395, 75 percent of the hospital's usual
1096 and customary charges.
1097 c. For emergency services and care as defined by s. 395.002
1098 provided in a facility licensed under chapter 395 rendered by a
1099 physician or dentist, and related hospital inpatient services
1100 rendered by a physician or dentist, the usual and customary
1101 charges in the community.
1102 d. For hospital inpatient services, other than emergency

1103 services and care, 200 percent of the Medicare Part A
1104 prospective payment applicable to the specific hospital
1105 providing the inpatient services.
1106 e. For hospital outpatient services, other than emergency
1107 services and care, 200 percent of the Medicare Part A Ambulatory
1108 Payment Classification for the specific hospital providing the
1109 outpatient services.
1110 f. For all other medical services, supplies, and care, 200
1111 percent of the allowable amount under:
1112 (I) The participating physicians fee schedule of Medicare
1113 Part B, except as provided in sub-sub-subparagraphs (II) and
1114 (III).
1115 (II) Medicare Part B, in the case of services, supplies,
1116 and care provided by ambulatory surgical centers and clinical
1117 laboratories.
1118 (III) The Durable Medical Equipment Prosthetics/Orthotics
1119 and Supplies fee schedule of Medicare Part B, in the case of
1120 durable medical equipment.
1121
1122 However, if such services, supplies, or care is not reimbursable
1123 under Medicare Part B, as provided in this sub-subparagraph, the
1124 insurer may limit reimbursement to 80 percent of the maximum
1125 reimbursable allowance under workers' compensation, as
1126 determined under s. 440.13 and rules adopted thereunder which
1127 are in effect at the time such services, supplies, or care is
1128 provided. Services, supplies, or care that is not reimbursable
1129 under Medicare or workers' compensation is not required to be
1130 reimbursed by the insurer.
1131 2. For purposes of subparagraph 1., the applicable fee

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1132 schedule or payment limitation under Medicare is the fee
1133 schedule or payment limitation in effect on March 1 of the year
1134 in which the services, supplies, or care is rendered and for the
1135 area in which such services, supplies, or care is rendered, and
1136 the applicable fee schedule or payment limitation applies until
1137 March 1 of the following ~~throughout the remainder of that~~ year,
1138 notwithstanding any subsequent change made to the fee schedule
1139 or payment limitation, except that it may not be less than the
1140 allowable amount under the applicable schedule of Medicare Part
1141 B for 2007 for medical services, supplies, and care subject to
1142 Medicare Part B.
1143 3. Subparagraph 1. does not allow the insurer to apply any
1144 limitation on the number of treatments or other utilization
1145 limits that apply under Medicare or workers' compensation. An
1146 insurer that applies the allowable payment limitations of
1147 subparagraph 1. must reimburse a provider who lawfully provided
1148 care or treatment under the scope of his or her license,
1149 regardless of whether such provider is entitled to reimbursement
1150 under Medicare due to restrictions or limitations on the types
1151 or discipline of health care providers who may be reimbursed for
1152 particular procedures or procedure codes. However, subparagraph
1153 1. does not prohibit an insurer from using the Medicare coding
1154 policies and payment methodologies of the federal Centers for
1155 Medicare and Medicaid Services, including applicable modifiers,
1156 to determine the appropriate amount of reimbursement for medical
1157 services, supplies, or care if the coding policy or payment
1158 methodology does not constitute a utilization limit.
1159 4. If an insurer limits payment as authorized by
1160 subparagraph 1., the person providing such services, supplies,

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1161 or care may not bill or attempt to collect from the insured any
1162 amount in excess of such limits, except for amounts that are not
1163 covered by the insured's personal injury protection coverage due
1164 to the coinsurance amount or maximum policy limits.
1165 5. Effective July 1, 2012, an insurer may limit payment as
1166 authorized by this paragraph only if the insurance policy
1167 includes a notice at the time of issuance or renewal that the
1168 insurer may limit payment pursuant to the schedule of charges
1169 specified in this paragraph. A policy form approved by the
1170 office satisfies this requirement. If a provider submits a
1171 charge for an amount less than the amount allowed under
1172 subparagraph 1., the insurer may pay the amount of the charge
1173 submitted.
1174 Section 28. Subsection (3) of section 627.745, Florida
1175 Statutes, is amended, present subsections (4) and (5) of that
1176 section are renumbered as subsections (5) and (6), respectively,
1177 and a new subsection (4) is added to that section, to read:
1178 627.745 Mediation of claims.—
1179 (3)(a) The department shall approve mediators to conduct
1180 mediations pursuant to this section. All mediators must file an
1181 application under oath for approval as a mediator.
1182 (b) To qualify for approval as a mediator, an individual ~~a~~
1183 ~~person~~ must meet one of the following qualifications:
1184 1. Possess an active certification as a Florida Circuit
1185 Court Mediator. A Florida Circuit Court Mediator in a lapsed,
1186 suspended, or decertified status is not eligible to participate
1187 in the mediation program ~~a masters or doctorate degree in~~
1188 ~~psychology, counseling, business, accounting, or economics, be a~~
1189 ~~member of The Florida Bar, be licensed as a certified public~~

1190 ~~accountant, or demonstrate that the applicant for approval has~~
1191 ~~been actively engaged as a qualified mediator for at least 4~~
1192 ~~years prior to July 1, 1990~~.
1193 2. Be an approved department mediator as of July 1, 2013,
1194 and have conducted at least one mediation on behalf of the
1195 department within 4 years immediately preceding that ~~the~~ date
1196 ~~the application for approval is filed with the department, have~~
1197 ~~completed a minimum of a 40-hour training program approved by~~
1198 ~~the department and successfully passed a final examination~~
1199 ~~included in the training program and approved by the department.~~
1200 ~~The training program shall include and address all of the~~
1201 ~~following:~~
1202 ~~a. Mediation theory.~~
1203 ~~b. Mediation process and techniques.~~
1204 ~~c. Standards of conduct for mediators.~~
1205 ~~d. Conflict management and intervention skills.~~
1206 ~~e. Insurance nomenclature~~.
1207 (4) The department shall deny an application, or revoke its
1208 approval of a mediator or neutral evaluator to serve in such
1209 capacity, if the department finds that any of the following
1210 grounds exist:
1211 (a) Lack of one or more of the qualifications specified in
1212 this section for approval or certification.
1213 (b) Material misstatement, misrepresentation, or fraud in
1214 obtaining or attempting to obtain the approval or certification.
1215 (c) Demonstrated lack of fitness or trustworthiness to act
1216 as a mediator or neutral evaluator.
1217 (d) Fraudulent or dishonest practices in the conduct of
1218 mediation or neutral evaluation or in the conduct of business in

1219 the financial services industry.
1220 (e) Violation of any provision of this code or of a lawful
1221 order or rule of the department or aiding, instructing, or
1222 encouraging another party in committing such a violation.
1223
1224 The department may adopt rules to administer this subsection.
1225 Section 29. Paragraph (b) of subsection (1) of section
1226 627.952, Florida Statutes, is amended to read:
1227 627.952 Risk retention and purchasing group agents.—
1228 (1) Any person offering, soliciting, selling, purchasing,
1229 administering, or otherwise servicing insurance contracts,
1230 certificates, or agreements for any purchasing group or risk
1231 retention group to any resident of this state, either directly
1232 or indirectly, by the use of mail, advertising, or other means
1233 of communication, shall obtain a license and appointment to act
1234 as a resident general lines agent, if a resident of this state,
1235 or a nonresident general lines agent if not a resident. Any such
1236 person shall be subject to all requirements of the Florida
1237 Insurance Code.
1238 (b) Any person required to be licensed and appointed under
1239 this subsection, in order to place business through Florida
1240 eligible surplus lines carriers, must, if a resident of this
1241 state, be licensed and appointed as a surplus lines agent. If
1242 not a resident of this state, such person must be licensed and
1243 appointed as a surplus lines agent in her or his state of
1244 residence ~~and file and maintain a fidelity bond in favor of the~~
1245 ~~people of the State of Florida executed by a surety company~~
1246 ~~admitted in this state and payable to the State of Florida;~~
1247 ~~however, such nonresident is limited to the provision of~~

1248 ~~insurance for purchasing groups. The bond must be continuous in~~
1249 ~~form and in the amount of not less than $50,000, aggregate~~
1250 ~~liability. The bond must remain in force and effect until the~~
1251 ~~surety is released from liability by the department or until the~~
1252 ~~bond is canceled by the surety. The surety may cancel the bond~~
1253 ~~and be released from further liability upon 30 days' prior~~
1254 ~~written notice to the department. The cancellation does not~~
1255 ~~affect any liability incurred or accrued before the termination~~
1256 ~~of the 30-day period. Upon receipt of a notice of cancellation,~~
1257 ~~the department shall immediately notify the agent~~.
1258 Section 30. Subsection (6) of section 627.971, Florida
1259 Statutes, is amended to read:
1260 627.971 Definitions.—As used in this part:
1261 (6) "Financial guaranty insurance corporation" means a
1262 stock or mutual insurer licensed to transact financial guaranty
1263 insurance business in this state.
1264 Section 31. Subsection (1) of section 627.972, Florida
1265 Statutes, is amended to read:
1266 627.972 Organization; financial requirements.—
1267 (1) A financial guaranty insurance corporation must be
1268 organized and licensed in the manner prescribed in this code for
1269 stock or mutual property and casualty insurers except that:
1270 (a) A corporation organized to transact financial guaranty
1271 insurance may, subject to the provisions of this code, be
1272 licensed to transact:
1273 1. Residual value insurance, as defined by s. 624.6081;
1274 2. Surety insurance, as defined by s. 624.606;
1275 3. Credit insurance, as defined by s. 624.605(1)(i); and
1276 4. Mortgage guaranty insurance as defined in s. 635.011,

1277 provided that the provisions of chapter 635 are met.
1278 (b)1. Before ~~Prior to~~ the issuance of a license, a
1279 corporation must submit to the office for approval~~,~~ a plan of
1280 operation detailing:
1281 a. The types and projected diversification of guaranties to
1282 be issued;
1283 b. The underwriting procedures to be followed;
1284 c. The managerial oversight methods;
1285 d. The investment policies; and
1286 e. Any other matters prescribed by the office;
1287 2. An insurer which is writing only the types of insurance
1288 allowed under this part on July 1, 1988, and otherwise meets the
1289 requirements of this part, is exempt from the requirements of
1290 this paragraph.
1291 (c) An insurer transacting financial guaranty insurance is
1292 subject to all provisions of this code that are applicable to
1293 property and casualty insurers to the extent that those
1294 provisions are not inconsistent with this part.
1295 (d) The investments of an insurer transacting financial
1296 guaranty insurance in any entity insured by the corporation may
1297 not exceed 2 percent of its admitted assets as of the end of the
1298 prior calendar year.
1299 (e) An insurer transacting financial guaranty insurance may
1300 only assume those lines of insurance for which it is licensed to
1301 write direct business.
1302 Section 32. Subsection (13) of section 628.901, Florida
1303 Statutes, is amended to read:
1304 628.901 Definitions.—As used in this part, the term:
1305 (13) "Qualifying reinsurer parent company" means a

1306 reinsurer that ~~which~~ currently holds a certificate of authority
1307 or a~~,~~ letter of eligibility or is an accredited ~~or a~~
1308 ~~satisfactory non-approved~~ reinsurer in this state possessing a
1309 consolidated GAAP net worth of at least $500 million and a
1310 consolidated debt to total capital ratio of not greater than
1311 0.50.
1312 Section 33. Paragraph (a) of subsection (2) and paragraph
1313 (a) of subsection (3) of section 628.909, Florida Statutes, are
1314 amended to read:
1315 628.909 Applicability of other laws.—
1316 (2) The following provisions of the Florida Insurance Code
1317 apply to captive insurers who are not industrial insured captive
1318 insurers to the extent that such provisions are not inconsistent
1319 with this part:
1320 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1321 624.40851, 624.4095, 624.411, 624.425, and 624.426.
1322 (3) The following provisions of the Florida Insurance Code
1323 apply to industrial insured captive insurers to the extent that
1324 such provisions are not inconsistent with this part:
1325 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1326 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).
1327 Section 34. Present subsection (8) of section 634.406,
1328 Florida Statutes, is renumbered as subsection (7), and present
1329 subsections (6) and (7) of that section are amended, to read:
1330 634.406 Financial requirements.—
1331 (6) An association that ~~which~~ holds a license under this
1332 part ~~and which does not hold any other license under this~~
1333 ~~chapter~~ may allow its premiums written under this part to exceed
1334 the ratio to net assets limitations of this section if the

1335 association meets all of the following:
1336 (a) Maintains net assets of at least $750,000.
1337 (b) Utilizes a contractual liability insurance policy
1338 approved by the office which:
1339 1. Reimburses the service warranty association for 100
1340 percent of its claims liability and is issued by an insurer that
1341 maintains a policyholder surplus of at least $100 million; or
1342 2. Complies with the requirements of subsection (3) and is
1343 issued by an insurer that maintains a policyholder surplus of at
1344 least $200 million.
1345 (c) The insurer issuing the contractual liability insurance
1346 policy:
1347 ~~1. Maintains a policyholder surplus of at least $100~~
1348 ~~million.~~
1349 1.~~2.~~ Is rated "A" or higher by A.M. Best Company or an
1350 equivalent rating by another national rating service acceptable
1351 to the office.
1352 ~~3. Is in no way affiliated with the warranty association.~~
1353 2.~~4.~~ In conjunction with the warranty association's filing
1354 of the quarterly and annual reports, provides, on a form
1355 prescribed by the commission, a statement certifying the gross
1356 written premiums in force reported by the warranty association
1357 and a statement that all of the warranty association's gross
1358 written premium in force is covered under the contractual
1359 liability policy, whether or not it has been reported.
1360 ~~(7) A contractual liability policy must insure 100 percent~~
1361 ~~of an association's claims exposure under all of the~~
1362 ~~association's service warranty contracts, wherever written,~~
1363 ~~unless all of the following are satisfied:~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1364 ~~(a) The contractual liability policy contains a clause that~~
1365 ~~specifically names the service warranty contract holders as sole~~
1366 ~~beneficiaries of the contractual liability policy and claims are~~
1367 ~~paid directly to the person making a claim under the contract;~~
1368 ~~(b) The contractual liability policy meets all other~~
1369 ~~requirements of this part, including subsection (3) of this~~
1370 ~~section, which are not inconsistent with this subsection;~~
1371 ~~(c) The association has been in existence for at least 5~~
1372 ~~years or the association is a wholly owned subsidiary of a~~
1373 ~~corporation that has been in existence and has been licensed as~~
1374 ~~a service warranty association in the state for at least 5~~
1375 ~~years, and:~~
1376 ~~1. Is listed and traded on a recognized stock exchange; is~~
1377 ~~listed in NASDAQ (National Association of Security Dealers~~
1378 ~~Automated Quotation system) and publicly traded in the over-the-~~
1379 ~~counter securities market; is required to file either of Form~~
1380 ~~10-K, Form 100, or Form 20-G with the United States Securities~~
1381 ~~and Exchange Commission; or has American Depository Receipts~~
1382 ~~listed on a recognized stock exchange and publicly traded or is~~
1383 ~~the wholly owned subsidiary of a corporation that is listed and~~
1384 ~~traded on a recognized stock exchange; is listed in NASDAQ~~
1385 ~~(National Association of Security Dealers Automated Quotation~~
1386 ~~system) and publicly traded in the over-the-counter securities~~
1387 ~~market; is required to file Form 10-K, Form 100, or Form 20-G~~
1388 ~~with the United States Securities and Exchange Commission; or~~
1389 ~~has American Depository Receipts listed on a recognized stock~~
1390 ~~exchange and is publicly traded;~~
1391 ~~2. Maintains outstanding debt obligations, if any, rated in~~
1392 ~~the top four rating categories by a recognized rating service;~~

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1393 ~~3. Has and maintains at all times a minimum net worth of~~
1394 ~~not less than $10 million as evidenced by audited financial~~
1395 ~~statements prepared by an independent certified public~~
1396 ~~accountant in accordance with generally accepted accounting~~
1397 ~~principles and submitted to the office annually; and~~
1398 ~~4. Is authorized to do business in this state; and~~
1399 ~~(d) The insurer issuing the contractual liability policy:~~
1400 ~~1. Maintains and has maintained for the preceding 5 years,~~
1401 ~~policyholder surplus of at least $100 million and is rated "A"~~
1402 ~~or higher by A.M. Best Company or has an equivalent rating by~~
1403 ~~another rating company acceptable to the office;~~
1404 ~~2. Holds a certificate of authority to do business in this~~
1405 ~~state and is approved to write this type of coverage; and~~
1406 ~~3. Acknowledges to the office quarterly that it insures all~~
1407 ~~of the association's claims exposure under contracts delivered~~
1408 ~~in this state.~~
1409
1410 ~~If all the preceding conditions are satisfied, then the scope of~~
1411 ~~coverage under a contractual liability policy shall not be~~
1412 ~~required to exceed an association's claims exposure under~~
1413 ~~service warranty contracts delivered in this state.~~
1414 Section 35. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2, 2013
Meeting Date

Topic: Insurance

Bill Number: S1046 *(if applicable)*

Name: Sandy Safley

Amendment Barcode: 863774 *(if applicable)*

Job Title: lobbyist - Southern Strategy Group

Address: 123 S. Adams St.
Street

Tallahassee, fl, 32301
City, State, Zip

Phone: 850-671-4401

E-mail: safley@sostrategy.com

Speaking: [✔] For [ ] Against [ ] Information

Representing: Florida Surplus Lines Service Office

Appearing at request of Chair: [ ] Yes [✔] No

Lobbyist registered with Legislature: [✔] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4-2-13
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic: Insurance "Omnibus"

Bill Number: 1046 *(if applicable)*

Name: MICHAEL CARLSON

Amendment Barcode: *(if applicable)*

Job Title: Executive Director

Address: 215 S. Monroe Ste 835
Street

TLH FL 32301
City *State* *Zip*

Phone: 850 597 7425

E-mail: Michael.Carlson@piff.net

Speaking: [✓] For [ ] Against [ ] Information

Representing: Personal Insurance Federation of FL

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: INSURANCE

Bill Number: 1046 (if applicable)

Name: KYLE ULRICH

Amendment Barcode: (if applicable)

Job Title: SVP

Address: 3159 SHAMROCK S.
Street

TALLAHASSEE FL 32308
City State Zip

Phone: 566-4201

E-mail: KULRICH@FAIA.COM

Speaking: [x] For [ ] Against [ ] Information

Representing: FL. ASSOC. OF INSURANCE AGENTS

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Insurance

Bill Number: SB 1046 *(if applicable)*

Name: Carolyn Johnson

Amendment Barcode: _____ *(if applicable)*

Job Title: Policy Director

Address: 134 S Borough St
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 850-521-1235

E-mail: cjohnson@flchamber.com

Speaking: [X] For [ ] Against [ ] Information

Representing: FL Chamber of Commerce

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2013
Meeting Date

Topic _____ Bill Number SB 1046 *(if applicable)*

Name Mark Delegal Amendment Barcode _____ *(if applicable)*

Job Title Counsel

Address _____
Street

_____
City *State* *Zip*

Phone _____

E-mail _____

Speaking: [✓] For [ ] Against [ ] Information

Representing State Farm

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 324

INTRODUCER: Senator Brandes

SUBJECT: Florida Insurance Guaranty Association

DATE: March 15, 2013 REVISED: 3/27/13

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oh	Burgess	BI	**Pre-meeting**
2.			CM	
3.			AFT	
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5.				
6.				

I. Summary:

SB 324 revises provisions of the Florida Insurance Guaranty Association (FIGA) Act relating to the funding and .assessment process. FIGA is the guaranty association for property and casualty insurance that provides a mechanism for the payment of covered claims of insolvent insurance companies.

The bill adds options for FIGA to levy and collect assessments. The bill provides that in addition to its current authority to levy regular assessments on insurance companies, FIGA can choose instead to levy all or part of the regular assessment directly on policyholders, to be collected by the insurers.

The bill also changes the primary method for levying and collecting emergency assessments. When an insurer is rendered insolvent by the effects of a hurricane, current law allows FIGA to levy emergency assessments on insurance companies. The bill provides that emergency assessments, when necessary, shall be levied directly upon policyholders and collected by member insurers. The bill provides that if FIGA determines that it must immediately begin paying covered claims and that financing is not reasonably available, FIGA can levy the emergency assessments on insurance companies, rather than directly on policyholders.

The effective date of the bill is July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 631.52 and 631.57.

II. Present Situation:

Florida Insurance Guaranty Association, Incorporated

FIGA is a nonprofit corporation created by s. 631.55, F.S., to provide a mechanism for payment of covered claims of insolvent property and casualty insurance companies. All property and casualty insurance companies[1] doing business in Florida are required to be a member of FIGA as a condition of their authority to transact insurance. FIGA is responsible for claims on residential and commercial property insurance, automobile insurance, and liability insurance, among others.

For administrative and assessment purposes, FIGA is divided into two accounts:[2]

- The auto liability and auto physical damage account; and
- The account for all other included insurance lines (the all-other account).

When a property and casualty insurance company becomes insolvent, FIGA is required by law to take over the claims of the insurer and pay the remaining claims of the company's policyholders. The maximum claim amount FIGA will cover is $300,000, but special limits apply to damages to structure and contents on homeowners, condominiums, and homeowners' association claims. For damages to structure and contents on homeowners' association claims FIGA covers an additional $200,000, for a total of $500,000. For condominium and homeowners' association claims FIGA covers the lesser of policy limits or $100,000 multiplied by the number of units in the association. All claims are subject to a $100 FIGA deductible, in addition to any other deductible in the insurance policy.

FIGA Funding

In order to pay the remaining claims and maintain the operations of an insolvent insurer, FIGA has several potential sources from which to obtain the necessary funds. FIGA receives funds that are available from distributions of the estate of the insolvent insurance company. The Division of Rehabilitation and Liquidation in the Department of Financial Services is responsible for the liquidation of assets of insolvent insurance companies.[3] FIGA also obtains funds from the liquidation of assets of insolvent insurers domiciled in other states, but having claims in Florida.

Additionally, after insolvency occurs, FIGA is authorized to levy assessments against Florida property and casualty insurance companies under two separate statutory provisions. Under s. 631.57(3)(a), F.S., FIGA is authorized to levy an assessment as necessary for either account identified in s. 631.55(2)(b), F.S., of up to 2 percent of an insurer's net written premium for the kind of insurance included in the account for which the assessment is levied. This assessment is commonly referred to as the "regular assessment," although it is not identified as such in the statute.

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[1] Workers' compensation insurance is excluded from FIGA. The Florida Workers' Compensation Guaranty Association was created pursuant to s. 631.902, F.S., and provides a mechanism for the payment of covered claims of insolvent insurance workers' compensation carriers and self-insurance funds.
[2] S. 631.55(2), F.S.
[3] Typically, insurers are put into liquidation when the company is insolvent and the goal of liquidation is to dissolve the insurance company. *See* s. 631.061, F.S., for the grounds for liquidation.

The second statutory provision under which FIGA is authorized to levy an assessment is s. 631.57(3)(e), F.S. The assessment under this section is identified as an emergency assessment, and may be levied only to pay covered claims of an insurer that was rendered insolvent by the effects of a hurricane. Like the regular assessment, the emergency assessment is capped at 2 percent of an insurer's net direct written premiums in Florida for the calendar year preceding the assessment.

Assessment and Recoupment of Assessments

The specific procedure used by FIGA to levy both regular and emergency assessments on member insurance companies and the procedure used by member insurance companies to pass the assessment on to their policyholders are provided in s. 631.57(3), F.S. The procedures are generally the same for regular and emergency assessments as follows:

1. FIGA determines that an assessment is needed to pay claims or administration costs, or to pay bonds issued by FIGA.
2. FIGA certifies the need for an assessment levy to the OIR.
3. The OIR reviews the certification, and if it is sufficient, the OIR issues an order to all insurance companies subject to the FIGA assessment to pay their assessment to FIGA.
4. Regular assessments must be paid by the insurance companies within 30 days of the levy, and emergency assessments can be paid either in one payment at the end of that month, or spread out over 12 months, at the option of FIGA.
5. For both types of assessments, once an insurance company pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at the policy issuance or renewal.[4]

According to data from FIGA, since 2006, FIGA had a 2 percent regular and emergency assessment in 2006, a 0.8 percent regular assessment in 2009, and a 0.9 percent regular assessment in 2012. The assessments were paid upfront by the insurers and recouped from policyholders upon issuance or renewal of the policies.

Accounting for Assessments

Most insurers produce financial statements using both Generally Accepted Accounting Principles (GAAP) and statutory accounting. Insurer financial information prepared in accordance with GAAP is typically used by investors, whereas insurer financial information prepared in accordance with statutory accounting is used by the OIR. FIGA's levy of assessments against insurers reduces an insurer's net worth under both GAAP and statutory accounting. Under both GAAP and statutory accounting, insurers incur a liability that is charged against surplus (i.e., a reduction to surplus) in the amount of the assessment when the company is billed. However, GAAP and statutory accounting have different treatments for an asset to offset that liability. Under GAAP accounting, there is no offsetting asset allowed, so the insurer's net worth is immediately reduced in the full amount of the assessment and is only restored as the recoupment is collected from policyholders over the course of the year. Under statutory accounting, however,

[4] If a company's book of business is declining during the recoupment period, the assessment factor will be insufficient to recoup the total amount of assessment paid to FIGA. In those circumstances, the insurance company must continue to collect the assessment from policyholders beyond 12 months, until the assessment is recouped in full.

there is an offsetting asset (receivable) that is included on the insurer's financial statement when the assessment is paid to FIGA, so the reduction to surplus remains from the time the assessment is billed until the time it is paid.

III. Effect of Proposed Changes:

Section 1 amends s. 631.52, F.S. Currently, s. 631.52, F.S., provides numerous exemptions to the kinds of insurance to which the FIGA Act applies. Among the exemptions is "insurance provided by or guaranteed by government." The bill specifies that risk apportionment policies issued by plans under s. 627.351, F.S., are included in the exemption that currently applies for insurance provided or guaranteed by government.

Section 2 amends s. 631.57, F.S. The bill explicitly identifies the assessments described in s. 631.57(3)(a), F.S., to be "regular assessments." The bill retains current law which allows FIGA to collect the regular assessments from insurers within 30 days of the assessment levy, but the bill adds a second option for the collection of regular assessments. The bill provides that in lieu of collecting a regular assessment from insurers, FIGA can opt to levy all or part of the regular assessment directly on policyholders.

If FIGA selects the option of direct collection from policyholders, FIGA must first determine the need for and amount of a regular assessment and notify the OIR of its determination. The OIR then will issue an order to every participating insurer specifying the assessment percentage to be collected by the insurer from its policyholders over the next 12 months at policy issuance or renewal. The OIR order will specify when the insurers must begin collecting the assessments, but it must be at least 90 days after FIGA levies the assessment. The maximum assessment cannot exceed 2 percent per year per account.

The bill changes the primary method for levying and collecting emergency assessments. The bill provides that emergency assessments, when necessary to pay claims of an insurer rendered insolvent by a hurricane, shall be levied directly upon policyholders and shall be collected by member insurers. Pursuant to this method of collection, the OIR must issue an order specifying when insurers must begin collecting the assessments, which must be at least 90 days after FIGA levies the assessment and cannot exceed 2 percent. The assessments collected by the insurers will be transferred to FIGA as set forth in the OIR's order. If, however, FIGA determines that it must immediately begin paying covered claims and that financing is not reasonably available, FIGA can levy the emergency assessments on insurance companies, rather than directly on policyholders. The process for levying emergency assessments on insurance companies would be the same as levying regular assessments, except that it can be paid either as a single payment or, at the option of FIGA, in 12-monthly installments.

Section 3 establishes an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurance companies contend that the current process under which they pay the full assessments upfront and recoup them over the course of a year or more can have a negative impact on the solvency of an insurance company, particularly when the assessment follows an event that has required the insurer to pay out a significant amount for its own claims.

The bill authorizes FIGA to levy regular and emergency assessments directly on policyholders. In those cases in which FIGA levies assessments on policyholders, insurance companies would not be forced to pay these assessments upfront. Accordingly, the negative impact on insurer surplus is avoided, allowing an insurer a greater ability to pay its own claims and to write additional policies.

FIGA will be foregoing its quick availability of funds in those cases in which FIGA decides to levy regular assessments directly on policyholders, or in those circumstances in which FIGA levies an emergency on policyholders. For the regular assessments, however, FIGA can choose the method, so it should be able to prevent any potential cash flow problems. For emergency assessments, the bill allows FIGA to levy the assessment on insurers if it determines that it must immediately begin paying covered claims and that financing is not reasonably available. If FIGA needs to immediately begin payments using available financing, the costs of the financing will be added to the assessment.

Parties differ on the impact that this bill will have on the process for payment of covered claims of insolvent property and casualty insurance companies. The National Conference of Insurance Guaranty Funds (NCIGF) believes the bill poses several potential problems for guaranty funds. In a February 7, 2013, letter, Barbara Cox, Vice President, Legal & Regulatory Affairs of NCIGF, stated:[5]

> This procedure creates two sources of delay before the fund actually has the money in its coffers to pay claims – one is the delay between the time the assessment is

[5] On file with the Banking and Insurance Committee.

> levied and the collection begins; the other is the delay in receiving the collections from the insurer.
> ….
>
> We are concerned that this bill would force guaranty fund boards to retain higher balances in the guaranty fund coffers in order to assure their continued ability to promptly pay covered claims. This would increase cost of the system to insurance consumers.

Ms. Cox then cites two examples of "sudden" insolvencies wherein insurance guaranty funds had short notice to begin the process of paying covered claims of insolvent insurers.

In response to Ms. Cox, Jay Neal, Executive Director of the Florida Association of Insurance Reform (FAIR), and Don Brown, of Donald Brown Consulting, stated in a memorandum to Chairman Bryan Nelson, House Insurance and Banking Committee:[6]

> [The bill] would give the Board of Directors of the Florida Insurance Guaranty Association, (FIGA) who, by the way are all insurance company representatives, the authority to tailor the levy and collection of assessments to the particular needs of the insolvency at hand.
> ….
>
> The current FIGA assessment mechanism subjects the smaller insurers to potentially large assessments which must be paid up front and then recouped from policyholders, which reduces their surplus and their capacity to pay their own claims, and discourages the entry of new insurers in the marketplace…. Because the assessment is based on a snapshot of market share, policyholders with companies who have declining market share pay more than policyholders with companies who have increasing market share.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The OIR does not believe the OIR or FIGA has the legal authority to enforce the order of levy imposed on policyholders because policyholders are neither the subject of regulation nor in contractual relationships with the OIR or FIGA. The current law only provides a provision

[6] On file with the House Insurance and Banking Committee.

relative to enforceability against member insurance companies which are in default on assessments.[7]

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[7] Bill analysis from the OIR, on file with the Banking & Insurance Committee.

484256

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3
4 Delete everything after the enacting clause
5 and insert:
6 Section 1. Subsection (2) of section 631.57, Florida
7 Statutes, is amended, and subsection (3) of that section is
8 reordered and amended, to read:
9 631.57 Powers and duties of the association.—
10 (2) The association may:
11 (a) Employ or retain such persons as are necessary to
12 handle claims and perform other duties of the association;

484256

13 (b) Borrow funds necessary to effect the purposes of this
14 part in accord with the plan of operation, including borrowing
15 necessary to ensure that its cash flow needs are timely met to
16 pay covered claims when regular and emergency assessments are
17 levied on policyholders under subsection (3);
18 (c) Sue or be sued, provided that service of process is
19 ~~shall be~~ made upon the person registered with the department as
20 agent for the receipt of service of process; and
21 (d) Negotiate and become a party to such contracts as are
22 necessary to carry out the purpose of this part. ~~Additionally,~~
23 The association may also enter into such contracts with a
24 municipality, a county, or a legal entity created pursuant to s.
25 163.01(7)(g) ~~as are necessary~~ in order for the municipality,
26 county, or legal entity to issue bonds under s. 631.695. In
27 connection with the issuance of ~~any~~ such bonds and the entering
28 into of ~~any~~ such ~~necessary~~ contracts, the association may agree
29 to such terms and conditions as the association deems necessary
30 and proper.
31 (3)(a) To the extent necessary to secure ~~the~~ funds for the
32 respective accounts paying for ~~the payment of~~ covered claims, to
33 pay the reasonable costs to administer such accounts ~~the same~~,
34 and ~~to the extent necessary~~ to secure ~~the~~ funds for the account
35 specified in s. 631.55(2)(b) or to retire indebtedness,
36 including, without limitation, the principal, redemption
37 premium, if any, and interest on, and related costs of issuance
38 of, bonds issued under s. 631.695 and the funding of any
39 reserves and other payments required under the bond resolution
40 or trust indenture pursuant to which such bonds have been
41 issued, the office, upon certification of the board of

484256

42 directors, shall levy regular assessments in the proportion that
43 each insurer's net direct written premiums in this state in the
44 classes protected by the account bears to the total of the ~~said~~
45 net direct written premiums received in this state by all such
46 insurers for the preceding calendar year for the kinds of
47 insurance included within such account. Regular assessments
48 shall be remitted to and administered by the board of directors
49 in the manner specified by the approved plan. Each insurer so
50 assessed has ~~shall have~~ at least 30 days' written notice as to
51 the date the assessment is due and payable. ~~Every assessment~~
52 ~~shall be made as a uniform percentage applicable to the net~~
53 ~~direct written premiums of each insurer in the kinds of~~
54 ~~insurance included within the account in which the assessment is~~
55 ~~made.~~ The regular assessments levied against an ~~any~~ insurer may
56 ~~shall~~ not ~~exceed~~ in any one year exceed ~~more than~~ 2 percent of
57 that insurer's net direct written premiums in this state for the
58 kinds of insurance included within such account during the
59 calendar year next preceding the date of such assessments. The
60 Legislature finds and declares that regular assessments paid by
61 an insurer or insurer group as a result of a levy by the office
62 constitute advances of funds from the insurer to the
63 association. An insurer may fully recoup regular assessments
64 levied against prior year premiums by applying a separate
65 recoupment factor to the premium of policies of the same kind or
66 line as were considered by the office in determining the
67 assessment liability of the insurer or insurer group.
68 (b) In lieu of collecting the regular assessment under
69 paragraph (a) from insurers, the association may collect all or
70 part of the assessment directly from policyholders. If the

484256

71 association elects to collect the assessment directly from
72 policyholders, the office shall issue an order specifying the
73 date the board requires the insurers to begin collecting the
74 assessment, which must be at least 90 days after the date the
75 board certifies the assessment. The order must specify a uniform
76 percentage determined by the board, and verified by the office,
77 of the direct written premium for all lines of business in the
78 applicable accounts. The assessment certified in any one
79 calendar year may not exceed 2 percent of the premium. The
80 insurers shall collect such assessments without being affected
81 by any credit, limitation, exemption, or deferment. Assessments
82 collected under this paragraph shall be transferred regularly to
83 the association as set forth in the order levying the
84 assessment.
85 (e) ~~(b)~~ If sufficient funds from regular and emergency ~~such~~
86 assessments, together with funds previously raised, are not
87 available in any one year in the respective account to make all
88 the payments or reimbursements ~~then~~ owing to insurers, insureds,
89 or claimants, the funds available shall be prorated and the
90 unpaid portion ~~shall be~~ paid as soon ~~thereafter~~ as funds become
91 available.
92 ~~(c) The Legislature finds and declares that all assessments~~
93 ~~paid by an insurer or insurer group as a result of a levy by the~~
94 ~~office, including assessments levied pursuant to paragraph (a)~~
95 ~~and emergency assessments, constitute advances of funds from the~~
96 ~~insurer to the association. An insurer may fully recoup such~~
97 ~~advances by applying a separate recoupment factor to the premium~~
98 ~~of policies of the same kind or line as were considered by the~~
99 ~~office in determining the assessment liability of the insurer or~~

484256

100 ~~insurer group.~~
101 (f) ~~(d)No~~ State funds may not ~~of any kind shall~~ be allocated
102 or paid to the ~~said~~ association or any of its accounts.
103 (c) ~~(e)1.a.~~ In addition to regular assessments ~~otherwise~~
104 authorized under ~~in~~ paragraph (a), and to the extent necessary
105 to secure ~~the~~ funds for the account specified in s. 631.55(2)(b)
106 for the direct payment of covered claims of insurers rendered
107 insolvent by the effects of a hurricane and to pay the
108 reasonable costs to administer such claims, or to retire
109 indebtedness, including, without limitation, the principal,
110 redemption premium, if any, and interest on, and related costs
111 of issuance of, bonds issued under s. 631.695 and the funding of
112 any reserves and other payments required under the bond
113 resolution or trust indenture pursuant to which such bonds have
114 been issued, the office, upon certification of the board of
115 directors, shall levy emergency assessments directly upon
116 policyholders, which shall be collected by insurers holding a
117 certificate of authority. Pursuant to such levy, the office
118 shall issue an order specifying the date the board requires the
119 insurers to begin collecting the assessment, which must be at
120 least 90 days after the date the office levies the assessment.
121 The order must specify a uniform percentage determined by the
122 board, and verified by the office, of the direct written premium
123 for all lines of business in the applicable accounts. The
124 assessment certified in any one calendar year collected may not
125 exceed 2 percent of the premium. The insurers shall collect such
126 assessments without being affected by any credit, limitation,
127 exemption, or deferment. Assessments collected by insurers under
128 this paragraph shall be transferred regularly to the association

484256

129 as set forth in the order levying the assessment.
130 1. If, after consultation with its financial advisor, the
131 board determines that it must immediately begin paying the
132 covered claims of one or more insolvent insurers and financing
133 is not reasonably available, it may certify the emergency
134 assessment on insurers in the same manner as set forth in
135 paragraph (a), except that an emergency assessment may be paid
136 by the insurer in a single payment or, at the option of the
137 association, in 12 monthly installments with the first
138 installment being due and payable at the end of the month after
139 the emergency assessment is levied and subsequent installments
140 being due by the end of each succeeding month. ~~The emergency~~
141 ~~assessments payable under this paragraph by any insurer shall~~
142 ~~not exceed in any single year more than 2 percent of that~~
143 ~~insurer's direct written premiums, net of refunds, in this state~~
144 ~~during the preceding calendar year for the kinds of insurance~~
145 ~~within the account specified in s. 631.55(2)(b).~~
146 2.~~b.~~ ~~Any~~ Emergency assessments ~~authorized under this~~
147 ~~paragraph~~ shall be levied by the office only ~~upon insurers~~
148 ~~referred to in sub-subparagraph a.,~~ upon certification as to the
149 need for such assessments by the board of directors. If ~~In the~~
150 ~~event~~ the board ~~of directors~~ participates in the issuance of
151 bonds in accordance with s. 631.695, emergency assessments shall
152 be levied in each year that bonds issued under s. 631.695 and
153 secured by such emergency assessments are outstanding~~,~~ in ~~such~~
154 amounts up to such 2 percent ~~2-percent~~ limit as required in
155 order to provide for the full and timely payment of the
156 principal of, redemption premium, if any, and interest on, and
157 related costs of issuance of, such bonds. The emergency

484256

158 assessments ~~provided for in this paragraph~~ are assigned and
159 pledged to the municipality, county, or legal entity issuing
160 bonds under s. 631.695 for the benefit of the holders of such
161 bonds, in order to enable such municipality, county, or legal
162 entity to provide for the payment of the principal of,
163 redemption premium, if any, and interest on such bonds, the cost
164 of issuance of such bonds, and the funding of any reserves and
165 other payments required under the bond resolution or trust
166 indenture pursuant to which such bonds have been issued, without
167 the necessity for ~~of~~ any further action by the association, the
168 office, or any other party. If ~~To the extent~~ bonds are issued
169 under s. 631.695 and the association secures ~~determines to~~
170 ~~secure~~ such bonds by a pledge of revenues received from the
171 emergency assessments, such bonds, upon such pledge of revenues,
172 shall be secured by and payable from the proceeds of such
173 emergency assessments, and the proceeds of emergency assessments
174 levied under this paragraph shall be remitted directly to and
175 administered by the trustee or custodian appointed for the
176 payment of such bonds.
177 ~~c. Emergency assessments under this paragraph may be~~
178 ~~payable in a single payment or, at the option of the~~
179 ~~association, may be payable in 12 monthly installments with the~~
180 ~~first installment being due and payable at the end of the month~~
181 ~~after an emergency assessment is levied and subsequent~~
182 ~~installments being due not later than the end of each succeeding~~
183 ~~month.~~
184 3.~~d.~~ If emergency assessments are imposed, the report
185 required by s. 631.695(7) must ~~shall~~ include an analysis of the
186 revenues generated from the emergency assessments imposed under

484256

187 this paragraph.
188 4.~~e.~~ If emergency assessments are imposed, the references
189 in sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
190 regular assessments levied under paragraph (a) must ~~shall~~
191 include emergency assessments imposed under this paragraph.
192 5.~~2.~~ If the board of directors participates in the issuance
193 of bonds in accordance with s. 631.695, an emergency ~~annual~~
194 assessment under this paragraph must ~~shall~~ continue while the
195 bonds issued with respect to which the assessment was imposed
196 are outstanding, including any bonds the proceeds of which were
197 used to refund bonds issued pursuant to s. 631.695, unless
198 adequate provision has been made for the payment of the bonds in
199 the documents authorizing the issuance of such bonds.
200 6.~~3.~~ Emergency assessments under this paragraph are not
201 premium and are not subject to the premium tax, to any fees, or
202 to any commissions. An insurer is liable for all emergency
203 assessments that the insurer collects and shall treat the
204 failure of an insured to pay an emergency assessment as a
205 failure to pay the premium. An insurer is not liable for
206 uncollectible emergency assessments.
207 (d)~~(f)~~ The recoupment factor applied to policies in
208 accordance with paragraph (a) or subparagraph (c)1. ~~paragraph~~
209 ~~(c)~~ shall be selected by the insurer or insurer group ~~so as~~ to
210 provide for the probable recoupment of ~~both assessments levied~~
211 ~~pursuant to paragraph (a) and emergency~~ assessments over a
212 period of 12 months, unless the insurer or insurer group, at its
213 option, elects to recoup the assessment over a longer period.
214 The recoupment factor applies ~~shall apply~~ to all policies of the
215 same kind or line as were considered by the office in

484256

216 determining the assessment liability of the insurer or insurer
217 group issued or renewed during a 12-month period.
218 1. If the insurer or insurer group does not collect the
219 full amount of the assessment during one 12-month period, the
220 insurer or insurer group may apply recalculated recoupment
221 factors to policies issued or renewed during one or more
222 succeeding 12-month periods.
223 2. If, at the end of a 12-month period, the insurer or
224 insurer group has collected from the combined kinds or lines of
225 policies subject to assessment more than the total amount of the
226 assessment paid by the insurer or insurer group, the excess
227 amount shall be disbursed as follows:
228 a.~~1.~~ If the excess amount does not exceed 15 percent of the
229 total assessment paid by the insurer or insurer group, the
230 excess amount shall be remitted to the association within 60
231 days after the end of the 12-month period in which the excess
232 recoupment charges were collected.
233 b.~~2.~~ If the excess amount exceeds 15 percent of the total
234 assessment paid by the insurer or insurer group, the excess
235 amount shall be returned to the insurer's or insurer group's
236 current policyholders by refunds or premium credits. The
237 association shall use any remitted excess recoupment amounts to
238 reduce future assessments.
239 3.~~(g)~~ Amounts recouped pursuant to this paragraph
240 ~~subsection~~ for assessments levied under paragraph (a) due to
241 insolvencies on or after July 1, 2010, are considered premium
242 solely for premium tax purposes and are not subject to fees or
243 commissions. However, insurers shall treat the failure of an
244 insured to pay a recoupment charge as a failure to pay the

484256

245 premium.
246 4.~~(h)~~ At least 15 days before applying the recoupment
247 factor to any policies, the insurer or insurer group shall file
248 with the office a statement for informational purposes only
249 setting forth the amount of the recoupment factor and an
250 explanation of how the recoupment factor will be applied. Such
251 statement must ~~shall~~ include documentation of the assessment
252 paid by the insurer or insurer group and the arithmetic
253 calculations supporting the recoupment factor. The insurer or
254 insurer group may use the recoupment factor at any time after
255 the expiration of the 15-day period. The insurer or insurer
256 group need submit only one informational statement for all lines
257 of business using the same recoupment factor.
258 5.~~(i)~~ Within ~~No later than~~ 90 days after the insurer or
259 insurer group has completed the recoupment process, the insurer
260 or insurer group shall file with the office, for information
261 purposes only, a final accounting report documenting the
262 recoupment. The report must ~~shall~~ provide the amounts of
263 assessments paid by the insurer or insurer group, the amounts
264 and percentages recouped by year from each affected line of
265 business, and the direct written premium subject to recoupment
266 by year. The insurer or insurer group need submit only one
267 report for all lines of business using the same recoupment
268 factor.
269 Section 2. This act shall take effect July 1, 2013, and
270 shall apply to any assessment certified and levied after that
271 date regardless of when the insolvency or insolvencies occurred.
272
273 ========== T I T L E A M E N D M E N T ==========

484256

274 And the title is amended as follows:
275 Delete everything before the enacting clause
276 and insert:
277 A bill to be entitled
278 An act relating to the Florida Insurance Guaranty
279 Association; reordering and amending s. 631.57, F.S.;
280 revising the duties of the association; authorizing
281 the association to collect regular assessments
282 directly from policyholders; authorizing the
283 association to collect emergency assessments from
284 insurers under certain circumstances; making technical
285 and grammatical corrections; providing an effective
286 date.

430612

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment to Amendment (484256)**
2
3 Delete line 75
4 and insert:
5 office levies the assessment. The order must specify a uniform

693492

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment to Amendment (484256)**
2
3 Delete line 120
4 and insert:
5 least 90 days after the date the board certifies the assessment.

By Senator Brandes

22-00190A-13 2013324__

A bill to be entitled

An act relating to the Florida Insurance Guaranty Association; amending s. 631.52, F.S.; revising the list of kinds of insurance exempted from the guarantee of payments; reordering and amending s. 631.57, F.S.; revising the duties of the association; authorizing the association to collect regular assessments directly from policyholders; authorizing the association to collect emergency assessments from insurers under certain circumstances; making technical and grammatical corrections; providing an effective date.

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

Section 1. Section 631.52, Florida Statutes, is amended to read:

631.52 Scope.—This part shall apply to all kinds of direct insurance, except for any of the following:

(1) Life, annuity, health, or disability insurance.~~;~~

(2) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.~~;~~

(3) Fidelity or surety bonds, or any other bonding obligations.~~;~~

(4) Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction.~~;~~

(5) Warranty, including motor vehicle service, home

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22-00190A-13 2013324__

warranty, or service warranty.~~;~~

(6) Ambulance service, health care service, or preneed funeral merchandise or service.~~;~~

(7) Optometric service plan, pharmaceutical service plan, or dental service plan.~~;~~

(8) Legal expense.~~;~~

(9) Health maintenance, prepaid health clinic, or continuing care.~~;~~

(10) Ocean marine or wet marine insurance.~~;~~

(11) Self-insurance and any kind of self-insurance fund, liability pool, or risk management fund.~~;~~

(12) Title insurance.~~;~~

(13) Surplus lines.~~;~~

(14) Workers' compensation, including claims under employer liability coverage.~~;~~

(15) Any transaction or combination of transactions between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, which involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk.~~; or~~

(16) Any insurance provided by or guaranteed by government, including policies issued by risk apportionment plans under s. 627.351.

Section 2. Subsection (2) of section 631.57, Florida Statutes, is amended, and subsection (3) of that section is reordered and amended, to read:

631.57 Powers and duties of the association.—

(2) The association may:

(a) Employ or retain such persons as are necessary to

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59 handle claims and perform other duties of the association;
60 (b) Borrow funds necessary to effect the purposes of this
61 part in accord with the plan of operation, including borrowing
62 necessary to ensure that its cash flow needs are timely met to
63 pay covered claims when regular and emergency assessments are
64 levied on policyholders under subsection (3);
65 (c) Sue or be sued, provided that service of process is
66 ~~shall be~~ made upon the person registered with the department as
67 agent for the receipt of service of process; and
68 (d) Negotiate and become a party to such contracts as are
69 necessary to carry out the purpose of this part. ~~Additionally,~~
70 The association may also enter into such contracts with a
71 municipality, a county, or a legal entity created pursuant to s.
72 163.01(7)(g) ~~as are necessary~~ in order for the municipality,
73 county, or legal entity to issue bonds under s. 631.695. In
74 connection with the issuance of ~~any~~ such bonds and the entering
75 into of ~~any~~ such ~~necessary~~ contracts, the association may agree
76 to such terms and conditions as the association deems necessary
77 and proper.
78 (3)(a) To the extent necessary to secure ~~the~~ funds for the
79 respective accounts paying for ~~the payment of~~ covered claims, to
80 pay the reasonable costs to administer such accounts ~~the same~~,
81 and ~~to the extent necessary~~ to secure ~~the~~ funds for the account
82 specified in s. 631.55(2)(b) or to retire indebtedness,
83 including, without limitation, the principal, redemption
84 premium, if any, and interest on, and related costs of issuance
85 of, bonds issued under s. 631.695 and the funding of any
86 reserves and other payments required under the bond resolution
87 or trust indenture pursuant to which such bonds have been

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88 issued, the office, upon certification of the board of
89 directors, shall levy regular assessments in the proportion that
90 each insurer's net direct written premiums in this state in the
91 classes protected by the account bears to the total of the ~~said~~
92 net direct written premiums received in this state by all such
93 insurers for the preceding calendar year for the kinds of
94 insurance included within such account. Regular assessments
95 shall be remitted to and administered by the board of directors
96 in the manner specified by the approved plan. Each insurer so
97 assessed has ~~shall have~~ at least 30 days' written notice as to
98 the date the assessment is due and payable. ~~Every assessment~~
99 ~~shall be made as a uniform percentage applicable to the net~~
100 ~~direct written premiums of each insurer in the kinds of~~
101 ~~insurance included within the account in which the assessment is~~
102 ~~made.~~ The regular assessments levied against an ~~any~~ insurer may
103 ~~shall~~ not ~~exceed~~ in any one year exceed ~~more than~~ 2 percent of
104 that insurer's net direct written premiums in this state for the
105 kinds of insurance included within such account during the
106 calendar year next preceding the date of such assessments. An
107 insurer may fully recoup regular assessments levied against
108 prior year premiums by applying a separate recoupment factor to
109 the premium of policies of the same kind or line as were
110 considered by the office in determining the assessment liability
111 of the insurer or insurer group.
112 (b) In lieu of collecting the regular assessment under
113 paragraph (a) from insurers, the association may collect all or
114 part of the assessment directly from policyholders. If the
115 association elects to collect the assessment directly from
116 policyholders, the office shall issue an order specifying the

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117 date the board requires the insurers to begin collecting the
118 assessment, which must be at least 90 days after the date the
119 board levies the assessment. The order must specify a uniform
120 percentage determined by the board, and verified by the office,
121 of the direct written premium for all lines of business in the
122 applicable accounts. The assessment collected may not exceed 2
123 percent of the premium in any single year. The insurers shall
124 collect such assessments without being affected by any credit,
125 limitation, exemption, or deferment. Assessments collected under
126 this paragraph shall be transferred regularly to the association
127 as set forth in the order levying the assessment.
128 (e) ~~(b)~~ If sufficient funds from regular and emergency ~~such~~
129 assessments, together with funds previously raised, are not
130 available in any one year in the respective account to make all
131 the payments or reimbursements ~~then~~ owing to insurers, the funds
132 available shall be prorated and the unpaid portion ~~shall be~~ paid
133 as soon ~~thereafter~~ as funds become available.
134 ~~(c) The Legislature finds and declares that all assessments~~
135 ~~paid by an insurer or insurer group as a result of a levy by the~~
136 ~~office, including assessments levied pursuant to paragraph (a)~~
137 ~~and emergency assessments, constitute advances of funds from the~~
138 ~~insurer to the association. An insurer may fully recoup such~~
139 ~~advances by applying a separate recoupment factor to the premium~~
140 ~~of policies of the same kind or line as were considered by the~~
141 ~~office in determining the assessment liability of the insurer or~~
142 ~~insurer group.~~
143 (f) ~~(d)~~ ~~No~~ State funds may not ~~of any kind shall~~ be
144 allocated or paid to the ~~said~~ association or any of its
145 accounts.

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146 (c) ~~(c)1.a.~~ In addition to regular assessments ~~otherwise~~
147 authorized under ~~in~~ paragraph (a), and to the extent necessary
148 to secure ~~the~~ funds for the account specified in s. 631.55(2)(b)
149 for the direct payment of covered claims of insurers rendered
150 insolvent by the effects of a hurricane and to pay the
151 reasonable costs to administer such claims, or to retire
152 indebtedness, including, without limitation, the principal,
153 redemption premium, if any, and interest on, and related costs
154 of issuance of, bonds issued under s. 631.695 and the funding of
155 any reserves and other payments required under the bond
156 resolution or trust indenture pursuant to which such bonds have
157 been issued, the association ~~office, upon certification of the~~
158 ~~board of directors,~~ shall levy emergency assessments directly
159 upon policyholders, which shall be collected by insurers holding
160 a certificate of authority. Pursuant to such levy, the office
161 shall issue an order specifying the date the board requires the
162 insurers to begin collecting the assessment, which must be at
163 least 90 days after the date the board levies the assessment.
164 The order must specify a uniform percentage determined by the
165 board, and verified by the office, of the direct written premium
166 for all lines of business in the applicable accounts. The
167 assessment collected may not exceed 2 percent of the premium in
168 any single year. The insurers shall collect such assessments
169 without being affected by any credit, limitation, exemption, or
170 deferment. Assessments collected by insurers under this
171 paragraph shall be transferred regularly to the association as
172 set forth in the order levying the assessment.
173 1. If, after consultation with its financial advisor, the
174 board determines that it must immediately begin paying the

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175 covered claims of one or more insolvent insurers and financing
176 is not reasonably available, it may levy the emergency
177 assessment on insurers in the same manner as set forth in
178 paragraph (a), except that an emergency assessment may be paid
179 by the insurer in a single payment or, at the option of the
180 association, in 12 monthly installments with the first
181 installment being due and payable at the end of the month after
182 the emergency assessment is levied and subsequent installments
183 being due by the end of each succeeding month. ~~The emergency~~
184 ~~assessments payable under this paragraph by any insurer shall~~
185 ~~not exceed in any single year more than 2 percent of that~~
186 ~~insurer's direct written premiums, net of refunds, in this state~~
187 ~~during the preceding calendar year for the kinds of insurance~~
188 ~~within the account specified in s. 631.55(2)(b).~~
189 2.~~b.~~ ~~Any~~ Emergency assessments ~~authorized under this~~
190 ~~paragraph~~ shall be levied by the office ~~upon insurers referred~~
191 ~~to in sub-subparagraph a.,~~ only upon certification as to the
192 need for such assessments by the board of directors. If ~~In the~~
193 ~~event~~ the board ~~of directors~~ participates in the issuance of
194 bonds in accordance with s. 631.695, emergency assessments shall
195 be levied in each year that bonds issued under s. 631.695 and
196 secured by such emergency assessments are outstanding~~,~~ in ~~such~~
197 amounts up to such 2 percent ~~2-percent~~ limit as required in
198 order to provide for the full and timely payment of the
199 principal of, redemption premium, if any, and interest on, and
200 related costs of issuance of, such bonds. The emergency
201 assessments ~~provided for in this paragraph~~ are assigned and
202 pledged to the municipality, county, or legal entity issuing
203 bonds under s. 631.695 for the benefit of the holders of such

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204 bonds, in order to enable such municipality, county, or legal
205 entity to provide for the payment of the principal of,
206 redemption premium, if any, and interest on such bonds, the cost
207 of issuance of such bonds, and the funding of any reserves and
208 other payments required under the bond resolution or trust
209 indenture pursuant to which such bonds have been issued, without
210 the necessity for ~~of~~ any further action by the association, the
211 office, or any other party. If ~~To the extent~~ bonds are issued
212 under s. 631.695 and the association secures ~~determines to~~
213 ~~secure~~ such bonds by a pledge of revenues received from the
214 emergency assessments, such bonds, upon such pledge of revenues,
215 shall be secured by and payable from the proceeds of such
216 emergency assessments, and the proceeds of emergency assessments
217 levied under this paragraph shall be remitted directly to and
218 administered by the trustee or custodian appointed for the
219 payment of such bonds.
220 ~~c. Emergency assessments under this paragraph may be~~
221 ~~payable in a single payment or, at the option of the~~
222 ~~association, may be payable in 12 monthly installments with the~~
223 ~~first installment being due and payable at the end of the month~~
224 ~~after an emergency assessment is levied and subsequent~~
225 ~~installments being due not later than the end of each succeeding~~
226 ~~month.~~
227 3.~~d.~~ If emergency assessments are imposed, the report
228 required by s. 631.695(7) must ~~shall~~ include an analysis of the
229 revenues generated from the emergency assessments imposed under
230 this paragraph.
231 4.~~e.~~ If emergency assessments are imposed, the references
232 in sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to

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233 regular assessments levied under paragraph (a) must ~~shall~~
234 include emergency assessments imposed under this paragraph.
235 5.~~2.~~ If the board of directors participates in the issuance
236 of bonds in accordance with s. 631.695, an emergency ~~annual~~
237 assessment under this paragraph must ~~shall~~ continue while the
238 bonds issued with respect to which the assessment was imposed
239 are outstanding, including any bonds the proceeds of which were
240 used to refund bonds issued pursuant to s. 631.695, unless
241 adequate provision has been made for the payment of the bonds in
242 the documents authorizing the issuance of such bonds.
243 6.~~3.~~ Emergency assessments under this paragraph are not
244 premium and are not subject to the premium tax, to any fees, or
245 to any commissions. An insurer is liable for all emergency
246 assessments that the insurer collects and shall treat the
247 failure of an insured to pay an emergency assessment as a
248 failure to pay the premium. An insurer is not liable for
249 uncollectible emergency assessments.
250 (d)~~(f)~~ The recoupment factor applied to policies in
251 accordance with paragraph (a) or subparagraph (c)1. ~~paragraph~~
252 ~~(c)~~ shall be selected by the insurer or insurer group ~~so as~~ to
253 provide for the probable recoupment of ~~both assessments levied~~
254 ~~pursuant to paragraph (a) and emergency~~ assessments over a
255 period of 12 months, unless the insurer or insurer group, at its
256 option, elects to recoup the assessment over a longer period.
257 The recoupment factor applies ~~shall apply~~ to all policies of the
258 same kind or line as were considered by the office in
259 determining the assessment liability of the insurer or insurer
260 group issued or renewed during a 12-month period.
261 1. If the insurer or insurer group does not collect the

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262 full amount of the assessment during one 12-month period, the
263 insurer or insurer group may apply recalculated recoupment
264 factors to policies issued or renewed during one or more
265 succeeding 12-month periods.
266 2. If, at the end of a 12-month period, the insurer or
267 insurer group has collected from the combined kinds or lines of
268 policies subject to assessment more than the total amount of the
269 assessment paid by the insurer or insurer group, the excess
270 amount shall be disbursed as follows:
271 a.~~1.~~ If the excess amount does not exceed 15 percent of the
272 total assessment paid by the insurer or insurer group, the
273 excess amount shall be remitted to the association within 60
274 days after the end of the 12-month period in which the excess
275 recoupment charges were collected.
276 b.~~2.~~ If the excess amount exceeds 15 percent of the total
277 assessment paid by the insurer or insurer group, the excess
278 amount shall be returned to the insurer's or insurer group's
279 current policyholders by refunds or premium credits. The
280 association shall use any remitted excess recoupment amounts to
281 reduce future assessments.
282 3.~~(g)~~ Amounts recouped pursuant to this paragraph
283 ~~subsection~~ for regular assessments levied under paragraph (a)
284 due to insolvencies on or after July 1, 2010, are considered
285 premium solely for premium tax purposes and are not subject to
286 fees or commissions. However, insurers shall treat the failure
287 of an insured to pay a recoupment charge as a failure to pay the
288 premium.
289 4.~~(h)~~ At least 15 days before applying the recoupment
290 factor to any policies, the insurer or insurer group shall file

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291 with the office a statement for informational purposes only
292 setting forth the amount of the recoupment factor and an
293 explanation of how the recoupment factor will be applied. Such
294 statement must ~~shall~~ include documentation of the assessment
295 paid by the insurer or insurer group and the arithmetic
296 calculations supporting the recoupment factor. The insurer or
297 insurer group may use the recoupment factor at any time after
298 the expiration of the 15-day period. The insurer or insurer
299 group need submit only one informational statement for all lines
300 of business using the same recoupment factor.
301 5.~~(i)~~ Within ~~No later than~~ 90 days after the insurer or
302 insurer group has completed the recoupment process, the insurer
303 or insurer group shall file with the office, for information
304 purposes only, a final accounting report documenting the
305 recoupment. The report must ~~shall~~ provide the amounts of
306 assessments paid by the insurer or insurer group, the amounts
307 and percentages recouped by year from each affected line of
308 business, and the direct written premium subject to recoupment
309 by year. The insurer or insurer group need submit only one
310 report for all lines of business using the same recoupment
311 factor.
312 Section 3. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/3/2013
Meeting Date

Topic: Financial Guaranty Insurance Association

Bill Number: 324 *(if applicable)*

Name: Rebecca Matthews

Amendment Barcode: _____ *(if applicable)*

Job Title: Deputy Chief of Staff / Government Affairs

Address: 200 E. Gaines Street
Street

Phone: 850-509-3494

_____
City *State* *Zip*

E-mail: _____

Speaking: [X] For [ ] Against [ ] Information

Representing: Office of Insurance Regulation

Appearing at request of Chair: [X] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/2013
Meeting Date

Topic: FIGA

Bill Number: 324 ~~234~~ (if applicable)

Name: DON BROWN

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: POB 8166
Street

DFS, FL 32435
City, State, Zip

Phone: 850-865-9280

E-mail: DON@DONBROWNFLORIDA.COM

Speaking: ☐ For ☐ Against ☐ Information

Representing: SECURIAN FIRST

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: FIGA -

Bill Number: SB 324 (if applicable)

Name: Bonny Gordon

Amendment Barcode: (if applicable)

Job Title: Sr. Counsel

Address: 1 GEICO Plz
Street

Washington DC 20076
City State Zip

Phone: 202-431-4293

E-mail: bgordon@geico.com.

Speaking: ☐ For ☑ Against ☐ Information

Representing: GEICO

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2013
Meeting Date

Topic: FIGA Assessments

Bill Number: SB 324 *(if applicable)*

Name: James W. (Jay) Newman

Amendment Barcode: *(if applicable)*

Job Title: Chairman of the Board

Address: 1101 Old Fort Drive
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850-386-2475

E-mail: jnewman@sawgrassmutual.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: Sawgrass Mutual Insurance Co.

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.2.13
Meeting Date

Topic: Insurance - FIGA bill

Bill Number: SB 324 *(if applicable)*

Name: Trey Goldman

Amendment Barcode: *(if applicable)*

Job Title: Legislative Counsel

Address: 200 S. Monroe St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850/224-1400

E-mail: treyg@floridarealtors.org

Speaking: [✓] For [ ] Against [ ] Information

Representing: Florida Realtors

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: FIGA

Bill Number: 324 *(if applicable)*

Name: Michael Carlson

Amendment Barcode: *(if applicable)*

Job Title: Executive Director

Address: 215 S. Monroe St. 835
Street

TLH FL 32301
City *State* *Zip*

Phone: 850 597 7425

E-mail: Michael.Carlson@piff.net

Speaking: ☐ For ☑ Against ☐ Information

Representing: Personal Insurance Federation of FL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: FIGA

Bill Number: 324 (if applicable)

Name: Jay Neal

Amendment Barcode: (if applicable)

Job Title: Exec Director

Address: 7950 S Military Trail #204
Street

Lake Worth FL 33642
City State Zip

Phone: 888 745 5551

E-mail: jneal@floridainsurancereform.org

Speaking: [X] For [ ] Against [ ] Information

Representing: FAIR

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: FIGA - SB 324

Bill Number: 324 (if applicable)

Name: Melissa Burt Bellriese

Amendment Barcode: (if applicable)

Job Title: General Counsel & Director

Address: 140 S. Atlantic Ave
Street

Ormond Beach FL 32174
City State Zip

Phone: 386-503-0318

E-mail: mdeurnese@securityfirstflorida.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Security First Ins. Co.

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SPB 7138

INTRODUCER: For Consideration by Banking and Insurance Committee

SUBJECT: Health Insurance (Patient Protection and Affordable Care Act)

DATE: March 30, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Deffenbaugh	Burgess	BI	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7138 makes changes to the Florida Insurance Code related to the requirements of the federal Patient Protection and Affordable Care Act (PPACA) that apply to health insurers and health insurance policies.

PPACA requires health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. PPACA imposes extensive requirements on health insurers and health insurance policies including required benefits, rating and underwriting standards, required review of rate increases, and other requirements. PPACA preempts any state law that prevents the application of a provision of PPACA.

Each state may enforce the requirements of PPACA, but if the federal Department of Health and Human Services (HHS) determines that a state has failed to substantially enforce any provisions, HHS must enforce those provisions.

Currently, the Office of Insurance Regulation (OIR) reviews insurer and HMO policy forms and rates and approves the forms and rates before they may be used by an insurer or HMO. The federal Department of Health and Human Services (HHS) is proposing to enter into a collaborative agreement with OIR to clarify the roles HHS and OIR in the enforcement of PPACA.

SPB 7138 makes the following changes to the Florida Insurance Code:

- Provides that a provision of the Florida Insurance Code or rule adopted pursuant to the Code applies unless such provision or rule prevents the application of a provision of PPACA. This is substantially the same preemption provision that is included in PPACA.
- Authorizes OIR to assist HHS in enforcing the provisions of PPACA by reviewing policy forms and performing market conduct examinations or investigations for compliance with PPACA. OIR must first notify the insurer of any non-compliance and then notify HHS if the insurer does not take corrective action. This is similar to the "collaborative arrangement" that HHS has already entered with OIR, except that it does not authorize OIR to review rates for compliance with PPACA.
- Authorizes the Division of Consumer Services of the Department of Financial Services (DFS) to respond to complaints by consumers relating to requirements of PPACA, by performing its current statutory responsibilities to prepare and disseminate information to consumers as it deems appropriate, provide direct assistance and advocacy to consumers, and require insurers to respond, in writing, to a complaint, and further authorizes the division to report apparent or potential violations to OIR and to HHS.
- Temporarily suspends the requirement that health insurers and HMOs (insurers) obtain approval from OIR for "nongrandfathered" health plans (for which rates must be filed with HHS) for plan years 2014 and 2015. Insurers would still be required to file rates and rate changes for such plans with OIR prior to use, but such rates could be used without OIR approval. For this two-year period, the rates for nongrandfathered plans would be exempt from all rating requirements. These rating law changes are repealed on March 1, 2015. Under PPACA, insurers must file rate changes with HHS for nongrandfathered health plans, subject to review and determination of whether the rate increase is unreasonable. Grandfathered health plans are not subject to the PPACA rate filing requirements and would remain subject to the current Florida law requirements for filing rates for approval with OIR.
- Requires insurers to provide a notice to policyholders of nongrandfathered health plans that describes or illustrates the estimated impact of PPACA on monthly premiums. This notice would be required one time, when the policy is issued or renewed on or after January 1, 2014. The notice must be in a format established by rule by the Financial Services Commission. OIR and DFS must develop a summary of the estimated impact of PPACA on monthly premiums as contained in the notices, which must be available on their respective websites by October 1, 2013.
- Makes the following changes that would allow or require insurers to take certain actions that would preserve the status of grandfathered health plans which, in general, are plans under which an individual was insured on March 23, 2010 and which are exempt from many of the requirements of PPACA:
    - If a policy form covers both grandfathered health plans and nongrandfathered health plans, the bill allows an insurer to non-renew coverage only for all of the nongrandfathered health plans, subject to certain conditions.
    - Requires that the claims experience for grandfathered health plans be separated from nongrandfathered health plans for rating purposes, as also required by PPACA.
    - Allows an insurer to discontinue a policy form that does not comply with PPACA without being subject to the current prohibition on selling a new, similar policy form after a policy form is discontinued.
- Requires the dissolution of the Florida Comprehensive Health Association (FCHA), which is the state's high risk pool for persons unable to obtain health insurance, by September 1,

2015. Coverage for the current 170 (approx.) FCHA policyholders would be terminated by June 30, 2014. The FCHA would be required to assist each policyholder in obtaining health insurance coverage.

- Repeals the statute that establishes the Florida Health Insurance Plan, which has never been implemented.
- Provides two different definitions of "small employer" – one for grandfathered health plans, which is the current law definition, and one for nongrandfathered health plans, which is the same as the federal definition used for PPACA (but capped at 50 employees, as allowed by PPACA). For nongrandfathered health plans, any state law that applies to small group coverage would apply to coverage for a small employer as defined under PPACA and no longer would apply to an employer who is not a small employer under the federal definition.

This bill substantially amends the following sections of the Florida Statutes: 627.402, 627.410, 627.411, 627.6425, 627.6484, 627.6571, 627.6699, and 641.31.

This bill substantially creates the following sections of the Florida Statutes: 624.25 and 624.26.

This bill substantially repeals the following sections of the Florida Statutes: 627.64872, 627.648, 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, 627.6498, and 627.6499.

II. Present Situation:

Patient Protection and Affordable Care Act (PPACA) – Overview of Insurance Reforms

The federal PPACA was signed into law on March 23, 2010.[1] Among its sweeping changes to the U.S. health care system are requirements for health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. PPACA imposes many insurance requirements including required benefits, rating and underwriting standards, required review of rate increases, reporting of medical loss ratios and payment of rebates, covering adult dependents, internal and external appeals of adverse benefit determinations, and other requirements.[2]

The bill and this analysis address insurance provisions of PPACA and Florida law that relate directly to the regulation of health insurers and health maintenance organizations (HMOs). The bill and analysis do not address other provisions of PPACA related to the requirement that individuals obtain health insurance coverage; the requirement that employers offer health insurance coverage; Medicaid, Medicare, or other public programs; Health Insurance Exchanges; premium and cost-sharing subsidies to individuals; tax changes or financing of health reforms, or other provisions of PPACA not directly related to insurance regulation.

PPACA – Limited Preemption of State Law

[1] P.L. 111-148. On March 30, 2010, PPACA was amended by P.L. 111-152, the Health Care and Education Reconciliation Act of 2010.

[2] Most of the insurance regulatory provisions in PPACA amend Title XXVII of the Public Health Service Act (PHSA), (42 U.S.C. 300gg et seq.)

Under the U.S. Constitution's Supremacy Clause, a federal law may preempt state law.[3] Preemption occurs when Congress intentionally enacts legislation that is intended to supersede state law on the same subject.[4] In PPACA, Congress expressed that the federal law preempts state law only to the extent that it prevents the application of a provision of PPACA.

Title I of PPACA, which includes the requirements related to health insurance regulation summarized in this analysis, contains the following provision:

> *No Interference With State Regulatory Authority – Nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.*[5]

Though expressed in the negative, PPACA preempts any state law that prevents the application of a provision of PPACA. As explained by the National Association of Insurance Commissioners (NAIC), in summary, PPACA effectively allows states to adopt and enforce laws that provide greater consumer protections than PPACA, but any state law that does not meet the federal minimum standards will be preempted. [6]

Many of Florida's insurance laws have less restrictive requirements than a comparable provision of PPACA. Even though more restrictive PPACA requirements will control, state enforcement of a less restrictive provision does not prohibit an insurer from complying with a more restrictive provision of PPACA and, as such, does not actually prevent the application of a provision of PPACA. In those cases, the more relevant issue is whether the failure of the state to enforce the federal law triggers federal enforcement, which is addressed in a separate provision of PPACA and discussed immediately below. If, however, a state law has the effect of prohibiting an insurer from complying with PPACA, then enforcement of that state law would actually prevent the application of a provision of PPACA.

The question has been raised whether it is appropriate for a state agency to independently make a determination whether a state law is preempted by federal law and elect not to enforce that provision, rather than waiting for a judicial interpretation or obtaining an Attorney General opinion or an official statement from the federal agency with jurisdiction.

State and Federal Enforcement of PPACA Insurance Requirements; OIR Collaborative Arrangement with U.S. Department of Health and Human Services

Each state may enforce the requirements of PPACA and other requirements of the federal Public Health Services Act that apply to health insurance issuers, but if the Secretary of the Department of Health and Human Services (HHS) determines that a state has failed to substantially enforce any such provisions, the Secretary must enforce those provisions.[7] In such case, if HHS determines that a health insurance issuer has failed to meet an applicable requirement (provided

[3] U.S. Const. art. VI, cl. 2
[4] See, *West Florida Regional Medical Center v. See*, 79 So.3rd 1, at 15 (Fla. 2012)
[5] PPACA s. 1321(d)
[6] "Preemption and State Flexibility in PPACA" at:
http://www.naic.org/documents/index_health_reform_general_preemption_and_state_flex_ppaca.pdf
[7] PHSA s. 2722 (42 U.S.C. s. 300gg-22)

the issuer knew of such failure or would have known by exercising reasonable diligence), HHS may impose a maximum civil monetary penalty of $100 for each day for each individual with respect to which such failure occurs.[8]

Under HHS and its Centers for Medicare and Medicaid Services (CMS), the Center for Consumer Information & Insurance Oversight (CCIIO) oversees the implementation of the provisions of PPACA related to insurance.[9]

CCIIO has concluded that[10], the federal law contemplates that states will exercise primary enforcement authority of health insurance issuers to ensure compliance with health insurance market reforms. If a state notifies CMS that it does not have statutory authority to enforce or that it is not otherwise enforcing one or more provisions of title XXVII of the Public Health Services Act, or if CMS determines that the state is not substantially enforcing the requirements, CMS has the responsibility to enforce these provisions in that state. CCIIO has concluded that this responsibility may be met either through a collaborative arrangement with the state or by direct enforcement by CMS. If the state does not enter into a collaborative agreement, CMS will notify health insurance issuers in that state that they must submit policy forms to CMS for review and CMS will notify issuers of any concerns. CMS will also conduct targeted market conduct examinations, as necessary, to respond to consumer inquiries and complaints to ensure compliance, and will work cooperatively with the state to address any concerns. At any time, a state may assume enforcement authority of PPACA market reform standards and CMS will work with the state to ensure an effective transition. As of March 1, 2013, four states (MO, OK, TX, and WY) have notified CMS that they do not have the authority to enforce or are not otherwise enforcing the PPACA provisions.

A letter[11] dated March 12, 2013, to Florida Insurance Commissioner Kevin McCarty from a representative of CMS states that the Florida OIR does not have direct enforcement authority for federal laws implementing the Affordable Care Act and other federal laws under title XXVII of the Public Health Services Act and that "..this letter serves as a means to accomplish HHS's direct enforcement through a collaborative arrangement with the State of Florida." The letter then specifies the details of the collaborative arrangement, as follows:

> ***I. COLLABORATIVE ARRANGEMENT***
> *It is important to both the Office and HHS that the elements of this collaborative arrangement be clearly described and delineated. Under this arrangement, the Office will perform the insurance compliance functions as specified below:*
>
> ***A. Policy Form Review***
> *The Office will review insurance policy forms for compliance with Florida laws and rules. Further, during that review, the Office will review applicable policy forms for compliance with all federal laws and regulations. If the Office determines that an*

[8] Id
[9] http://cciio.cms.gov/index.html
[10] http://cciio.cms.gov/programs/marketreforms/Compliance/index.html
[11] Contained in the meeting materials for the March 18, 2013 meeting of the Senate Select Committee on the Patient Protection and Affordable Care Act at: http://www.flsenate.gov/PublishedContent/Committees/2012-2014/SPPA/MeetingRecords/MeetingPacket_2127.pdf

insurer's form filing is not in compliance with the federal laws and regulations and is unable to obtain voluntary compliance, the Office will report potential violations of federal laws and regulations to HHS for appropriate formal enforcement action;

B. Rate Review
The Office will review insurance policy rates for compliance with all Florida laws and rules and review for compliance with all federal laws and regulations. If the Office determines that an insurer's rate filing is not in compliance with federal laws and regulations and is unable to obtain voluntary compliance, the Office will report potential violations of federal laws and regulations to HHS for appropriate formal enforcement action; and

C. Perform Targeted Market Conduct Exams
The Office will perform market conduct examinations and investigations as warranted for compliance with all Florida laws and rules. During the examinations or investigations, the Office will review for compliance with federal laws and regulations. If the Office determines that an insurer's operations are not in compliance with federal laws and regulations and is unable to obtain voluntary compliance, the Office will report potential violations to HHS for appropriate formal enforcement action.

This collaborative arrangement does not address, nor does it obligate the Office to perform consumer assistance functions on behalf of HHS. A separate agreement between HHS and the appropriate Florida consumer services agency will be necessary to address consumer assistance issues.

The collaborative arrangement outlined above will become effective March 12, 2013. If the Florida Legislature adopts legislation giving the state direct enforcement authority for provisions consistent with the ACA and other federal laws under title XXVII of the PHS Act, the Office will notify HHS of this development. Until then, this letter will document our collaborative arrangement.

The letter notes that it does not address consumer assistance functions. The Division of Consumer Services (division) of the Department of Financial Services (DFS) is charged with this responsibility pursuant to s. 20.121(2)(h), F.S. For any product or service regulated by DFS or OIR, such as health insurance policies or HMO contracts regulated by OIR, the division is required to:

- receive inquiries and complaints from consumers;
- prepare and disseminate such information as it deems appropriate to inform or assist consumers;
- provide direct assistance and advocacy for consumer who request such assistance or advocacy; and
- with respect to apparent or potential violations of law or rules by a person licensed by OIR or DFS (such as a health insurer or HMO), report such apparent or potential violation to the appropriate division of DFS or OIR for further action.

Additionally, an insurer issued a certificate of authority by OIR (and other licensees) is required to respond, in writing, to the division after receipt of a written request from the division for information concerning a complaint.

The statutory duties of the division related to providing information, assistance, and advocacy to consumers and requiring written responses from insurers are not expressly limited to complaints concerning violations of state insurance laws and may give discretion to DFS to determine whether any of those functions are appropriate for PPACA-related complaints. However, the requirement to report potential violations of law to OIR or DFS would reasonably be limited to laws that OIR or DFS have authority to enforce and there is no reference to reporting violations to any federal agencies.

PPACA contains provisions specific to the role of HHS and the states to review rate increases, addressed in *Review of Insurer Premium Increases*, below.

Grandfathered Health Plans

PPACA exempts "grandfathered health plan coverage" from many of its insurance requirements (as specified in the summary of the key insurance provisions, below). For an insured plan, grandfathered health plan coverage is group or individual coverage in which an individual was enrolled on March 23, 2010, subject to conditions for maintaining grandfathered status as specified by law and rule.[12] Grandfathered health plan coverage is tied to the individual or employer who obtained the coverage, not to the policy or contract form itself. An insurer may have both policyholders with grandfathered coverage and policyholders with non-grandfathered coverage insured under the same policy form, depending on whether the coverage was effective before or after March 23, 2010.

The conditions for maintaining grandfathered status are specified in the rule. A statement must be included in any health plan materials provided to the insured describing the benefits that the coverage is believed to be a grandfathered health plan within the meaning of PPACA and contact information must be provided for questions and complaints. The health plan must maintain records documenting the terms of the coverage in effect on March 23, 2010, and any other documents necessary to verify its status as a grandfathered health plan.

A health plan does not lose grandfathered status due solely to any of the following reasons (among others):

- one or more individuals enrolled on March 23, 2010, cease to be covered, provided that the health plan has continuously covered someone since that date;
- family members enroll after March 23, 2010, in the grandfathered coverage of an individual;
- new employees enroll after March 23, 2010, in the grandfathered coverage of an employer.

[12] PPACA s. 1251; 42 U.S.C. s. 18011; 45 C.F.R. s. 147.140

A health plan loses grandfathered status, if any of the following changes are made to the plan (among others):

- the elimination of all or substantially all benefits to diagnose or treat a particular condition;
- any increase in a percentage cost-sharing requirement, such as an individual's coinsurance requirement;
- any increase in a fixed-amount cost-sharing requirement other than a copayment, such as a deductible or out-of-pocket limit;
- any increase in a fixed-amount copayment that exceeds a specified (by rule) amount;
- for a group plan, any decrease in the contribution rate by the employer by more than 5 percentage points;
- adding an annual or lifetime dollar limit or reducing such limits.

Although not specifically addressed by rule, a plan may add benefits without causing a loss of grandfathered status. Even though grandfathered plans were exempt from many of the PPACA insurance benefit requirements that were effective on September 23, 2010, some insurers have reportedly added those benefits to grandfathered plans without causing those plans to lose grandfathered status.

The most significant changes of PPACA take effect for plan years beginning 2014, which are the changes that are expected to have the biggest impact on premiums. Assuming that insurers do not add all newly required benefits to grandfathered health plans or take other actions that cause a plan to lose grandfathered status, the requirement of PPACA to separate claims experience of grandfathered and nongrandfathered health plans will generally insulate grandfathered health plans from the premium impact of the 2014 changes, especially the impact of guaranteed issue requirements that require insurers to offer coverage to all individuals and employers, regardless of their health status. However, the legal authority for insurers to take certain actions to segregate nongrandfathered policies may be affected by certain federal and state laws, which are discussed immediately below.

Nonrenewal of Health Insurance Policies; Discontinuance of Policy Forms

Florida law requires that individual health insurance policies be guaranteed renewable, subject to certain exceptions.[13] One exception is that an insurer may discontinue offering a particular policy form for health insurance coverage in the individual market, but only if the insurer provides 90 days notice of nonrenewal, offers to each individual the option to purchase any other individual health insurance coverage currently being offered, and acts uniformly without regard to any health-status-related factor of enrolled individuals or individuals who may become eligible for such coverage.[14] Substantially the same requirements are provided for group health insurance policies.[15] This Florida law is closely modeled on federal law.[16]

[13] S. 627.6425, F.S.
[14] Section 627.6425(3), F.S.
[15] S. 627.6571, F.S.
[16] 42 U.S.C. 300gg-2(c)(1)

A related Florida law provides that an insurer that discontinues the availability of a policy form must provide 30 days notice to OIR and the insurer is thereafter prohibited from offering the policy form for sale in Florida and prohibited from filing for approval a new policy form providing similar benefits for 5 years.[17]

Definition of "Small Employer"

Florida law requires health insurers and HMOs to offer coverage to all small employers on a guaranteed-issue basis, as provided in the Employee Health Care Access Act.[18] This requirement and all other provisions in the Florida Insurance Code that apply to small group coverage are based on the definition of "small employer" in this act.[19] In summary, a "small employer" means any person, sole proprietor, self-employed individual, independent contractor, firm, corporation, partnership, or association that is actively engaged in business, has it principal place of business in this state, and employs an average of at least 1 but not more than 50 "eligible employees." An "eligible employee," is defined as an employee who works full time and has a normal workweek of 25 or more hours.[20]

Under PPACA, a "small employer" is defined differently than under Florida law.[21] Under federal law, a "small employer" is an employer that employs an average of at least 1 but not more than 100 employees on business days during the preceding calendar year, and employs at least 1 employee on the first day of the plan year. However, PPACA allows states to cap the number of employees at 50. The federal definition of "employee" is simply an individual employed by an employer.[22]

Florida's definition of small employer includes sole proprietors and other individuals who are not small employers under PPACA. PPACA requirements for individual health insurance coverage would apply to coverage for such individuals. Many requirements of PPACA are the same for individual and small group coverage, but some are not. For example, PPACA requires that for rating purposes that claims experience for all individual, small group, and large group policies must be pooled separately. Florida's definition of small employer also includes employers that are considered large employers under PPACA, by only counting "eligible employees" who work at least 25 hours per week. PPACA has some requirements that are the same for small group and large group policies, but some are different. In general, federal law will supersede or preempt state law for many of these requirements, but those determinations may not always be clear and having different definitions of small employer is a further complication for policy administration by insurers.

Since grandfathered health plans are exempt from many of the PPACA requirements, the differing state and federal definition of small employer poses fewer problems, but this issue still arises for provisions of PPACA that apply to grandfathered policies.

[17] S. 627.410(6)(e), F.S.
[18] S. 627.6699, F.S.
[19] S. 627.6699(3)(v), F.S.
[20] S. 627.6699(3)(h), F.S.
[21] 42 U.S.C. 300gg-91(e)(4)
[22] 29 U.S.C. 1002, as referenced by 42 U.S.C. s. 300gg-91(d)(5)

Key Insurance Provisions of PPACA; Comparable State Insurance Laws

The PPACA insurance provisions were phased-in beginning in 2010, but the most dramatic changes become effective January 1, 2014. PPACA applies these requirements to "health insurance issuers" which includes both health insurers and HMOs, and applies to both group and individual health insurance coverage, except where otherwise noted. This analysis uses the terms, "health insurers" and "health insurance policies" to include HMOs and HMO contracts, except where a distinction is noted, and includes both individual and group coverage, except where otherwise noted.

The key PPACA insurance provisions and comparable requirements of Florida law are summarized below, grouped in order of the federal law effective dates. As discussed above, if state law requirements are less restrictive and provide less consumer protection than a provision of PPACA, the federal law will control, which applies to most of these provisions. In some cases, Florida law is more restrictive and provides greater consumer protections, in which case state law will control. If a grandfathered health plan is exempt from a PPACA requirement, only the state law applies to such plans.

In still other cases, federal and state laws impose different requirements for similar purposes and the question is which requirements of state law "prevent the application" of a provision of PPACA and are preempted, which federal and state regulators must determine and may ultimately require a judicial determination or further state or federal legislation to resolve.

<u>The following requirements of PPACA apply to health insurance policies that have plan years beginning on or after September 23, 2010:</u>

Lifetime and Annual Dollar Limits[23] – Health insurance policies are prohibited from having lifetime limits on the dollar value of essential health benefits. (See *Essential Health Benefits*, below.) Grandfathered health plans are not exempt from this requirement. The federal law also prohibits health insurance policies from having annual limits on the dollar value of essential health benefits that are less than: $750,000 for plan years beginning on or after 9/23/2010; $1.25 million for plan years beginning on or after 9/23/2011, or $2 million for plan years beginning on or after 9/23/2012. For plan years on or after 1/1/2014, no annual limit on the dollar value of essential health benefits is allowed. Individual (but not group) grandfathered health plans are exempt from the annual limit restrictions.

Florida law does not have any comparable requirement that prohibits insurers from imposing annual or lifetime limits, but laws that mandate certain benefits allow or require annual or lifetime dollar limits.[24]

Rescissions[25]- A health insurer may not rescind (meaning retroactively cancel) coverage except for fraud or intentional misstatement of a material fact, as prohibited by the terms of the policy. The insurer must provide at least 30 days advance written notice of rescission to the

[23] PPACA s. 1001; PHSA s. 2711 (42 U.S.C. s. 300gg-11)
[24] For example, mandatory coverage for autism requires a $36,000 annual limit and a $200,000 lifetime limit on such benefits; ss 627.6686 and 641.3198, F.S.
[25] PPACA s. 1001; PHSA s. 2712 (42 U.S.C. s. 300gg-12)

policyholder. This does not prohibit retroactive cancellation to the extent that it is due to failure to timely pay required premiums. Grandfathered health plans are not exempt from this requirement.

Florida law provides that for individual health policies, after 2 years from the issue date, only fraudulent misstatements in the application may be used to void the policy or deny any claim for a loss incurred after the 2-year period. Alternatively, the policy may have an incontestability provision that after the policy has been in force for 2 years, the insurer cannot contest the statements in the application.[26] For group health policies, Florida law provides that in the absence of fraud, all statement made by applicants are deemed representations and not warranties and no statement shall avoid (void) the insurance or reduce benefits unless contained in a signed, written statement.[27] For HMO contracts, after 2 years from the issue date, only fraudulent misstatement in the application may be used to void the policy or deny any claim for loss incurred after the 2-year period.[28]

Coverage of Preventive Health Services[29]- PPACA requires coverage without cost-sharing, with certain exceptions, for:

- Services recommended by the U.S. Preventive Services Task Force (except for current breast cancer screening recommendation, which reverts to prior recommendation);
- Immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;
- Preventive care and screenings for infants, children and adolescents supported by the Health Resources and Services Administration; and
- Preventive care and screenings for women supported by the Health Resources and Services Administration.

Grandfathered health plans are exempt from these requirements.

Florida law requires health insurance policies to provide coverage for wellness benefits for children from birth to age 16, which must be exempt from any deductible, including a physical examination, immunizations and laboratory tests consistent with Recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics, newborn coverage, and newborn hearing screening.[30]

Florida law requires coverage of a mammogram for a woman at specified age levels.[31]

Florida law requires HMOs and health insurers that provide coverage through exclusive providers to provide coverage, without prior authorization, for one annual visit with a contracted OB/GYN. [32]

[26] S. 627.607, F.S.
[27] S. 627.657, F.S.
[28] S. 641.31(23), F.S.
[29] PPACA s. 1001; PHSA s. 2713 (42 U.S.C. s. 300gg-13)
[30] SS. 627.6416 (individual), 627.6579 (group), 627.6699(12)(b)4. (small group), and 641.31(30) (HMO), F.S.
[31] SS.627.6418 (individual), 627.6613 (group), 627.6699(12)(b)4. (small group), and 641.31095 (HMO), F.S.
[32] SS. 627.6472(18) (individual EPO), 627.662(9) (group EPO), and 641.31(27) (HMO), F.S.

Adult Dependent Coverage[33] - PPACA requires policies that provide dependent coverage to extend coverage to adult children until age 26. The policy may not define dependent for purposes of eligibility for dependent coverage other than in terms of the relationship between the child and the dependent (which prohibits such conditions as financial dependency, student status, living at home, or not being married). For plan years beginning before 1/1/2014, a grandfathered group health plan may exclude coverage for an adult child under age 26 who is eligible for other employer-sponsored coverage.

Florida law requires health insurance policies offering dependent coverage to insure a dependent child until the end of the year in which the child reaches the age of 25 if the child is dependent for support and is either living in the household or is a full-time student. The Florida law also requires policies to offer the option to insure a child until the end of the calendar year in which the child reaches the age of 30 if the child is unmarried and does not have a dependent, is either a Florida resident or student, is not provided coverage by any other plan, and is not eligible for Medicaid.[34]

Pre-Existing Condition Exclusion for Children Under Age 19[35] - PPACA prohibits health insurance policies from excluding coverage for a pre-existing condition for children under age 19. As interpreted by rules adopted by HHS, the definition of "preexisting condition exclusion" includes a denial of coverage.[36] Individual (but not group) grandfathered health plans are exempt from this requirement.

The Florida law on preexisting condition exclusions is summarized under the broader prohibitions of PPACA effective for plan years beginning 1/1/2014, below.

Internal and External Review Process[37]- PPACA requires health insurers to implement an internal appeals and independent external review process. For the internal appeals process, group plans must incorporate the U.S. Department of Labor's claims and appeals procedures and update them to reflect standards established by the Secretary of Labor. Individual plans must incorporate applicable law requirements and update them to reflect standards established by HHS. These regulations include notice requirements for the initial benefit determination itself, as well as requirements for allowing claimants to appeal an adverse benefit determination to the insurer and the internal review process that insurers must follow.

For the external review process, all plans must comply with applicable state external review processes that, at a minimum, includes consumer protections in the NAIC Uniform Health Carrier External Review Model Act (April, 2010) or with minimum standards established by HHS that are similar to the NAIC model.

Grandfathered health plans are exempt from these federal requirements.

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[33] PPACA s. 1001; PHSA s. 2714 (42 U.S.C. s. 300gg-14)
[34] SS. 627.602 (individual), 627.6562 (group), and 641.31(41) (HMO), F.S.
[35] PPACA s. 1201 (PHSA s. 2704), as amended by s. 2301 of P.L. 111-152
[36] 45 C.F.R. s. 144.103
[37] PPACA s. 1001; PHSA s. 2719 (42 U.S.C. s. 300gg-19); 45 C.F.R. s. 147.136

Florida law enacted in 2012 requires individual and group insurance policies to comply with internal grievance procedures of the U.S. Department of Labor (but cited regulations are not the updated version.)[38] The 2012 act also authorized OIR to adopt rules to administer the NAIC Uniform Health Carrier External Review Model Act (April, 2010), which rules have not yet been adopted and must be approved by the Financial Services Commission.[39] The act also provided that the Subscriber Assistance Program, which provided external review determinations on grievances against HMOs and health insurer exclusive provider organizations (and certain other prepaid plans), now applies only to those HMO and insurer plans that meet the requirements of cited federal regulations for status as a grandfathered health plan, unless the plan elects to have all of its policies or contracts subject to applicable internal grievance and external review process by an independent review organization.[40]

Florida law also requires individual health insurance policies to provide a claimant or their provider who has a claim denied as not medically necessary with the opportunity for an appeal to the insurer's physician responsible for medical necessity reviews.[41] HMOs must have an internal grievance procedure meeting specified requirements.[42]

Emergency Room Coverage[43] – PPACA requires that coverage for emergency services must be provided without prior authorization, regardless of whether the provider is a network provider. Services provided by non-network providers must be provided with cost-sharing that is no greater than that which would apply for a network provider and without regard to any other restriction other than an exclusion or coordination of benefits, an affiliation or waiting period, and cost-sharing. Regulations specify minimum reimbursement that plans must pay a non-network provider for emergency services.[44] Grandfathered health plans are exempt from these requirements.

Florida law requires HMOs to provide coverage without prior authorization for emergency care, based on a determination by a hospital physician or other personnel, provided by either a contract or non-contract provider. Insurers and HMOs may require higher copayments for urgent care or primary care provided in an emergency department and higher copayments for use of out-of-network emergency departments. HMOs must pay non-contract providers specified minimum reimbursement for emergency services. Insurers issuing exclusive provider contracts must cover non-exclusive providers if the services are for symptoms requiring emergency care and a network provider is not reasonably accessible.[45]

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[38] Ch. 2012-44, L.O.F.; ss. 627.602(1)(h) and 627.6513, F.S. These sections subject individual and group policies, respectively, to the Dept. of Labor regulation, 29 C.F.R. s. 2560.503-1, relating to internal grievances. However, this does not incorporate the requirements for internal appeals adopted by HHS in 45 C.F.R. s. 147.136, also adopted by the Dept. of Labor in 29 C.F.R. s. 2590.715-2719.
[39] Section 641.312, F.S.; Also see, ss. 627.602(1)(h) and 627.6513, F.S.
[40] S. 408.7056(15), F.S.
[41] S. 627.6141, F.S.
[42] S. 641.511, F.S.
[43] PPACA s. 1001; PHSA s. 2719A (42 U.S.C. s. 300gg-19A)
[44] 45 C.F.R. s. 147.138(b)
[45] S. 641.513, 631.31(12), and 627.6472, F.S.

Primary Care Physicians and OB/GYN Coverage[46]–PPACA requires a policy that requires policyholders to designate a primary care provider to allow the choice of any participating primary care provider who is available to accept them. For a child, the policy must allow the parent to choose any participating pediatrician. A policy may not require authorization or referral for a female patient to receive obstetric or gynecological care from a participating provider and must treat their authorizations as the authorization of a primary care provider. Grandfathered health plans are exempt from these requirements.

Florida law requires HMOs to give subscribers a choice of a primary physician who is an allopathic physician, osteopath, chiropractor, or podiatrist. A female subscriber may select an OB/GYN as her primary care physician.[47] Florida law requires HMOs and insurers issuing exclusive provider contracts to allow insureds, without prior authorization, to visit a contracted OB/GYN for one annual visit and for medically necessary follow-up care.[48]

<u>The following requirements of PPACA affecting health insurance premiums apply to health insurance policies with plan years beginning on or after 1/1/2010 or 1/1/2011, as specified:</u>

Review of Insurer Premium Increases[49]–For policies with plan years beginning 1/1/2010, PPACA requires HHS, in conjunction with the states, to develop a process for the annual review of unreasonable premium increases for health insurance. The process must require insurers to submit to the state and HHS a justification for an unreasonable premium increase and post it online. Insurers that have a pattern of unreasonable increases may be prohibited from participation in an Exchange. Grandfathered health plans are exempt from this requirement. For policies with plan years beginning 1/1/2014, HHS, in conjunction with the states, must monitor premium increases of health insurance coverage offered through an Exchange and outside an Exchange. Grandfathered policies are exempt from these requirements.

Rules adopted by HHS provide additional details and requirements for the rate review process.[50] The rules require that all rate increases for non-grandfathered plans in the individual and small group market must be filed with the CMS (under HHS), but only those with rate increases of 10 percent or more are subject to CMS review (or those which exceed an applicable state-specific threshold). In determining whether a rate increase is unreasonable, CMS will rely on a state's determination if the state has an effective rate review program, based on specified criteria. As of March 11, 2013, CMS has determined that Florida has an effective rate review program (but only "partially" effective for association plans), and is one of 43 states that have effective rate review programs for all non-association markets. [51]

The rules further provide that when CMS reviews a rate increase of 10 percent or more, it will determine that the rate increase is unreasonable if it is an excessive rate increase, an unjustified rate increase, or an unfairly discriminatory rate increase. The rate increase is an excessive rate increase if it causes the premium charged to be unreasonably high in relation to the benefits

[46] PPACA s. 1001; PHSA s. 2719A (42 U.S.C. s. 300gg-19A)
[47] S. 641.19(12)(e), F.S.
[48] SS. 627.6472(18) (individual EPO), 627.662(9) (group EPO), and 641.31(27) (HMO), F.S.
[49] PPACA s. 1003; s. 2794 of PHSA (42 U.S.C. s. 300gg-94)
[50] 45 C.F.R. Part 154, as amended by final rules published in 78 F.R. 13406 (Feb. 27, 2013)
[51] http://cciio.cms.gov/resources/factsheets/rate_review_fact_sheet.html

provided, based on a consideration of whether the rate increase results in a projected medical loss ratio (MLR) below the federal MLR standard, whether any assumptions on which the rate increase is based are not supported by substantial evidence, and whether the choice or combination of assumptions is unreasonable. The rate increase is unjustified if the insurer provides data that is incomplete, inadequate or does not provide a basis upon which the reasonableness of an increase may be determined. The rate increase is unfairly discriminatory if it results in premium differences between insureds within similar risk categories that are not permissible under applicable state law or, in the absence of such state law, do not reasonably correspond to differences in expected rates.

If CMS determines that a rate increase is unreasonable, it does not have authority to disapprove the rate increase, but it will post on its website its final determination and a brief explanation of its analysis.[52] If a health insurer implements a rate increase determined to be unreasonable, the health insurer must prominently post on its website the CMS (or the state's) final determination and other specified information, which must be posted for at least 3 years.

Separate from the rate review requirements described above, PPACA requires that an Exchange must require health plans seeking certification as qualified health plans to submit a justification of any premium increase prior to implementation. The Exchange must take the information into consideration when determining whether to make the health plan available through the Exchange.[53]

Florida law requires that for individual and small group policies, health insurers must file rates for approval with OIR. Rates for large group policies are not subject to filing or approval by OIR. [54]

Rate flings must be submitted at least 30 days prior to use, and the filing is deemed approved unless OIR disapproves the filing within 30 days, unless extended up to an additional 15 days. In practice, insurers may waive the deemer provision. OIR must disapprove the rate filing if the policy provides benefits that are unreasonable in relation to the premium charged, based on specified factors, or contains provisions that apply rating practices that result in unfair discrimination.[55] (Also see Florida law under *Medical Loss Ratio* below.) Rate filings are prohibited from applying specified rating practices and, as authorized, the Financial Services Commission has adopted rules specifying procedures to be used in ascertaining the reasonableness of benefits in relation to premium rates.[56] Health insurers subject to rate filing requirements must make an annual rate fling or file a certification that benefits are reasonable in relation to premiums currently charged. Similar requirements apply to rate filings for HMOs.[57]

Medical Loss Ratio; Payment of Rebates- Effective for plan years beginning 1/1/2011, PPACA requires health insurers to report to HHS information concerning the percent of premium revenue spent on claims for clinical services and activities (medical loss ratio or MLR). Insurers must

[52] http://companyprofiles.healthcare.gov/
[53] PPACA s. 1311(e)
[54] SS. 627.410(6)(a) and (c), F.S
[55] SS. 627.411(1)(f) and (2), F.S.
[56] SS. 627.410(6)(b) and (d); 69O-149, F.A.C.
[57] S. 641.31(3); 69O-194.054, F.A.C.

provide a rebate to consumers if the MLR is less than 85 percent in the large group market and 80 percent in the small group and individual markets. Grandfathered health plans are not exempt from this requirement.

Florida law requires as a condition of prior approval of rates by OIR, that the projected minimum loss ratio for small group and individual policies is 65 percent.[58] Rebates are not required if the MLR is not met. The calculation of MLR is not consistent with federal regulations.

The most significant insurance requirements of PPACA apply to health insurance policies that have plan years beginning on or after January 1, 2014, as follow:

Guaranteed Availability of Coverage[59] – PPACA requires health insurers to accept every individual and every employer that applies for coverage, commonly referred to as offering coverage on a guaranteed issue basis. However, insurers may limit enrollment to open or special enrollment periods, as specified by HHS rules. Insurers that offer coverage through a network plan may limit enrollment based on network adequacy, under certain conditions. Insurers may deny coverage if it has demonstrated to the applicable state authority, if required, that it does not have the financial reserves necessary to underwrite additional coverage and is applying this uniformly to all employers and individuals consistent with applicable state law and without regard to the claims experience or health status of any individual or employer.

As required by HHS rules,[60] insurers must have open enrollment periods the same as required for coverage offered through a Health Insurance Exchange. For individual coverage, the initial open enrollment period is from October 1, 2013, through March 31, 2014. For each year thereafter, the open enrollment period is October 15 through December 7. In addition, for individuals with non-calendar-year policies, a one-time limited open enrollment period must be provided for 30 days prior to the date the policy year ends in 2014, (the intention being to transition all individuals to calendar-year policies). Insurers must provide special enrollment periods for individuals for many situations, such as losing minimum essential coverage, losing group coverage, gaining a dependent through birth or marriage, among others. For group coverage, insurers must provide year-round open enrolment, except for small employers who are unable to meet the insurer's minimum contribution or minimum participation requirements, pursuant to state law, for which the open enrollment period may be limited to November 15 through December 15.

Grandfathered health plans are exempt from these requirements.

Florida law does not require guaranteed issue of coverage to all individuals, but it provides for guaranteed availability of coverage for individuals who lose group coverage. These provisions of Florida law were enacted in 1997 to conform to federal HIPPA requirements.[61] The primary requirement is that the former group insurer must offer an individual conversion policy, the premium for which cannot exceed 200 percent of the standard risk rate.[62] For persons who lose group coverage but are not eligible for a conversion policy, such as an individual who was

[58] S. 627.411(3)(a), F.S.
[59] PPACA s. 1201; PHSA s. 2702 (42 U.S.C. s. 300gg-1)
[60] Final rules published in 78 F.R. 13406 (Feb. 27, 2013) and 77 F.R. 18310 (March 27, 2012)
[61] Chapter 97-179, L.O.F.
[62] S. 627.6675, F.S.

covered under a self-insured plan, a health insurer that offers individual coverage must offer that person their two most popular individual products, by premium volume in the state.[63]

Florida law also requires small group carriers to offer coverage on a guaranteed issue basis to all small employers, including sole proprietors.[64] For sole proprietors, the offer of coverage may be limited to a one-month open enrollment period in August. Small group carriers must offer a standard and basic policy containing specified minimum benefits.

Non-Discrimination Based on Health Status[65]- PPACA prohibits an insurer from establishing rules for eligibility based on any of the following health status-related factors: health status, medical condition, claims experience, receipt of health care, medical history, genetic information, disability, evidence of insurability (including conditions arising out of domestic violence), or any other health-status related factor deemed appropriate by HHS. Grandfathered health plans are exempt from these requirements.

Florida law, for individual policies, does not prohibit insurers from medically underwriting or denying coverage based on health-related factors, other than for persons who lose group coverage as summarized above. Small group carriers are prohibited from establishing rules for eligibility based on health-status related factors.[66] For all group policies, rules for eligibility of employees may not be based on health-status related factors.[67]

Pre-Existing Condition Exclusions[68] – PPACA prohibits health insurance policies from excluding coverage for any pre-existing condition. Individual (but not group) grandfathered health plans are exempt from this requirement.

Florida law prohibits individual health policies from excluding preexisting conditions for more than 24 months and may relate to conditions that manifested themselves during the 24-month period.[69] Individual health policies may exclude coverage for named or specific conditions without any time limit.[70]

Florida law prohibits group policies from excluding preexisting conditions for more than 12 months, or 18 months in the case of a late enrollee and may only relate to conditions that manifested themselves during the 6-month period prior to coverage. Prior creditable coverage reduces the exclusion period.[71]

Essential Health Benefits and Levels of Coverage[72] – PPACA requires coverage offered in the individual and small group markets to provide the following categories of services (essential health benefits package):

[63] S. 627.6487, F.S.
[64] S. 627.6699, F.S.
[65] PPACA s. 1201; PHSA s. 2705 (42 U.S.C. s. 300gg-4)
[66] S. 627.6699, F.S.
[67] S. 627.65625, F.S.
[68] PPACA s. 1201; PHSA s. 2704 (42 U.S.C. 300gg-3)
[69] S. 627.6045, F.S.
[70] S. 627.607(2), F.S.
[71] S. 627.6561, F.S.
[72] PPACA s. 1302; PHSA s. 2707 (42 U.S.C. 300gg-6)

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance abuse disorder services, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Preventive and wellness services and chronic disease management
- Pediatric services, including oral and vision care

States were provided the opportunity to select a benchmark plan among various options that reflected the scope of services offered by a "typical employer plan." Florida did not make a selection, resulting in a default to a benchmark plan being selected, which is the small group plan with the largest enrollment in the state. A benchmark plan must be supplemented, if necessary, to cover all categories of essential benefits. States may mandate additional benefits but must defray the expenses of enrollees for the additional cost of these benefits.

Insurers must offer the following levels of coverage in the individual and small group markets:

- Bronze level -- provides benefits that are actuarially equivalent to 60 percent of the full actuarial value of benefits under the plan.
- Silver level -- provides benefits that are actuarially equivalent to 70 percent of the full actuarial value of benefits under the plan.
- Gold level -- provides benefits that are actuarially equivalent to 80 percent of the full actuarial value of benefits under the plan.
- Platinum level --provides benefits that are actuarially equivalent to 90 percent of the full actuarial value of benefits under the plan.
- Catastrophic coverage – Limited to adults under age 30 or individuals who are exempt from the individual mandate because affordable coverage is not available or they have a hardship exemption.

Grandfathered health plans are exempt from these requirements.

Florida law mandates coverage of numerous benefits, services, and providers of services. However, there is no mandated essential health benefit plan.

Rating and Underwriting Standards[73] –PPACA requires that premiums for individual and small group policies may vary only by:

- Age, up to a maximum ratio of 3 to 1. This means that the rates for older adults cannot be more than three times greater than the rates for younger adults.
- Tobacco, up to a maximum ratio of 1.5 to 1.
- Geographic rating area.

[73] PPACA s. 1201; PHSA s. 2701 (42 U.S.C. 300gg)

- Whether coverage is for an individual or a family.

The claims experience of all individual policies and all small group policies, respectively, must be pooled together for rating purposes. States may require that individual and small group policies be pooled together.

Grandfathered health plans are exempt from these requirements.

Florida law does not specify factors that may be used for individual coverage, but pursuant to rules, insurers are allowed to use age, gender, family composition, area by county, and tobacco usage. Carriers may also surcharge or "rate up" based on health status. The claims experience of all policies providing similar benefits must be pooled together for rating purposes.

For small group coverage, Florida law requires the use of rating factors based on gender, age, family composition, tobacco usage, and geographic area. In addition, premium adjustments of plus or minus 15 percent of the approved rate are allowed for claims experience, health status, and duration of coverage. The claims experience of all policies providing similar benefits must be pooled together, except that policies covering fewer than two employees may be separately pooled.

Coverage for Clinical Trial Participants[74] **–** PPACA prohibits an individual or small group plan from denying a qualified individual from participating in an approved clinical trial; denying or limiting conditions on the coverage of routine patient costs for items and services provided in connection with the trial; and discriminating against qualified individuals on the basis of such participation. Grandfathered health plans are exempt from this requirement.

Temporary Reinsurance Program for the Individual Market[75] – PPACA requires each state or HHS to establish a temporary reinsurance program for plan years beginning in 2014-2016. The goal of the program is to stabilize premiums by partially offsetting claims for high-cost individuals in nongrandfathered plans for the first three years of the exchange operations.

Insurers and third-party administrators of self-insured plans must make payments to the reinsurance entity. Nongrandfathered, individual market insurers that cover high-risk individuals will receive payments from the entity if they cover high-risk enrollees in the individual market.

States may: 1) operate its own program and collect from the fully insured market and allow HHS to collect contributions from the self-insured market; or 2) operate its own program including the payment function, and defer all collection duties to HHS. If the HHS operates a state's reinsurance program, HHS will collect all contributions and perform payment functions. Florida is not operating a temporary reinsurance program

Temporary Risk Corridors for Plans in the Individual and Small Group Market[76] – PPACA requires HHS to establish and administer a risk corridor program for 2014-2016 based upon the

[74] PPACA s. 1201; PHSA s. 2709 (42 U.S.C. 300gg-8
[75] PPACA s. 1341
[76] PPACA s. 1342

risk corridor program for Medicare Prescription Drug Plans. Plans will receive payments if their ratio of nonadministrative costs, less any risk adjustment and reinsurance payments, to premiums, less administrative costs, is above 103 percent. Plans must make payments if that ratio is below 97 percent.

Risk Adjustment[77] – PPACA requires each state to assess health plans if the actuarial risk of all of their enrollees in a state is less than the average risk of all enrollees in fully-insured plans in that state and make payments to health plans whose enrollees are have an actuarial risk that is below the average actuarial risk in that state.

HHS, in consultation with the states, shall establish criteria and methods for these risk adjustment activities, which may be similar to those for Medicare Advantage plans and Prescription Drug Plans.

Premium Impact of PPACA

The most significant requirements of PPACA become effective for plan years beginning on January 1, 2014, which are the requirements that are expected to have the biggest impact on average premiums. The primary drivers of increased average premiums due to PPACA are:

- Guaranteed issue and related requirements – The requirement of PPACA for insurers to accept every individual and employer who applies for coverage will allow persons with health conditions requiring expensive medical care to obtain coverage who are currently unable to obtain coverage, due to their health status, or who currently pay a premium surcharge due to an identified health condition. This premium impact is affected by the related PPACA requirements that insurers may not exclude coverage for any preexisting condition and may not use health status as a factor in establishing rates. To some extent the upward impact will be reduced due to the individual coverage mandate, which will attract healthier individuals who prefer to obtain coverage rather than pay the fee (tax). The upward impact on average premiums will also be partially offset by attracting healthier persons due to the premium subsidies for eligible persons, based on income level, for coverage through the Exchange.
- Actuarial Value – PPACA requires insurers in the individual and small group market to offer plans meeting required actuarial levels, the lowest of which (other than the catastrophic plan for eligible individuals) is the bronze level plan, which must provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of benefits under the plan. This requirement limits the amount of the deductible, co-payment, and other out-of-pocket expenses that can be imposed on the policyholder. This will have the biggest impact on policies which currently have large deductibles and other large out-of-pocket expense provisions.
- Essential Health Benefits – All policies in the individual and small group market must cover essential health benefits which will impact premiums due to adding benefits for maternity care, prescriptions drugs, behavioral health, habilitative services, pediatric dental, and other essential health benefits that may not be covered or fully covered under current policies.

[77] PPACA s. 1343

Certain other benefits were required for policy years beginning after September 23, 2010, for which premiums should already reflect the impact.

- Fees and Assessments – PPACA imposes a health insurance industry fee, a temporary reinsurance assessment, a fee for covering operation of the Exchange, and a fee for funding patient-centered outcomes research, that will directly impact premiums, as well as taxes on certain medical devices likely to be passed on to patients and insurers. Offsetting the temporary reinsurance assessment are reinsurance credits that an insurer may receive for covering high-risk individuals.

Age and Gender -- In addition to requirements that affect average premiums are the rating reforms that affect a particular individual's premium due to their age and gender. By limiting age factors for adults to a maximum ratio of 3 to 1, younger adults will have higher premiums and older adults will have lower premiums, due solely to this factor. The requirement that insurers may not use gender as a rating factor is expected to result in higher premiums for younger males and older women, and lower premiums for older men and younger females, due solely to this requirement.

Florida Comprehensive Health Care Association (FCHA)

The FCHA is Florida's high-risk pool for individuals who are unable to obtain health insurance, due to their health status. The FCHA, formerly named the State Comprehensive Health Association, was created in 1982.[78] About 7,500 individuals were insured with the FCHA in 1991, but due to increasing losses, legislation that year closed the FCHA to new enrollment, but allowed existing insureds to renew coverage. At the end of 2012, there were 170 individuals insured with the FCHA.

The FCHA is organized as a not-for-profit entity. All health insurers, as a condition of doing business, must be members of the association. The FCHA is governed by a three-member board of directors appointed by Chief Financial Officer and regulatory oversight is provided by OIR.

The FCHA is funded through a combination of premiums paid by FCHA policyholders and an assessment on all health insurers and HMOs in the state to cover FCHA operating losses. The annual assessment on health insurers is based on the earned premiums of the insurers.[79] FCHA policyholder premiums are based on commercial standard risk rates as determined by OIR and are set at 200 percent, 225 percent and 250 percent of the individual market standard risk rate, depending on the level of risk.[80]

For 2012, premiums paid by FCHA members were $1,252,788 compared to claims of $1,700,473. The operating loss of the association and the related insurance industry assessment for 2012 was $810,539. The operating loss and the resulting insurance industry assessment for 2011 was $2,245,828.[81]

[78] SS. 627.648-627.6498, F.S. is cited as Florida Comprehensive Health Association Act.
[79] S. 627.6492, F.S.
[80] S. 627.6498, F.S.
[81] Florida Comprehensive Health Association data, on file in committee.

Florida Health Insurance Plan

In 2004, the Legislature created the Florida Health Insurance Plan (Plan).[82] The Plan was intended to replace the FCHA as the State's high risk insurance pool. The Board of the Plan may not implement the Plan until funds are appropriated for startup costs and any projected deficits.[83] These funds have never been appropriated and so the Plan is not in operation.

III. Effect of Proposed Changes:

State Law Recognition of PPACA's Limited Preemption of State Law (Sections 1 and 2)

The bill creates a statute in the Florida Insurance Code[84] providing that a provision of the Code or rule adopted pursuant to the Code applies unless such provision or rule prevents the application of a provision of PPACA, defined as including regulations adopted pursuant to PPACA. This is substantially the same preemption provision that is included in PPACA. This provision would allow OIR to rely on a state law, rather than, or in addition to, federal law, to make a determination that a provision of the Florida Insurance Code is preempted and not legally enforceable.

Authorization for OIR and DFS to Assist HHS in Enforcing PPACA (Revision to Collaborative Arrangement) (Section 2)

The bill statutorily authorizes OIR, when reviewing forms filed by health insurers or HMOs (insurers) and when performing market conduct examinations or investigations of such insurers, for compliance with state law, to also review or examine for compliance with PPACA. If OIR determines that a form or the insurer's operations do not comply with PPACA, OIR must notify the insurer of such determination. If the form ultimately used by the insurer does not comply with PPACA, or the insurer does not take action to comply with PPACA, OIR may report such potential violation to HHS.

This statutory authorization differs from the collaborative arrangement described in the March 12, 2013 letter from HHS to the Florida Insurance Commissioner in the following respects:

- It does not authorize OIR to review rates for compliance with PPACA (and makes no reference to OIR's authority to review rates for compliance with state law, which the bill substantially revises).
- It expressly requires OIR to notify the insurer of its determination of a violation of PPACA and does not refer to OIR being "unable to obtain voluntary compliance."
- It authorizes OIR review for compliance with PPACA, rather than "all federal laws and regulations."
- It authorizes the Division of Consumer Services of DFS to take certain actions related to consumer complaints related to PPACA, as described below.

[82] Ch. 2004-297, s. 21, L.O.F.
[83] S. 627.64872(6), F.S.
[84] As specified in s. 624.01, F.S., the Florida Insurance Code consists of chapters 624-632, 634, 635, 636, 641, 648, and 651, F.S.

The bill authorizes the Division of Consumer Services of DFS to respond to complaints by consumers relating to requirements of PPACA, as authorized under s. 20.121(2)(h), F.S., which provides the division's current statutory responsibilities to prepare and disseminate information to consumers as it deem appropriate, provide direct assistance and advocacy to consumers, and require insurers to respond, in writing, to a complaint. The bill further authorizes the division to report apparent or potential violations to OIR and to HHS.

As expressly provided, a determination made by OIR or DFS regarding an insurer's compliance with PPACA would not be a determination that affects the insurer's substantial interests for purposes of chapter 120, F.S., and, therefore, would not provide the insurer with a right to an administrative hearing. Given that OIR's authorized actions after a determination are limited to notifying HHS, and that DFS's authorized actions are current consumer assistance functions and notifying HHS, it is questionable whether a right to an administrative hearing would be triggered in the absence of this provision. Any subsequent imposition of civil monetary penalties by HHS against an insurer is subject to federal administrative hearing rights.[85]

Temporary Rate Deregulation for Nongrandfathered Health Plans (Sections 4, 5 and 12)

The bill temporarily suspends the requirement that OIR approve rates for health insurers and HMOs (insurers) filed with OIR for nongrandfathered health plans for plan years 2014 and 2015. Insurers would still be required to file rates and rate changes for nongrandfathered health plans with OIR prior to use, as required by s. 627.410(6)(a), F.S., but such rates could be used without OIR approval and the rate filing and rates would be exempt from:

- s. 627.410(2) and (6)(c), F.S., which specifies procedures for OIR approval or disapproval;
- s. 627.410(6)(b), F.S., which authorizes the Financial Services Commission to adopt rules for procedures to be used in ascertaining the reasonableness of benefit in relation to rates;
- s. 627.410(6)(d), F.S., which prohibits specified rating practices;
- s. 627.410(7),F.S., which requires an annual rate filing or an actuarial certification that benefits are reasonable in relation to rates;
- provisions of s. 627.411, F.S., which apply to rates, rating practices, or the relationship of benefits to the premium charged. This section provides grounds for OIR to disapprove both forms and rates, so the exemption would be limited to those provisions related to rates.

These rating law changes are repealed on March 1, 2015, and the law will revert to the current requirement for insurers to file rates for approval with OIR for nongrandfathered plans for plan years 2016 and thereafter.

Insurers will remain subject to the requirements of PPACA to file rate changes with CMS (HHS) for nongrandfathered health plans, subject to CMS review and determination of whether the rate increase is unreasonable. It is likely that CMS would no longer consider Florida as having an effective rate review program and would not rely on OIR to make this determination.

[85] 45 C.F.R. Part 150

Grandfathered health plans are not subject to the PPACA rate filing requirements and would remain subject to the current Florida law requirements for filing rates for approval with OIR and all other current requirements for health insurance rates.

Required Notice to Policyholders of Impact of PPACA on Premiums (Section 4)

The bill requires that insurers and HMOs (insurers) provide a notice to policyholders of nongrandfathered plans that describes or illustrates the estimated impact of PPACA on monthly premiums. This notice will be required one time, when the policy is issued or renewed on or after January 1, 2014. The notice must also be submitted to OIR for informational purposes by September 1, 2013, and OIR, in consultation with DFS, must develop a summary of the estimated impact of PPACA on monthly premiums as contained in the notices. The summary must be available on the OIR and DFS websites by October 1, 2013. The notice is also required to be included in the insurer's rate filing for the policy (which is not subject to approval by OIR).

The notice must be in a format established by rule by the Financial Services Commission. The information in the notice must be based on the statewide average premium for the bronze, silver, gold, or platinum level plan, whichever is applicable to the policy, and provide an estimate of specified effects of the following PPACA requirements:

- the dollar amount of the premium attributable to the impact of guaranteed issuance of coverage;
- the dollar amount of the premium attributable to fees, taxes, and assessments;
- for individual policies, the dollar amount of the premium increase or decrease attributable to the combined impact of the age and gender rating requirements of PPACA, shown for specified age brackets for males and females;
- the dollar amount attributable to the requirement to cover essential health benefits and to meet a required actuarial value, as compared to the statewide average premium for the policy that has the highest enrollment in the individual or small group market, whichever is applicable. (It is unclear if this is referring to the insurer's plan with the highest enrollment or to the entire market. This provision indicates that the notice must be sent only to individual and small group policyholders, but that limitation is also not clear.)

Preserving Status of Grandfathered Health Plans (Sections 3, 4, 6, and 10)

The bill makes changes that would allow or require insurers to take certain actions that would preserve the status of grandfathered health plans.

If a policy form covers both grandfathered health plans and nongrandfathered health plans, the bill allows an insurer to non-renew coverage only for all of the nongrandfathered health plans, subject to the requirement to provide at least 90 days notice and to offer each of those policyholders the option to purchase any other individual health insurance coverage offered by the insurer. The federal law[86] requiring guaranteed renewability of coverage, on which the Florida law was modeled as part of the 1997 act conforming to HIPPA, does not recognize this exception and this amendment to the Florida law may be preempted. However, it may also be

[86] 42 U.S.C. s. 300gg-2(c)(1)

argued that under federal law, the specific provisions of PPACA requiring preservation of existing coverage for grandfathered health plans allow for this exception.

The bill allows an exception to the current law that prohibits an insurer from filing for approval a new policy form providing benefits similar to a policy form that the insurer discontinues. The exception would be for a policy form that is discontinued because it does not comply with PPACA. An insurer that discontinues a form that does not comply with PPACA would not be prohibited by Florida law from filing or issuing a new policy form.

The bill requires that the claims experience for grandfathered health plans be separated from nongrandfathered health plans for rating purposes, which is also required by PPACA.

Dissolution of the Florida Comprehensive Health Association (Sections 7 and 9)

The bill requires the dissolution of the Florida Comprehensive Health Association (FCHA). Coverage for each FCHA policyholder would be terminated on June 30, 2014, or on the date that health insurance coverage is effective with another insurer, whichever is earlier. The FCHA would be required to assist each policyholder in obtaining health insurance coverage, including identification of insurers and HMOs offering coverage and other specified information. The FCHA would be required to provide a written notice to each policyholder by September 1, 2013, regarding termination of their coverage and information on how to obtain other coverage.

The bill specifies that by March 15, 2015, the FCHA must determine the final assessment to be collected from member insurers or, if surplus funds remain, the refund to be provided to insurers based on the same pro-rata formula. The bill specifies the actions the FCHA must take to dissolve the corporation by September 1, 2015, including transfer of all records to OIR as custodian. According to representatives of the FHCA, typical responsibilities would include providing copies of claims records to policyholders. The FCHA would be required to transfer any remaining funds (such as proceeds from the sale of assets) to the Chief Financial Officer for deposit in the General Revenue Fund.

All of the statutes that relate solely to the operations of the FHCA would be repealed, effective October 1, 2015, which is one month later than the September. 1, 2015, date that the FCHA must be dissolved.

Repeal of the Florida Health Insurance Plan (Section 8)

The bill repeals the statute that establishes the Florida Health Insurance Plan, which has never been implemented.

Definitions of "Small Employer" for Grandfathered and Nongrandfathered Health Plans (Section 10)

The bill provides two different definitions of "small employer" – one for grandfathered plans, which is the current law definition, and one for nongrandfathered plans, which is the same as the federal definition used for PPACA.

The effect of this change, for nongrandfathered plans only, is to apply state law requirements for small group coverage to small employers, as defined under PPACA, and no longer apply any state law for small group coverage to an employer who is not a small employer under the federal definition. That is, insurers who issue nongrandfathered coverage to sole proprietors, or to employers who have more than 50 employees but are considered a small employer under current Florida law (due to hours worked per week), or to any other employer that is not a small employer under federal law, would no longer be subject to any requirement of Florida law that applies to small group coverage. These employers would either be considered individual policyholders or large group policyholders under Florida law, as they are under PPACA, and be subject to Florida laws that apply to individual coverage or large group coverage.

Even though Florida law and PPACA will continue to have different requirements for individual, small group, and large group coverage, and determinations must be made as to which Florida laws are preempted, the additional complication of differing definitions of small employer will be eliminated for nongrandfathered policies. This will enable insurers to more easily comply with requirements of PPACA that are different for individual, small group, and large group policies, such as pooling of claims experience and MLR refunds, for nongrandfathered policies.

Grandfathered policies will continue to be subject to different definitions of small employer under state and federal law. Grandfathered policies are exempt from many of the PPACA insurance requirements, so current Florida small group coverage requirements would continue to apply to the same small employers, as currently defined, including those that are not small employers under federal law. However, some PPACA provisions apply to grandfathered policies, such as MLR refunds, and insurers will be required to use the federal definition of small employer for those provisions.

Use of Gender as a Rating Factor for Small Group Policies (Section 10)

The bill specifies that a small employer carrier is not required to use gender as a rating factor for nongrandfathered plans, which is prohibited under PPACA. The bill resolves this potential conflict in state law that may prevent application of PPACA's rating requirements.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is unknown to what extent health insurance premiums for individual and small group nongrandfathered health plans will be any greater, or possibly even lower, due to deleting the requirement for insurers to obtain approval of rate changes by OIR for such policies. Representatives of OIR have expressed concerns that due to lack of historical claims data, OIR will not be able to effectively challenge an insurer's determination of the effect of PPACA's requirements for guaranteed issue of coverage to all individuals and employers, to add coverage for essential health benefits, and increase benefits to required actuarial levels. But, it is unclear to what extent OIR has the ability or resources to engage expert consultants or otherwise rely on actuarial studies to challenge the reasonableness of an insurer's assumptions or the quality of their data.

The impact of not requiring OIR approval of a rate change may be mitigated by the requirement of PPACA that insurers file rate changes with HHS, subject to an HHS determination as to whether a rate increase over 10 percent is unreasonable. HHS does not have authority to disapprove the rate, but HHS posts that determination on its website and requires the insurer to post that determination on its website for 3 years. Also, the authority for the Exchange to take unreasonable rate changes into consideration when determining whether to make the health plan available through the Exchange may lessen the impact of not requiring OIR approval. Finally, PPACA requires insurers to provide refunds to policyholders if the minimum medical loss ratio is not met, which addresses an excessive rate after the fact, but may also prevent an insurer from making a rate change that it believes would require a refund.

Insurers issuing nongrandfathered health plans will be subject to the additional costs of preparing and providing the notice to policyholders of the impact of PPACA on premiums.

To the extent that the PCB allows insurers to take actions to preserve the status of grandfathered health plans, policyholders of such plans are less likely to be affected by the premium impact of changes that PPACA requires for nongrandfathered plans.

Conforming the definition of "small employer" to the federal definition, for nongrandfathered plans, should reduce administrative burdens for insurers in administering their policies. This change should not have any significant impact on the coverage for any individual or employer, given that coverage and rating requirements of PPACA will generally control over state law.

C. Government Sector Impact:

OIR will be authorized to perform additional duties to assist HHS in enforcing PPACA and required, with DFS, to prepare a report for their websites summarizing the notices from insurers of the impact of PPACA on health insurance premiums. A representative from OIR state that this can be done with existing resources.

For 2 years, OIR will not be required to approve or disapprove rate filings for nongrandfathered health plans. Representatives from OIR state that this will not reduce their need for current FTEs, given that major medical health insurance rate filings represent about 10 percent of the rate filings made, that rate filings will still be filed for approval for grandfathered health plans, and that the required filings (but not approval) for nongrandfathered plans will still need to be analyzed for determining the impact of PPACA on rates and to prepare for the time when rate approval is reenacted in 2 years.

The fiscal impact of authorizing the Division of Consumer Services to assist consumers with PPACA-related complaints has not been determined and depends, in part, on the extent to which DFS would be assisting consumers with such complaints under its current law responsibilities [s. 20.121 (2)(h)].

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 130 and 131
4 insert:
5 Section 3. Effective October 1, 2014, subsection (2) of
6 section 624.34, Florida Statutes, is amended to read:
7 624.34 Authority of Department of Law Enforcement to accept
8 fingerprints of, and exchange criminal history records with
9 respect to, certain persons.—
10 (2) The Department of Law Enforcement may accept
11 fingerprints of individuals who apply for a license as an agent,
12 customer representative, adjuster, service representative,

671196

navigator, or managing general agent or the fingerprints of the majority owner, sole proprietor, partners, officers, and directors of a corporation or other legal entity that applies for licensure with the department or office under ~~the provisions of~~ the Florida Insurance Code.

Section 4. Effective October 1, 2014, subsection (1) of section 626.022, Florida Statutes, is amended to read:

626.022 Scope of part.—

(1) This part applies ~~as~~ to insurance agents, service representatives, adjusters, navigators, and insurance agencies; ~~as~~ to any and all kinds of insurance; and ~~as~~ to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers, except that:

(a) It does not apply ~~as~~ to reinsurance, except that ss. 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss. 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-626.591, and ss. 626.601-626.711 shall apply ~~as~~ to reinsurance intermediaries as defined in s. 626.7492.

(b) The applicability of this chapter ~~as~~ to fraternal benefit societies shall be as provided in chapter 632.

(c) It does not apply to a bail bond agent, as defined in s. 648.25, except as provided in chapter 648 or chapter 903.

(d) It ~~This part~~ does not apply to a certified public accountant licensed under chapter 473 who is acting within the scope of the practice of public accounting, as defined in s. 473.302 if~~, provided that~~ the activities of the certified public accountant are limited to advising a client of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage needed, and if ~~provided that~~ the certified public

671196

42 accountant does not directly or indirectly receive or share in
43 any commission or referral fee.
44 Section 5. Effective October 1, 2014, subsection (9) of
45 section 626.207, Florida Statutes, is amended to read:
46 626.207 Disqualification of applicants and licensees;
47 penalties against licensees; rulemaking authority.—
48 (9) Section 112.011 does not apply to ~~any~~ applicants for
49 licensure under the Florida Insurance Code, including, but not
50 limited to, agents, agencies, adjusters, adjusting firms,
51 customer representatives, navigators, or managing general
52 agents.
53 Section 6. The Division of Law Revision and Information is
54 directed to create part XII of chapter 626, Florida Statutes,
55 consisting of s. 626.995, Florida Statutes, and to title that
56 part as "Navigators."
57 Section 7. Effective October 1, 2014, section 626.995,
58 Florida Statutes, is created to read:
59 626.995 Qualification and licensure of navigators.—
60 (1) All navigators must be licensed and have such licenses
61 renewed, continued, reinstated, or terminated as prescribed for
62 licensure or appointment under parts I and IV of this chapter.
63 Parts VIII and IX of this chapter also apply to navigators.
64 (2) DEFINITIONS.—As used in this section, the term:
65 (a) "Exchange" means an approved state, federal, or
66 partnership exchange operating in this state pursuant 42 U.S.C.
67 s. 18031.
68 (b) "Facilitate," with regard to the selection of a
69 qualified health plan, means providing assistance and
70 information to an individual regarding choices for enrollment in

671196

71 a qualified health plan available through an exchange.
72 (c) "Navigator" means an individual, as defined in 45
73 C.F.R. s. 155.20, who provides the services and performs the
74 duties of a navigator as set forth in 45 C.F.R. s. 155.210(e).
75 (d) "Qualified health plan" means a health plan as defined
76 in 45 C.F.R. s. 155.20 which has been approved to be offered
77 through an exchange.
78 (3) LICENSE REQUIRED.—
79 (a) An individual or entity may not act, offer to act, or
80 advertise any service as a navigator in this state unless
81 licensed as a navigator by the department pursuant to this
82 section.
83 (b) A navigator license may not be issued unless the
84 applicant establishes, to the satisfaction of the department,
85 that he or she has the background, experience, knowledge, and
86 competency that will enable him or her to deliver unbiased and
87 accurate information to individuals in this state seeking to
88 obtain affordable health insurance coverage through an exchange
89 and meets the license qualifications required under this
90 section.
91 (c) Each license application must be accompanied by a
92 nonrefundable $50 application filing fee.
93 (4) LICENSE QUALIFICATIONS.—An individual may not be
94 licensed as a navigator unless the individual meets all of the
95 following qualifications:
96 (a) Is at least 18 years of age.
97 (b) Has submitted a license application to the department
98 on a form approved by the department and provided such
99 information as the department deems necessary to determine the

671196

100 applicant's fitness to be licensed as a navigator in this state.
101 (c) Has been subjected to a criminal history and regulatory
102 background check following the submission fingerprints to the
103 department and is not disqualified as provided under part I of
104 this chapter.
105 (d) Has not committed any act that constitutes grounds for
106 refusal, suspension, or revocation as provided under part I of
107 this chapter.
108 (e) Has successfully completed a 10-hour classroom course,
109 satisfactory to the department, at a school or college or
110 extension division thereof, or other authorized course of study
111 approved by the department. Courses must include instruction on
112 the subject matter of health insurance plans, health maintenance
113 organizations, unauthorized entities engaging in the business of
114 insurance, the Patient Protection Affordable Care Act, Pub. L.
115 No. 111-152, the availability of premium tax credits under 26
116 U.S.C. s. 36B, cost-sharing reductions under 45 C.F.R s.
117 155.305, prohibitions against the unlicensed transaction of
118 insurance, and ethics.
119 (f) Has passed an examination authorized by the department.
120 (5) NAVIGATOR CONDUCT.—
121 (a) A navigator shall:
122 1. Facilitate the selection of a qualified health plan
123 through an exchange by providing factually accurate information
124 to an individual regarding qualified health plans, the
125 availability of premium tax credits under 26 U.S.C. s. 36B, and
126 cost sharing reductions under 45 C.F.R. s. 155.305;
127 2. Inform an individual that the insurance agent, insurance
128 company, or employer can provide information and assistance

671196

129 regarding coverage upon determining that an individual has
130 existing health insurance coverage purchased outside the
131 exchange; and
132 3. Indicate he or she is not permitted to recommend the
133 purchase of, give opinions about, or advise that any health plan
134 is superior to or worse than another health plan.
135 (b) A navigator may not:
136 1. Conduct activities that may only be performed by a
137 licensed insurance agent;
138 2. Solicit, negotiate, or sell health insurance;
139 3. Recommend the purchase of, give opinions about, or
140 advise that any health plan is superior to or worse than
141 another;
142 4. Violate the provisions of 42 U.S.C. s. 18031 or 45
143 C.F.R. part 155;
144 5. Receive compensation or anything of value from an
145 insurer, health plan, business, or consumer in connection with
146 performing activities of a navigator, other than from an entity
147 or individual who has received a navigator grant pursuant to 45
148 C.F.R. s. 155.210; or
149 6. Recommend or assist with the cancellation of coverage
150 purchased outside of the exchange.
151 (c) DISCIPLINARY ACTIONS.—The department may suspend,
152 revoke, or refuse to issue a navigator license or may fine or
153 place on probation a licensee for a violation of this section in
154 the same manner as prescribed under chapter 626 for insurance
155 representatives.
156 (6) DISCONTINUANCE OF LICENSE.—If 42 U.S.C. s. 18031 or 45
157 C.F.R. part 155 no longer authorizes an exchange to validly

671196

158 operate in this state or no longer requires navigators to assist
159 individuals, the department shall discontinue licensing
160 navigators under this section and existing licenses shall
161 automatically expire 30 days after notice is given to the
162 licensee.
163 (7) CONCURRENT LICENSURE PROHIBITED.—An individual may not
164 be concurrently licensed as a navigator and an insurance agent.
165 (8) RULES.—The department may adopt rules to administer
166 this section.
167
168 ========== T I T L E A M E N D M E N T ==========
169 And the title is amended as follows:
170 Delete line 18
171 and insert:
172 challenges under ch. 120, F.S.; amending ss. 624.34,
173 626.022, and 626.207, F.S.; conforming provisions to
174 changes made by this act with respect to the licensure
175 of navigators under the Florida Insurance Code;
176 providing a directive to the Division of Law Revision
177 and Information; creating s. 626.995, F.S.; providing
178 for the licensure of navigators; providing
179 definitions; providing license requirements and
180 qualifications; specifying licensure conduct;
181 providing for disciplinary actions; providing for the
182 discontinuance of the license; prohibiting concurrent
183 licensure as an insurance agent; authorizing the
184 Department of Financial Services to adopt rules;
185 amending s. 627.402,

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete line 142
4 and insert:
5 grandfathered health plan and does not provide the benefits or
6 coverages specified under s. 627.6561(5)(b) - (e).

352000

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 289 - 291
4 and insert:
5 subsection (6), or subsection (7).
6 (a) For each individual and small group nongrandfathered
7 health plan an insurer or

352008

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete line 311
4 and insert:
5 provided in the health insurance exchange established in this
6 state pursuant to PPACA affect the impact of guaranteed

271732

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete line 328
4 and insert:
5 the plan issued by that insurer or organization that has the
6 highest enrollment in the individual or

257656

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete line 346
4 and insert:
5 in s. 627.410(9). This subsection is repealed on March 1, 2015.

572796

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 391 - 392
4 and insert:
5 individual market, including inside and outside of the health
6 insurance exchange established in this state pursuant to PPACA
7 as defined in s. 627.402, a basic explanation of the levels of

856052

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 407 - 409
4 and insert:
5 (c) How to access coverage through the health insurance
6 exchange established for this state and the potential for

965632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 431 - 432
4 and insert:
5 (d) Transfer all records to the Department of Financial
6 Services, which shall serve as custodian of such records.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02756B-13 20137138__

A bill to be entitled

An act relating to health insurance; creating s. 624.25, F.S.; providing that a provision of the Florida Insurance Code applies unless it conflicts with a provision of the Patient Protection and Affordable Care Act (PPACA); creating s. 624.26, F.S.; authorizing the Office of Insurance Regulation to review forms and conduct market conduct examinations for compliance with PPACA and to report potential violations to the federal Department of Health and Human Services; authorizing the Division of Consumer Services of the Department of Financial Services to respond to complaints related to PPACA and to report violations to the office and the Department of Health and Human Services; providing that certain determinations by the office or the Department of Financial Services are not subject to certain challenges under ch. 120, F.S.; amending s. 627.402, F.S.; providing definitions for "grandfathered health plan," "nongrandfathered health plan," and "PPACA"; amending s. 627.410, F.S.; providing an exception to the prohibition against an insurer issuing a new policy form after discontinuing the availability of a similar policy form when the form does not comply with PPACA; requiring the experience of grandfathered health plans and nongrandfathered health plans to be separated; providing that nongrandfathered health plans are not subject to rate review or approval by the office; specifying that such rates for such health

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597-02756B-13 20137138__

plans must be filed with the office and are exempt from other specified rate requirements; requiring insurers and health maintenance organizations issuing such health plans to include a notice of the estimated impact of PPACA on monthly premiums with the first issuance or renewal of the policy; requiring the Financial Services Commission to adopt the notice format by rule; requiring the notice to be filed with the office for informational purposes; providing for the calculation of the estimated premium impact, which must be included in the notice; requiring the office, in consultation with the department, to develop a summary of the impact to be made available on their respective websites; providing for future repeal; amending s. 627.411, F.S.; providing that grounds for disapproval of rates do not apply to nongrandfathered health plans; providing for future repeal of this provision; amending s. 627.6425, F.S.; allowing an insurer to nonrenew coverage only for all nongrandfathered health plans under certain conditions; amending s. 627.6484, F.S.; providing that coverage for policyholders of the Florida Comprehensive Health Association terminates on a specified date; requiring the association to provide specified assistance to policyholders in obtaining other health insurance coverage; requiring the association to notify policyholders of termination of coverage and information on how to obtain other coverage; requiring the association to determine the

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59 amount of a final assessment or to refund any surplus
60 funds to member insurers, and to otherwise complete
61 program responsibilities; repealing s. 627.64872,
62 related to the Florida Health Insurance Plan;
63 providing for the future repeal of ss. 627.648,
64 627.6482, 627.6484, 627.6486, 627.6488, 627.6489,
65 627.649, 627.6492, 627.6494, 627.6496, 627.6498, and
66 627.6499, F.S., relating to the Florida Comprehensive
67 Health Association; amending s. 627.6571, F.S.;
68 allowing an insurer to nonrenew coverage only for all
69 nongrandfathered health plans under certain
70 conditions; amending s. 627.6699, F.S.; adding and
71 revising definitions used in the Employee Health Care
72 Access Act; providing that a small employer carrier is
73 not required to use gender as a rating factor for a
74 nongrandfathered health plan; requiring carriers to
75 separate the experience of grandfathered health plans
76 and nongrandfathered health plans for determining
77 rates; amending s. 641.31, F.S.; providing that
78 nongrandfathered health plans are not subject to rate
79 review or approval by the office; providing for future
80 repeal of this provision; providing effective dates.
81
82 Be It Enacted by the Legislature of the State of Florida:
83
84 Section 1. Section 624.25, Florida Statutes, is created to
85 read:
86 624.25 Patient Protection and Affordable Care Act.—A
87 provision of the Florida Insurance Code, or rule adopted

88 pursuant to the code, applies unless such provision or rule
89 prevents the application of a provision of PPACA. As used in
90 this section, the term "PPACA" has the same meaning as provided
91 in s. 627.402.
92 Section 2. Section 624.26, Florida Statutes, is created to
93 read:
94 624.26 Collaborative arrangement with the Department of
95 Health and Human Services.—
96 (1) As used in this section, the term "PPACA" has the same
97 meaning as provided in s. 627.402.
98 (2) When reviewing forms filed by health insurers or health
99 maintenance organizations pursuant to s. 627.410 or s. 641.31(3)
100 for compliance with state law, the office may also review such
101 forms for compliance with PPACA. If the office determines that a
102 form does not comply with PPACA, the office shall inform the
103 insurer or organization of the reason for noncompliance. If the
104 office determines that a form ultimately used by an insurer or
105 organization does not comply with PPACA, the office may report
106 such potential violation to the federal Department of Health and
107 Human Services. The review of forms by the office under this
108 subsection does not include review of the rates, rating
109 practices, or the relationship of benefits to the rates.
110 (3) When performing market conduct examinations or
111 investigations of health insurers or health maintenance
112 organizations as authorized under s. 624.307, s. 624.3161, or s.
113 641.3905 for compliance with state law, the office may include
114 compliance with PPACA within the scope of such examination or
115 investigation. If the office determines that an insurer's or
116 organization's operations do not comply with PPACA, the office

117 shall inform the insurer or organization of the reason for such
118 determination. If the insurer or organization does not take
119 action to comply with PPACA, the office may report such
120 potential violation to the federal Department of Health and
121 Human Resources.
122 (4) The department's Division of Consumer Services may
123 respond to complaints by consumers relating to a requirement of
124 PPACA as authorized under s. 20.121(2)(h), and report apparent
125 or potential violations to the office and to the federal
126 Department of Health and Human Services.
127 (5) A determination made by the office or department
128 pursuant to this section regarding compliance with PPACA does
129 not constitute a determination that affects the substantial
130 interests of any party for purposes of chapter 120.
131 Section 3. Section 627.402, Florida Statutes, is amended to
132 read:
133 627.402 Definitions~~; specified certificates not included~~.—
134 As used in this part, the term:
135 (1) "Grandfathered health plan" has the same meaning as
136 provided in 42 U.S.C. s. 18011, subject to the conditions for
137 maintaining status as a grandfathered health plan specified in
138 regulations adopted by the federal Department of Health and
139 Human Services in 45 C.F.R. s. 147.140.
140 (2) "Nongrandfathered health plan" is a health insurance
141 policy or health maintenance organization contract that is not a
142 grandfathered health plan.
143 (3)~~(1)~~ "Policy" means a written contract of insurance or
144 written agreement for or effecting insurance, or the certificate
145 thereof, by whatever name called, and includes all clauses,

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146 riders, endorsements, and papers that ~~which~~ are a part thereof.
147 ~~(2)~~ The term ~~word~~ "certificate" as used in this subsection
148 ~~section~~ does not include certificates as to group life or health
149 insurance or as to group annuities issued to individual
150 insureds.
151 (4) "PPACA" means the Patient Protection and Affordable
152 Care Act, Pub. L. No. 111-148, as amended by the Health Care and
153 Education Reconciliation Act of 2010, Pub. L. No. 111-152, and
154 regulations adopted pursuant to those acts.
155 Section 4. Subsections (2), (6), and (7) of section
156 627.410, Florida Statutes, are amended, and subsection (9) is
157 added to that section, to read:
158 627.410 Filing, approval of forms.—
159 (2) Every such filing must be made at least ~~not less than~~
160 30 days in advance of any such use or delivery. At the
161 expiration of the ~~such~~ 30 days, the form ~~so~~ filed will be deemed
162 approved unless prior thereto it has been affirmatively approved
163 or disapproved by order of the office. The approval of ~~any~~ such
164 form by the office constitutes a waiver of any unexpired portion
165 of such waiting period. The office may extend ~~by not more than~~
166 ~~an additional 15 days~~ the period within which it may ~~so~~
167 affirmatively approve or disapprove ~~any~~ such form by up to 15
168 days~~,~~ by giving notice of such extension before expiration of
169 the initial 30-day period. At the expiration of ~~any~~ such
170 extended period ~~as so extended~~, and in the absence of ~~such~~ prior
171 affirmative approval or disapproval, ~~any~~ such form shall be
172 deemed approved.
173 (6)(a) An insurer may ~~shall~~ not deliver, ~~or~~ issue for
174 delivery, or renew in this state any health insurance policy

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175 form until it has filed with the office a copy of every
176 applicable rating manual, rating schedule, change in rating
177 manual, and change in rating schedule; if rating manuals and
178 rating schedules are not applicable, the insurer must file with
179 the office applicable premium rates and any change in applicable
180 premium rates. This paragraph does not apply to group health
181 insurance policies, effectuated and delivered in this state,
182 insuring groups of 51 or more persons, except for Medicare
183 supplement insurance, long-term care insurance, and any coverage
184 under which the increase in claim costs over the lifetime of the
185 contract due to advancing age or duration is prefunded in the
186 premium.
187 (b) The commission may establish by rule, for each type of
188 health insurance form, procedures to be used in ascertaining the
189 reasonableness of benefits in relation to premium rates and may,
190 by rule, exempt from any requirement of paragraph (a) any health
191 insurance policy form or type thereof, ~~(~~as specified in such
192 rule, ~~)~~ to which form or type such requirements may not be
193 practically applied or to which form or type the application of
194 such requirements is not desirable or necessary for the
195 protection of the public. With respect to any health insurance
196 policy form or type thereof which is exempted by rule from any
197 requirement of paragraph (a), premium rates filed pursuant to
198 ss. 627.640 and 627.662 are ~~shall be~~ for informational purposes.
199 (c) Every filing made pursuant to this subsection shall be
200 made within the same time period ~~provided in~~, and shall be
201 deemed to be approved under the same conditions, as ~~those~~
202 provided in~~,~~ subsection (2).
203 (d) Every filing made pursuant to this subsection, except

204 disability income policies and accidental death policies, are
205 ~~shall be~~ prohibited from applying the following rating
206 practices:
207 1. Select and ultimate premium schedules.
208 2. Premium class definitions that ~~which~~ classify insured
209 based on year of issue or duration since issue.
210 3. Attained age premium structures on policy forms under
211 which more than 50 percent of the policies are issued to persons
212 age 65 or over.
213 (e) Except as provided in subparagraph 1., an insurer shall
214 continue to make available for purchase any individual policy
215 form issued on or after October 1, 1993. A policy form is ~~shall~~
216 not ~~be~~ considered to be available for purchase unless the
217 insurer has actively offered it for sale during ~~in~~ the previous
218 12 months.
219 1. An insurer may discontinue the availability of a policy
220 form if the insurer provides its decision to the office in
221 writing ~~its decision~~ at least 30 days before ~~prior to~~
222 discontinuing the availability of the form of the policy or
223 certificate. After receipt of the notice by the office, the
224 insurer may ~~shall~~ no longer offer ~~for sale~~ the policy form or
225 certificate form for sale in this state.
226 2. An insurer that discontinues the availability of a
227 policy form pursuant to subparagraph 1. may ~~shall~~ not file for
228 approval a new policy form providing ~~similar~~ benefits similar to
229 ~~as~~ the discontinued form for ~~a period of~~ 5 years after the
230 insurer provides notice to the office of the discontinuance. The
231 period of discontinuance may be reduced if the office determines
232 that a shorter period is appropriate. The requirements of this

233 subparagraph do not apply to the discontinuance of a policy form
234 because it does not comply with PPACA.
235 3. The experience of all policy forms providing similar
236 benefits shall be combined for all rating purposes, except that
237 the experience of grandfathered health plans and
238 nongrandfathered health plans shall be separated.
239 (7)~~(a)~~ Each insurer subject to ~~the requirements of~~
240 subsection (6) shall make an annual filing with the office
241 within ~~no later than~~ 12 months after its previous filing,
242 demonstrating the reasonableness of benefits in relation to
243 premium rates. ~~The office,~~ After receiving a request to be
244 exempted from the provisions of this section, the office may,
245 for good cause due to insignificant numbers of policies in force
246 or insignificant premium volume, exempt a company, by line of
247 coverage, from filing rates or rate certification as required by
248 this section.
249 (a)~~(b)~~ The filing ~~required by this subsection~~ shall be
250 satisfied by one of the following methods:
251 1. A rate filing prepared by an actuary which contains
252 documentation demonstrating the reasonableness of benefits in
253 relation to premiums charged in accordance with the applicable
254 rating laws and rules adopted ~~promulgated~~ by the commission.
255 2. If no rate change is proposed, a filing that ~~which~~
256 consists of a certification by an actuary that benefits are
257 reasonable in relation to premiums currently charged in
258 accordance with applicable laws and rules promulgated by the
259 commission.
260 (b)~~(c)~~ As used in this section, the term "actuary" means an
261 individual who is a member of the Society of Actuaries or the

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262 American Academy of Actuaries. If an insurer does not employ or
263 otherwise retain the services of an actuary, the insurer's
264 certification shall be prepared by insurer personnel or
265 consultants who have ~~with~~ a minimum of 5 years' experience in
266 insurance ratemaking. The chief executive officer of the insurer
267 shall review and sign the certification indicating his or her
268 agreement with its conclusions.
269 (c)~~(d)~~ If at the time a filing is required ~~under this~~
270 ~~section~~ an insurer is in the process of completing a rate
271 review, the insurer may apply to the office for an extension of
272 up to an additional 30 days in which to make the filing. The
273 request for extension must be received by the office by ~~no later~~
274 ~~than~~ the date the filing is due.
275 (d)~~(e)~~ If an insurer fails to meet the filing requirements
276 of this subsection and does not submit the filing within 60 days
277 after ~~following~~ the date the filing is due, the office may, in
278 addition to any other penalty authorized by law, order the
279 insurer to discontinue the issuance of policies for which the
280 required filing was not made~~,~~ until such time as the office
281 determines that the required filing is properly submitted.
282 (9) For plan years 2014 and 2015, nongrandfathered health
283 plans for the individual or small group market are not subject
284 to rate review or approval by the office. An insurer or health
285 maintenance organization issuing or renewing such health plans
286 shall file rates and any change in rates with the office as
287 required by paragraph (6)(a), but the filing and rates are not
288 subject to subsection (2), paragraphs (b), (c), or (d) of
289 subsection (6), or subsection (7). The filing shall also include
290 the notice to policyholders required under this subsection.

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291 (a) For each nongrandfathered health plan, an insurer or
292 health maintenance organization shall include a notice
293 describing or illustrating the estimated impact of PPACA on
294 monthly premiums with the delivery of the policy or contract or,
295 upon renewal, the premium renewal notice. The notice must be in
296 a format established by rule of the commission. All notices
297 shall be submitted to the office for informational purposes by
298 September 1, 2013. The notice is required only for the first
299 issuance or renewal of the policy or contract on or after
300 January 1, 2014.
301 (b) The information provided in the notice shall be based
302 on the statewide average premium for the policy or contract for
303 the bronze, silver, gold, or platinum level plan, whichever is
304 applicable to the policy or contract, and provide an estimate of
305 the following effects of PPACA requirements:
306 1. The dollar amount of the premium which is attributable
307 to the impact of guaranteed issuance of coverage. This estimate
308 must include, but is not required to itemize, the impact of the
309 requirement that rates be based on factors unrelated to health
310 status, how the individual coverage mandate and subsidies
311 provided in the exchange affect the impact of guaranteed
312 issuance of coverage, and estimated reinsurance credits.
313 2. The dollar amount of the premium which is attributable
314 to fees, taxes, and assessments.
315 3. For individual policies or contracts, the dollar amount
316 of the premium increase or decrease from the premium that would
317 have otherwise been due which is attributable to the combined
318 impact of the requirement that rates for age be limited to a 3-
319 to-1 ratio and the prohibition against using gender as a rating

320 factor. This estimate must be displayed for the average rates
321 for male and female insureds, respectively, for the following
322 three age categories: age 21 years to 29 years, age 30 years to
323 54 years, and age 55 years to 64 years.
324 4. The dollar amount which is attributable to the
325 requirement that essential health benefits be provided and to
326 meet the required actuarial value for the product, as compared
327 to the statewide average premium for the policy or contract for
328 the plan that has the highest enrollment in the individual or
329 small group market on July 1, 2013, whichever is applicable. The
330 statewide average premiums for the plan that has the highest
331 enrollment must include all policyholders, including those that
332 have health conditions that increase the standard premium.
333 (c) The office, in consultation with the department, shall
334 develop a summary of the estimated impact of PPACA on monthly
335 premiums as contained in the notices submitted by insurers and
336 health maintenance organizations, which must be available on the
337 respective websites of the office and department by October 1,
338 2013.
339 (d) This subsection is repealed on March 1, 2015.
340 Section 5. Subsection (4) is added to section 627.411,
341 Florida Statutes, to read:
342 627.411 Grounds for disapproval.—
343 (4) The provisions of this section which apply to rates,
344 rating practices, or the relationship of benefits to the premium
345 charged do not apply to nongrandfathered health plans described
346 in s. 627.410(9). This subsection is repealed on July 1, 2015.
347 Section 6. Paragraph (a) of subsection (3) of section
348 627.6425, Florida Statutes, is amended to read:

349 627.6425 Renewability of individual coverage.—
350 (3)(a) If ~~In any case in which~~ an insurer decides to
351 discontinue offering a particular policy form for health
352 insurance coverage offered in the individual market, coverage
353 under such form may be discontinued by the insurer only if:
354 1. The insurer provides notice to each covered individual
355 provided coverage under this policy form in the individual
356 market of such discontinuation at least 90 days before ~~prior to~~
357 the date of the nonrenewal of such coverage;
358 2. The insurer offers to each individual in the individual
359 market provided coverage under this policy form the option to
360 purchase any other individual health insurance coverage
361 currently being offered by the insurer for individuals in such
362 market in the state; and
363 3. In exercising the option to discontinue coverage of a
364 ~~this~~ policy form and in offering the option of coverage under
365 subparagraph 2., the insurer acts uniformly without regard to
366 any health-status-related factor of enrolled individuals or
367 individuals who may become eligible for such coverage. If a
368 policy form covers both grandfathered and nongrandfathered
369 health plans, an insurer may nonrenew coverage only for the
370 nongrandfathered health plans, in which case the requirements of
371 subparagraphs 1. and 2. apply only to the nongrandfathered
372 health plans. As used in this subparagraph, the terms
373 "grandfathered health plan" and "nongrandfathered health plan"
374 have the same meaning as provided in s. 627.402.
375 Section 7. Section 627.6484, Florida Statutes, is amended
376 to read:
377 627.6484 Dissolution of association; termination of

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378 enrollment; availability of other coverage.—
379 (1) The association shall accept applications for insurance
380 only until June 30, 1991, after which date no further
381 applications may be accepted.
382 (2) Coverage for each policyholder of the association
383 terminates at midnight, June 30, 2014, or on the date that
384 health insurance coverage is effective with another insurer,
385 whichever occurs first, and such terminated coverage may not be
386 renewed.
387 (3) The association must provide assistance to each
388 policyholder concerning how to obtain health insurance coverage.
389 Such assistance must include the identification of insurers and
390 health maintenance organizations offering coverage in the
391 individual market, including inside and outside of the Health
392 Insurance Exchange, a basic explanation of the levels of
393 coverage available, and specific information relating to local
394 and online sources from which a policyholder may obtain detailed
395 policy and premium comparisons and directly obtain coverage.
396 (4) The association shall provide written notice to all
397 policyholders by September 1, 2013, which informs each
398 policyholder with respect to:
399 (a) The date that coverage with the association is
400 terminated and that such coverage may not be renewed.
401 (b) The opportunity for the policyholder to obtain
402 individual health insurance coverage on a guaranteed-issue
403 basis, regardless of the policyholder's health status, from any
404 health insurer or health maintenance organization that offers
405 coverage in the individual market, including the dates of open
406 enrollment periods for obtaining such coverage.

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407 (c) How to access coverage through the Health Insurance
408 Exchange established for this state pursuant to the Patient
409 Protection and Affordable Care Act and the potential for
410 obtaining reduced premiums and cost-sharing provisions depending
411 on the policyholder's family income level.
412 (d) Contact information for a representative of the
413 association who is able to provide additional information about
414 obtaining individual health insurance coverage both inside and
415 outside of the Health Insurance Exchange.
416 (5) After termination of coverage, the association must
417 continue to receive and process timely submitted claims in
418 accordance with the laws of this state.
419 (6) By March 15, 2015, the association must determine the
420 final assessment to be collected from insurers for funding
421 claims and administrative expenses of the association or, if
422 surplus funds remain, determine the refund amount to be provided
423 to each insurer based on the same pro rata formula used in
424 determining each insurer's assessment.
425 (7) By September 1, 2015, the board must:
426 (a) Complete performance of all program responsibilities.
427 (b) Sell or otherwise dispose of all physical assets of the
428 association.
429 (c) Make a final accounting of the finances of the
430 association.
431 (d) Transfer all records to the Office of Insurance
432 Regulation, which shall serve as custodian of such records.
433 (e) Execute a legal dissolution of the association and
434 report such action to the Chief Financial Officer, the Insurance
435 Commissioner, the President of the Senate, and the Speaker of

436 the House of Representatives. ~~Upon receipt of an application for~~
437 ~~insurance, the association shall issue coverage for an eligible~~
438 ~~applicant. When appropriate, the administrator shall forward a~~
439 ~~copy of the application to a market assistance plan created by~~
440 ~~the office, which shall conduct a diligent search of the private~~
441 ~~marketplace for a carrier willing to accept the application.~~
442 ~~(2) The office shall, after consultation with the health~~
443 ~~insurers licensed in this state, adopt a market assistance plan~~
444 ~~to assist in the placement of risks of Florida Comprehensive~~
445 ~~Health Association applicants. All health insurers and health~~
446 ~~maintenance organizations licensed in this state shall~~
447 ~~participate in the plan.~~
448 ~~(3) Guidelines for the use of such program shall be a part~~
449 ~~of the association's plan of operation. The guidelines shall~~
450 ~~describe which types of applications are to be exempt from~~
451 ~~submission to the market assistance plan. An exemption shall be~~
452 ~~based upon a determination that due to a specific health~~
453 ~~condition an applicant is ineligible for coverage in the~~
454 ~~standard market. The guidelines shall also describe how the~~
455 ~~market assistance plan is to be conducted, and how the periodic~~
456 ~~reviews to depopulate the association are to be conducted.~~
457 ~~(4) If a carrier is found through the market assistance~~
458 ~~plan, the individual shall apply to that company. If the~~
459 ~~individual's application is accepted, association coverage shall~~
460 ~~terminate upon the effective date of the coverage with the~~
461 ~~private carrier. For the purpose of applying a preexisting~~
462 ~~condition limitation or exclusion, any carrier accepting a risk~~
463 ~~pursuant to this section shall provide coverage as if it began~~
464 ~~on the date coverage was effectuated on behalf of the~~

465 ~~association, and shall be indemnified by the association for~~
466 ~~claims costs incurred as a result of utilizing such effective~~
467 ~~date.~~
468 ~~(5) The association shall establish a policyholder~~
469 ~~assistance program by July 1, 1991, to assist in placing~~
470 ~~eligible policyholders in other coverage programs, including~~
471 ~~Medicare and Medicaid.~~
472 Section 8. Section 627.64872, Florida Statutes, is
473 repealed.
474 Section 9. Effective October 1, 2015, sections 627.648,
475 627.6482, 627.6484, 627.6486, 627.6488, 627.6489, 627.649,
476 627.6492, 627.6494, 627.6496, 627.6498, and 627.6499, Florida
477 Statutes, are repealed.
478 Section 10. Paragraph (a) of subsection (3) of section
479 627.6571, Florida Statutes, is amended to read:
480 627.6571 Guaranteed renewability of coverage.—
481 (3)(a) An insurer may discontinue offering a particular
482 policy form of group health insurance coverage offered in the
483 small-group market or large-group market only if:
484 1. The insurer provides notice to each policyholder
485 provided coverage under ~~of~~ this policy form ~~in such market~~, and
486 to participants and beneficiaries covered under such coverage,
487 of such discontinuation at least 90 days before ~~prior to~~ the
488 date of the nonrenewal of such coverage;
489 2. The insurer offers to each policyholder provided
490 coverage under ~~of~~ this policy form ~~in such market~~ the option to
491 purchase all, or in the case of the large-group market, any
492 other health insurance coverage currently being offered by the
493 insurer in such market; and

494 3. In exercising the option to discontinue coverage of this
495 form and in offering the option of coverage under subparagraph
496 2., the insurer acts uniformly without regard to the claims
497 experience of those policyholders or any health-status-related
498 factor that relates to any participants or beneficiaries covered
499 or new participants or beneficiaries who may become eligible for
500 such coverage. If a policy form covers both grandfathered and
501 nongrandfathered health plans, an insurer may nonrenew coverage
502 only for nongrandfathered health plans, in which case the
503 requirements of subparagraphs 1. and 2. apply only to the
504 nongrandfathered health plans. As used in this subparagraph, the
505 terms "grandfathered health plan" and "nongrandfathered health
506 plan" have the same meanings as provided in s. 627.402.
507 Section 11. Paragraphs (j) through (w) of subsection (3) of
508 section 627.6699, Florida Statutes, are redesignated as
509 paragraphs (k) through (x), respectively, a new paragraph (j) is
510 added to that subsection, present paragraphs (v) and (w) of that
511 subsection are amended, and paragraph (b) of subsection (6) is
512 amended, to read:
513 627.6699 Employee Health Care Access Act.—
514 (3) DEFINITIONS.—As used in this section, the term:
515 (j) "Grandfathered health plan" and "nongrandfathered
516 health plan" have the same meaning as provided in s. 627.402.
517 (w) ~~(v)~~ "Small employer" means, in connection with a health
518 benefit plan with respect to a calendar year and a plan year:~~,~~
519 1. For a grandfathered health plan, any person, sole
520 proprietor, self-employed individual, independent contractor,
521 firm, corporation, partnership, or association that is actively
522 engaged in business, has its principal place of business in this

523 state, employed an average of at least 1 but not more than 50
524 eligible employees on business days during the preceding
525 calendar year, the majority of whom were employed in this state,
526 employs at least 1 employee on the first day of the plan year,
527 and is not formed primarily for purposes of purchasing
528 insurance. In determining the number of ~~eligible~~ employees,
529 companies that are an affiliated group as defined in s. 1504(a)
530 of the Internal Revenue Code of 1986, as amended, are considered
531 a single employer. For purposes of this section, a sole
532 proprietor, an independent contractor, or a self-employed
533 individual is considered a small employer only if all of the
534 conditions and criteria established in this section are met.
535 2. For a nongrandfathered health plan, any employer that
536 has its principal place of business in this state, employed an
537 average of at least 1 but not more than 50 employees on business
538 days during the preceding calendar year, and employs at least 1
539 employee on the first day of the plan year. As used in this
540 subparagraph, the terms "employee" and "employer" have the same
541 meaning as provided in s. 3 of the Employee Retirement Income
542 Security Act of 1974, as amended, 29 U.S.C. 1002.
543 (x) ~~(w)~~ "Small employer carrier" means a carrier that offers
544 health benefit plans covering ~~eligible~~ employees of one or more
545 small employers.
546 (6) RESTRICTIONS RELATING TO PREMIUM RATES.—
547 (b) For all small employer health benefit plans that are
548 subject to this section and ~~are~~ issued by small employer
549 carriers on or after January 1, 1994, premium rates for health
550 benefit plans ~~subject to this section~~ are subject to the
551 following:

552 1. Small employer carriers must use a modified community
553 rating methodology in which the premium for each small employer
554 is ~~must be~~ determined solely on the basis of the eligible
555 employee's and eligible dependent's gender, age, family
556 composition, tobacco use, or geographic area as determined under
557 paragraph (5)(j) and in which the premium may be adjusted as
558 permitted by this paragraph. A small employer carrier is not
559 required to use gender as a rating factor for a nongrandfathered
560 health plan.
561 2. Rating factors related to age, gender, family
562 composition, tobacco use, or geographic location may be
563 developed by each carrier to reflect the carrier's experience.
564 The factors used by carriers are subject to office review and
565 approval.
566 3. Small employer carriers may not modify the rate for a
567 small employer for 12 months from the initial issue date or
568 renewal date, unless the composition of the group changes or
569 benefits are changed. However, a small employer carrier may
570 modify the rate one time within the ~~prior to~~ 12 months after the
571 initial issue date for a small employer who enrolls under a
572 previously issued group policy that has a common anniversary
573 date for all employers covered under the policy if:
574 a. The carrier discloses to the employer in a clear and
575 conspicuous manner the date of the first renewal and the fact
576 that the premium may increase on or after that date.
577 b. The insurer demonstrates to the office that efficiencies
578 in administration are achieved and reflected in the rates
579 charged to small employers covered under the policy.
580 4. A carrier may issue a group health insurance policy to a

581 small employer health alliance or other group association with
582 rates that reflect a premium credit for expense savings
583 attributable to administrative activities being performed by the
584 alliance or group association if such expense savings are
585 specifically documented in the insurer's rate filing and are
586 approved by the office. Any such credit may not be based on
587 different morbidity assumptions or on any other factor related
588 to the health status or claims experience of any person covered
589 under the policy. ~~Nothing in~~ This subparagraph does not exempt
590 ~~exempts~~ an alliance or group association from licensure for ~~any~~
591 activities that require licensure under the insurance code. A
592 carrier issuing a group health insurance policy to a small
593 employer health alliance or other group association shall allow
594 any properly licensed and appointed agent of that carrier to
595 market and sell the small employer health alliance or other
596 group association policy. Such agent shall be paid the usual and
597 customary commission paid to any agent selling the policy.
598 5. Any adjustments in rates for claims experience, health
599 status, or duration of coverage may not be charged to individual
600 employees or dependents. For a small employer's policy, such
601 adjustments may not result in a rate for the small employer
602 which deviates more than 15 percent from the carrier's approved
603 rate. Any such adjustment must be applied uniformly to the rates
604 charged for all employees and dependents of the small employer.
605 A small employer carrier may make an adjustment to a small
606 employer's renewal premium, up to ~~not to exceed~~ 10 percent
607 annually, due to the claims experience, health status, or
608 duration of coverage of the employees or dependents of the small
609 employer. Semiannually, small group carriers shall report

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610 information on forms adopted by rule by the commission, to
611 enable the office to monitor the relationship of aggregate
612 adjusted premiums actually charged policyholders by each carrier
613 to the premiums that would have been charged by application of
614 the carrier's approved modified community rates. If the
615 aggregate resulting from the application of such adjustment
616 exceeds the premium that would have been charged by application
617 of the approved modified community rate by 4 percent for the
618 current reporting period, the carrier shall limit the
619 application of such adjustments only to minus adjustments
620 beginning within ~~not more than~~ 60 days after the report is sent
621 to the office. For any subsequent reporting period, if the total
622 aggregate adjusted premium actually charged does not exceed the
623 premium that would have been charged by application of the
624 approved modified community rate by 4 percent, the carrier may
625 apply both plus and minus adjustments. A small employer carrier
626 may provide a credit to a small employer's premium based on
627 administrative and acquisition expense differences resulting
628 from the size of the group. Group size administrative and
629 acquisition expense factors may be developed by each carrier to
630 reflect the carrier's experience and are subject to office
631 review and approval.
632 6. A small employer carrier rating methodology may include
633 separate rating categories for one dependent child, for two
634 dependent children, and for three or more dependent children for
635 family coverage of employees having a spouse and dependent
636 children or employees having dependent children only. A small
637 employer carrier may have fewer, but not greater, numbers of
638 categories for dependent children than those specified in this

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639 subparagraph.
640 7. Small employer carriers may not use a composite rating
641 methodology to rate a small employer with fewer than 10
642 employees. For the purposes of this subparagraph, the term ~~a~~
643 "composite rating methodology" means a rating methodology that
644 averages the impact of the rating factors for age and gender in
645 the premiums charged to all of the employees of a small
646 employer.
647 8.~~a.~~ A carrier may separate the experience of small
648 employer groups with fewer ~~less~~ than 2 eligible employees from
649 the experience of small employer groups with 2-50 eligible
650 employees for purposes of determining an alternative modified
651 community rating.
652 a.~~b.~~ If a carrier separates the experience of small
653 employer groups ~~as provided in sub-subparagraph a.~~, the rate to
654 be charged to small employer groups of fewer ~~less~~ than 2
655 eligible employees may not exceed 150 percent of the rate
656 determined for small employer groups of 2-50 eligible employees.
657 However, the carrier may charge excess losses of the experience
658 pool consisting of small employer groups with less than 2
659 eligible employees to the experience pool consisting of small
660 employer groups with 2-50 eligible employees so that all losses
661 are allocated and the 150-percent rate limit on the experience
662 pool consisting of small employer groups with less than 2
663 eligible employees is maintained.
664 b. Notwithstanding s. 627.411(1), the rate to be charged to
665 a small employer group of fewer than 2 eligible employees,
666 insured as of July 1, 2002, may be up to 125 percent of the rate
667 determined for small employer groups of 2-50 eligible employees

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668 for the first annual renewal and 150 percent for subsequent
669 annual renewals.
670 9. A carrier shall separate the experience of grandfathered
671 health plans from nongrandfathered health plans for determining
672 rates.
673 Section 12. Paragraph (f) is added to subsection (3) of
674 section 641.31, Florida Statutes, to read:
675 641.31 Health maintenance contracts.—
676 (3)
677 (f)1. For plan years 2014 and 2015, nongrandfathered health
678 plans for the individual or small group market are not subject
679 to rate review or approval by the office. A health maintenance
680 organization that issues or renews a nongrandfathered health
681 plan is subject to s. 627.410(9). As used in this paragraph, the
682 terms "PPACA" and "nongrandfathered health plan" have the same
683 meanings as those terms are defined in s. 627.402.
684 2. This paragraph is repealed effective March 1, 2015.
685 Section 13. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2/2013
Meeting Date

Topic _____

Bill Number 7138 *(if applicable)*

Name Tim Meenan

Amendment Barcode 671196 *(if applicable)*

Job Title _____

Address 204 S. Monroe St.
Street

Tallahassee FL 32312
City *State* *Zip*

Phone 850-681-670

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Speaking: ☐ For ☐ Against ☐ Information

Representing National Association of Insurance Advisors

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1262

INTRODUCER: Senator Hays

SUBJECT: Florida Hurricane Catastrophe Fund

DATE: March 11, 2013 REVISED: 3/16/2013

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Pre-meeting**
2.			AP	
3.				
4.				
5.				
6.				

I. Summary:

SB 1262 reduces the Florida Hurricane Catastrophe Fund (Cat Fund) coverage limits and maximum reimbursement percentage, and eliminates the Temporary Increase in Coverage Limit option after the conclusion of the 2012-2013 Cat Fund contract year. The bill is designed to reduce the overall financial obligations of the fund, reducing the likelihood and amount of bonding and emergency assessments needed to fund deficits in the event the Fund experiences a shortfall after a major hurricane. The major proposed changes are summarized as follows:

Phases in annual decreases of the $17 billion Cat Fund mandatory coverage limit beginning in the 2013-2014 contract year as follows:

- For the 2013-2014 contract year, $16 billion.
- For the 2014-2015 contract year, $15 billion.
- For the 2015-2016 contract year and thereafter, $14 billion.

Reduces the maximum reimbursement amount from 90 percent to the following percentages:

- For the 2013-2014 contract year, 85 percent.
- For the 2014-2015 contract year, 80 percent.
- For the 2015-2016 contract year and thereafter, 75 percent.

The bill eliminates the $2 billion Temporary Increase in Coverage Limit (TICL) optional coverage layer for the 2013-2014 contract year. The State Board of Administration is required to adopt revised or amended rules and forms, or addenda thereto, necessary to ensure that the

statutory changes made by SB 1262 apply to each participating insurer's Cat Fund reimbursement contract for the 2013-2014 contract year that begins on June 1, 2013.

The bill deletes a prohibition against insurers recouping reinsurance costs that duplicate coverage provided by the Cat Fund.

The effective date of the bill is July 1, 2013.

This bill amends the following sections of the Florida Statutes: 215.555, 624.424, 627.062, 627.0629, and 627.351.

II. Present Situation:

The Florida Hurricane Catastrophe Fund (Cat Fund)

The Cat Fund is a tax-exempt fund created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers. The Cat Fund is administered by the State Board of Administration (SBA) and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention (deductible).The Cat Fund provides insurers an additional source of reinsurance that is significantly less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. Because of the low cost of coverage from the Cat Fund, the fund acts to lower residential property insurance premiums for consumers. The Cat Fund must charge insurers the actuarially indicated premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.

Cat Fund Mandatory Coverage

All insurers that write residential property insurance in Florida are required to buy reimbursement coverage (reinsurance) on their residential property exposure through the Cat Fund. The Cat Fund is authorized by statute to sell $17 billion of mandatory layer coverage. Each insurer that purchases coverage may receive up to its proportional share of the $17 billion mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. For example, if an insurer paid 10 percent of the total premium paid in a contract-year, then that insurer would be eligible to receive up to 10 percent of the mandatory layer of coverage ($1.7 billion of the $17 billion mandatory layer).

Insurers that experience multiple hurricanes causing loss during the contract year may receive reimbursement from the Cat Fund for losses that exceed the applicable retention. The insurer's full retention is applied to each hurricane causing the two largest losses for that insurer. For each other covered event resulting in losses, the insurer's retention is only one-third of the full retention. To access the Cat Fund an insurer must have incurred losses above the retention levels calculated and set by statute. When faced with a multi-storm season, insurers must reach their full retention levels on the two largest storms of the season. The retention level is then reduced to one-third the normal amount for any other storms that season. Citizens Property Insurance

Corporation is the largest purchaser of Cat Fund coverage. For the 2012 - 2013 hurricane season Citizens will have purchased $1.75 billion in private reinsurance coverage along with the $5.73 billion in mandatory layer reinsurance from the Cat Fund.

Cat Fund Premiums

The Cat Fund must charge insurers the "actuarially indicated" premium for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology. The "actuarially indicated" premium is an amount that is adequate to pay current and future obligations and expenses of the fund. In practice, each insurer pays the Cat Fund annual reimbursement premiums that are proportionate to each insurer's share of the Cat Fund's risk exposure. The cost of Cat Fund coverage is significantly lower than the cost of private reinsurance due to the fact that the fund is a tax-exempt non-profit corporation and does not charge a "risk load."

Cat Fund Bonding and Assessment Authority

Reimbursements to insurers for losses above the current cash balance of the fund are financed through bonding. When the cash balance of the Cat Fund is insufficient to cover losses, the law authorizes the Cat Fund to issue revenue bonds, which are funded by emergency assessments on property and casualty policyholders. If a large storm triggered the full capacity of the Cat Fund, bond issues totaling over $8 billion could be necessary for the fund to meet its maximum obligations.

Bonds would be funded by an emergency assessment of up to 6 percent of premium on most lines of property and casualty insurance for funding losses from a single year, and up to 10 percent of premium for funding losses from multiple years. All lines of property and casualty insurance, including surplus lines insurance, are subject to emergency assessment except for workers' compensation and medical malpractice liability insurance. The Cat Fund's broad-based assessment authority is one of the reasons the Cat Fund was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.

Cat Fund Financial Obligations and Claims Paying Resources

The Cat Fund's coverage obligations for the 2012-2013 hurricane season[1] totaled $17.023 billion dollars for a single storm, which consisted of $17 billion of mandatory coverage and $23 million dollars in optional TICL coverage. The Cat Fund projected year-end cash balance for the 2012-2013 hurricane season is $8.503 billion. Obligations exceeding the cash balance of the Cat Fund would require bonding of up to $8.503 billion. The assessment base for the Cat Fund is approximately $34.640 billion for premiums written at year end 2011, enabling the Cat Fund to levy annual assessments of as much as $2.078 billion for one contract year and $3.454 billion for multiple contract years.

[1] June 1, 2012 – May 31, 2013

Cat Fund Claims-Paying Capacity Estimates

In May and October of each contract year, the SBA is required to publish in the Florida Administrative Weekly a statement of the fund's estimated borrowing capacity, the fund's estimated claims-paying capacity, and the projected balance of the fund as of December 31. After the end of each calendar year, the board is required to notify insurers of the estimated borrowing capacity, estimated claims-paying capacity, and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes.

The October 9, 2012, Claims Paying Capacity Estimate (Estimate)[2] is the most recent such report to be issued.[3] The report, prepared by Raymond James, evaluated the Cat Fund's bonding capacity by analyzing the current financial markets and obtaining written feedback from a senior managing underwriter from four large financial services firms (Barclay's, Citi, Goldman Sachs, and J.P. Morgan). The October 9, 2012, Estimate noted that the Cat Fund's total obligations of $17.023 billion exceed the projected year-end fund balance of $8.503 billion, thus the Cat Fund may need to raise up to $8.503 billion through bonding in order to fund its liabilities.

The senior managers from Citi, Goldman Sachs, J.P. Morgan, and Barclays estimated the bonding capacity of the Cat Fund to be from $2 billion to $12 billion over the 12 months following a storm, leading to an average estimate of $7 billion in bonding capacity. The Estimate anticipated, however, that the Cat Fund would have an additional bonding capacity of $6 billion from 12 to 24 months after the hurricane, which would have enabled the Cat Fund to pay its entire obligations. A hurricane requiring the Cat Fund to pay its full obligation $17.023 billion would leave an estimated $4.480 billion in bonding capacity and $1.354 billion in new premium collections to fund losses in the subsequent hurricane season, leaving the fund with over $11 billion in unfunded obligations for that subsequent hurricane season.

III. Effect of Proposed Changes:

Section 1. Amends s. 215.555, F.S. by reducing the Florida Hurricane Catastrophe Fund coverage limits and reducing the maximum reimbursement percentage. This section is effective upon becoming a law. The major proposed changes are summarized as follows:

<u>Decreases the Maximum Reimbursement Percentage for Cat Fund Coverage</u>
Under current law, insurers have the option to purchase Cat Fund reinsurance that provides reimbursement of 90 percent, 75 percent, or 45 percent of the insurer's losses within the mandatory Cat Fund layer of coverage. The bill reduces the maximum reimbursement amount from 90 percent to the following percentages:

- For the 2013-2014 contract year, 85 percent.
- For the 2014-2015 contract year, 80 percent.
- For the 2015-2016 contract year and thereafter, 75 percent.

[2] Claims-Paying Capacity Estimates (October 9, 2012).
[3] The first Claims Paying Capacity Estimate for the 2013-2014 hurricane season is due to be published in May 2013.

The bill requires insurers that elect the maximum coverage level available must purchase the following year's renewal of the reimbursement contract at the highest available coverage level if revenue bonds after a covered event (hurricane) are outstanding.

Decreases the Cat Fund Mandatory Coverage Limit
The bill phases in annual decreases of the $17 billion Cat Fund mandatory coverage limit beginning in the 2013-2014 contract year as follows:

- For the 2013-2014 contract year, $16 billion.
- For the 2014-2015 contract year, $15 billion.
- For the 2015-2016 contract year and thereafter, $14 billion.

Other Provisions

The bill terminates the $2 billion layer of Temporary Increase in Coverage Limit (TICL) options Cat Fund coverage. TICL coverage is an optional Cat Fund coverage that insurers may elect to purchase. The coverage was established by the Legislature in Special Session 2007-A to provide additional reinsurance capacity from the Cat Fund beginning in the 2007 hurricane season and ending after the 2013 hurricane season (the 2013-2014 contract year).

The State Board of Administration Finance Corporation (SBA Finance Corporation or Corporation) is the new name of the Florida Hurricane Catastrophe Fund Corporation. The SBA Finance Corporation is the public benefits corporation that issues bonds to fund Cat Fund reimbursements when, after a hurricane, the Corporation board determines that the moneys in the Cat Fund are (or will be) insufficient to pay the amount of reimbursement promised in reimbursement contracts.

Section 2. Amends s. 627.062, F.S., to delete the prohibition against insurers recouping reinsurance costs that duplicate coverage provided by the Cat Fund.

Sections 3-5. Make conforming changes to s. 627.062, F.S., s. 627.0629, F.S., and s. 627.351(6)(v), F.S.

Section 6. Creates an unnumbered statute requiring the State Board of Administration to adopt revised or amended rules and forms, or addenda thereto, necessary to ensure that the statutory changes made by SB 1262 apply to each participating insurer's Cat Fund reimbursement contract for the 2013-2014 contract year that begins on June 1, 2013. Such rules, forms, and addenda supersede previously adopted rules, forms, and addenda that apply to the 2013-2014 contract year in the event of any conflicts. The SBA may use emergency rulemaking to assure timely adoption of the revisions, amendments, and addenda.

Section 7. Provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Eliminating the TICL coverage layer and reducing the mandatory layer to $16 billion and the maximum reimbursement percentage to 85 for the 2013 – 2014 Contract Year could result in an unconstitutional impairment of contracts. Section 215.555(18), F.S., requires insurers purchasing Cat Fund coverage to execute the reimbursement contract (essentially, their Cat Fund policies) by March 1 prior to the upcoming Contract Year. Accordingly, all insurers in the state have executed their reimbursement contract for the coming 2013-2014 Contract Year based upon a 17 billion dollar mandatory layer of coverage and a 90 percent maximum reimbursement. Though the bill authorizes emergency rulemaking to alter the reimbursement contracts, it is questionable whether the state could successfully require insurers to rewrite their reimbursement contacts.

The United States Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.[4] "[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear."[5] If a law does impair contracts, the courts will assess whether the law is deemed reasonable and necessary to serve an important public purpose.[6] The factors that a court will consider when balancing the impairment of contracts with the public purpose include:

- Whether the law was enacted to deal with a broad, generalized economic or social problem;
- Whether the law operates in an area that was already subject to state regulation at the time the parties undertook their contractual obligations, or whether it invades an area never before subject to regulation; and

[4] U.S. Const. art. I, § 10; art. I, s. 10, Fla. Const.
[5] *Susan Cohn v. The Grand Condominium Association, Inc., et al;* 62 So. 3d. 1120 (Fla. 2011). *See also Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1979). *See also General Motors Corp. v. Romein,* 503 U.S. 181 (1992).
[6] *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So. 2d 681 (Fla. 1980); *Yellow Cab C. v. Dade County, 412 So. 2d 395* (Fla. 3rd DCA 1982). *See also Exxon Corp. v Eagerton,* 462 U.S. 176 (1983).

- Whether the law effects a temporary alteration of the contractual relationships of those within its scope, or whether it works a severe, permanent, and immediate change in those relationships, irrevocably and retroactively.[7]

A law that is deemed to be an impairment of contract will be deemed to be invalid as it applies to any contracts entered into prior to the effective date of the act.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Representatives from the Cat Fund state that the current mandatory layer of coverage ($17 billion) plus the optional coverages offered under current law ($2 billion in TICL coverage for 2013-2014) place potential liabilities on the fund that it may not be able to meet due to the current status of the financial markets. These representatives note that if a major hurricane had fallen upon Florida during the 2012 hurricane season, the Fund would have needed to rely upon an $8.503 billion bond issue, which is in excess of the estimated $7 billion in bonding posited in the October 2012 Claims Paying Capacity Estimates. Though additional bonding capacity may be available if the bond issues are spread out over a longer period of time (2 years instead of 1 year), some private market insurers may require prompt payment of Cat Fund funds to maintain their ability to pay claims timely and avoid insolvency in the event of a major storm.

Representatives from the Cat Fund assert that lowering coverage limits and the maximum reimbursement percentage will reduce the fund's potential reliance on bonding backed by assessments. In addition, the increase in co-pays will encourage responsible claims practices among insurers, and the reduction in the limit will improve the Cat Fund's ability to provide coverage for subsequent storm seasons after a major event. Changing the name of the Finance Corporation should improve the marketability of the Cat Fund's bonds.

Most insurers likely will purchase reinsurance to offset the reductions in Cat Fund limits and maximum reimbursement percentages, the cost of which will be included in the premiums they charge consumers. Cat Fund representatives note that the costs of reinsurance fluctuate from year to year, and thus it is difficult to make a precise estimate of the consumer impact of this bill. The actuary for the Office of Insurance Consumer Advocate in the Department of Financial Services has projected the following premium impact of the bill:

[7] *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1979).

- 2013/2014 Contract Year – 1.2 percent premium increase associated with reducing the maximum reimbursement percentage to 85 percent and reducing the mandatory layer to 16 billion.
- 2014/2015 Contract Year – 1.2 percent premium increase associated with reducing the maximum reimbursement percentage to 80 percent and reducing the mandatory layer to $15 billion.
- 2015/2016 Contract Year – 1.2 percent premium increase associated with reducing the maximum reimbursement percentage to 75 percent and reducing the mandatory layer to $14 billion.
- Total Estimated Cumulative Premium Increase – 3.7 percent
  - The premium impact calculations assume that private market reinsurance covering the same layers of coverage as the Cat Fund will be available at a rate on line of 20 percent for the 2013/2014 contract year and subsequent contract years. According to representatives from the Office of the Insurance Consumer Advocate, the rate on line for such coverage was 22 percent during the 2012/2013 contract year. The premium impact of the bill's provisions are directly affected by the cost of private market reinsurance.

Representatives of some business groups have voiced support for reducing the Cat Fund's capacity and reimbursement percentage because these changes will reduce the likelihood that the Cat Fund will be required to levy assessments on all property and casualty lines of business (except workers' compensation and medical malpractice liability insurance). Many of these business groups view these assessments as a "tax" on other lines of insurance (such as motor vehicle insurance) that subsidizes the residential property insurance market. Another asserted benefit is that a smaller Cat Fund will be in a better financial position to pay its obligations the year after a major storm that depletes the cash reserves of the fund and requires bonding. The most recent Cat Fund Claims-Paying Capacity Estimates indicate that if a storm triggered the entire layer of Cat Fund recoverable, the fund anticipates only having $5.824 billion in claims paying resources (cash reserves plus estimated bonding capacity).

Representatives of some insurers and consumer advocates have voiced concern that reducing the mandatory layer and maximum reimbursement percentage of the Cat Fund may have a negative effect on the private homeowners property insurance market. The reductions in the Cat Fund will result in most insurers purchasing additional layers of reinsurance from the global reinsurance market at a higher cost than Cat Fund coverage. The cost of such reinsurance will likely be passed onto policyholders by private market insurers, but not necessarily by Citizens Property Insurance Corporation, which is not required to purchase reinsurance that guarantees the corporation's ability to pay all claims stemming from a 1 in 100 year probable maximum loss storm, a benchmark that most private market insurers meet in their reinsurance programs. These representatives also assert that reductions in Cat Fund size resulting in private market premium increases may hinder the depopulation of Citizens by increasing the disparity between rates charged by Citizens and private market insurers.

The coverage changes effective for the 2013 – 2014 Contract Year are contrary to the provisions of s. 215.555(18), F.S., which discourages the Legislature from passing laws

changing Cat Fund coverage that are effective for the Contract Year beginning shortly after the conclusion of the regular session of the Legislature in which the law was passed. The Legislative findings state that because the Legislative session ends approximately 1 month before the new Cat Fund contract year, "participants in the fund always face the possibility that legislative actions will change the coverage provided or offered by the fund with only a few days or weeks of advance notice. The timing issues…can create uncertainties and disadvantages for the residential property insurers that are required to participate in the fund when such insurers negotiate for the procurement of private reinsurance or other sources of capital."

C. Government Sector Impact:

The bill reduces the assessment liability of the Cat Fund, which decreases the probability that the Fund will be required to issue bonds to meet its financial obligations. Supporters of the legislation also note that the Cat Fund is not the only insurance-related state entity granted assessment authority. Citizens and the Florida Insurance Guaranty Association each have statutory authority to issue bond debt to meet obligations incurred in the event a major hurricane exhausts the financial resources of each entity. Reducing the likelihood of Cat Fund bonding and assessments will assist Citizens and FIGA in being able to raise funds from bond issues because Cat Fund bonds will be less likely to be in competition for investors in the event of a storm.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

548468

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Ring) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Paragraphs (d) and (e) of subsection (2),
6 paragraphs (c) and (d) of subsection (4), and paragraph (b) of
7 subsection (5) of section 215.555, Florida Statutes, are amended
8 to read:
9 215.555 Florida Hurricane Catastrophe Fund.—
10 (2) DEFINITIONS.—As used in this section:
11 (d) “Losses” means all incurred losses under covered
12 policies, including additional living expenses of up to ~~not to~~

548468

13 ~~exceed~~ 40 percent of the insured value of a residential
14 structure or its contents, loss adjustment expenses, and amounts
15 paid as fees on behalf of or inuring to the benefit of a
16 policyholder. The term does not include:
17 1. Losses for fair rental value, loss of rent or rental
18 income, or business interruption losses;
19 2. Losses under liability coverages;
20 3. Property losses that are proximately caused by any peril
21 other than a covered event, including, but not limited to, fire,
22 theft, flood or rising water, or windstorm that does not
23 constitute a covered event;
24 4. Amounts paid as the result of a voluntary expansion of
25 coverage by the insurer, including, but not limited to, a waiver
26 of an applicable deductible; or
27 5. ~~Amounts paid to reimburse a policyholder for condominium~~
28 ~~association or homeowners' association loss assessments or under~~
29 ~~similar coverages for contractual liabilities;~~
30 ~~6. Amounts paid as bad faith awards, punitive damage~~
31 ~~awards, or other court-imposed fines, sanctions, or penalties;~~
32 ~~7. Amounts in excess of the coverage limits under the~~
33 ~~covered policy; or~~
34 ~~8. Allocated or~~ Unallocated loss adjustment expenses.
35 (e) "Retention" means the amount of losses below which an
36 insurer is not entitled to reimbursement from the fund. An
37 insurer's retention shall be calculated as follows:
38 1. The board shall calculate and report to each insurer the
39 retention multiples for each ~~that year. For the~~ contract year.
40 The ~~beginning June 1, 2005, the retention multiple shall be~~
41 ~~equal to $4.5 billion divided by the total estimated~~

548468

42 ~~reimbursement premium for the contract year; for subsequent~~
43 ~~years, the~~ retention multiple shall be equal to $4.5 billion,
44 adjusted based upon the reported exposure for the contract year
45 occurring 2 years before the particular contract year to reflect
46 the percentage growth in exposure to the fund for covered
47 policies since 2004, divided by the total estimated
48 reimbursement premium for the contract year. Total reimbursement
49 premium ~~for purposes of the calculation under this subparagraph~~
50 shall be estimated using the assumption that all insurers have
51 selected the 90-percent coverage level. Effective June 1, 2014,
52 the aggregate retention level may not exceed $5 billion.
53 2. The retention multiple as determined under subparagraph
54 1. shall be adjusted to reflect the coverage level elected by
55 the insurer. For insurers electing the 90-percent coverage
56 level, the adjusted retention multiple is 100 percent of the
57 amount determined under subparagraph 1. For insurers electing
58 the 75-percent coverage level, the retention multiple is 120
59 percent of the amount determined under subparagraph 1. For
60 insurers electing the 45-percent coverage level, the adjusted
61 retention multiple is 200 percent of the amount determined under
62 subparagraph 1.
63 3. An insurer shall determine its provisional retention by
64 multiplying its provisional reimbursement premium by the
65 applicable adjusted retention multiple and ~~shall~~ determine its
66 actual retention by multiplying its actual reimbursement premium
67 by the applicable adjusted retention multiple.
68 4. For insurers who experience multiple covered events
69 causing loss during the contract year, ~~beginning June 1, 2005,~~
70 each insurer’s full retention shall be applied to each of the

548468

71 covered events causing the two largest losses for that insurer.
72 For each other covered event resulting in losses, the insurer's
73 retention shall be reduced to one-third of the full retention.
74 The reimbursement contract shall provide for the reimbursement
75 of losses for each covered event based on the full retention
76 with adjustments made to reflect the reduced retentions on or
77 after January 1 of the contract year provided the insurer
78 reports its losses as specified in the reimbursement contract.
79 (4) REIMBURSEMENT CONTRACTS.—
80 (c)1. The contract must ~~shall~~ also provide that the
81 obligation of the board with respect to all contracts covering a
82 particular contract year be ~~shall not exceed the actual claims-~~
83 ~~paying capacity of the fund up to a limit of~~ $17 billion ~~for~~
84 ~~that contract year, unless the board determines that there is~~
85 ~~sufficient estimated claims-paying capacity to provide $17~~
86 ~~billion of capacity for the current contract year and an~~
87 ~~additional $17 billion of capacity for subsequent contract~~
88 ~~years~~. ~~If the board makes such a determination, the estimated~~
89 ~~claims-paying capacity for the particular contract year shall be~~
90 ~~determined by adding to the $17 billion limit one-half of the~~
91 ~~fund's estimated claims-paying capacity in excess of $34~~
92 ~~billion. However, the dollar growth in the limit may not~~
93 ~~increase in any year by an amount greater than the dollar growth~~
94 ~~of the balance of the fund as of December 31, less any premiums~~
95 ~~or interest attributable to optional coverage, as defined by~~
96 ~~rule which occurred over the prior calendar year.~~
97 2. Each January ~~In May and October of the contract year~~,
98 the board shall publish in the Florida Administrative Register
99 ~~Weekly~~ a statement of the fund's estimated borrowing capacity

548468

100 and~~, the fund's~~ estimated claims-paying capacity~~, and the~~
101 ~~projected balance of the fund as of December 31~~. Upon completing
102 the estimation of the fund's claims-paying capacity ~~After the~~
103 ~~end of each calendar year~~, the board shall notify insurers of
104 the estimated borrowing capacity, estimated claims-paying
105 capacity, and the balance of the fund as of December 31 to
106 provide insurers with data necessary to assist them in
107 determining their retention and projected payout from the fund
108 for loss reimbursement purposes. In conjunction with the
109 development of the premium formula, as provided ~~for~~ in
110 subsection (5), the board shall publish factors or multiples
111 that assist insurers in determining their retention and
112 projected payout for the next contract year. For all regulatory
113 and reinsurance purposes, an insurer may calculate its projected
114 payout from the fund as its share of the total fund premium for
115 the current contract year multiplied by the sum of the projected
116 balance of the fund as of December 31 and the estimated
117 borrowing capacity for that contract year as reported under this
118 subparagraph. The statement must include an estimate for a
119 minimum of 3 years of bonding capacity.
120 (d)1. For purposes of determining potential liability and
121 to aid in the sound administration of the fund, the contract
122 must ~~shall~~ require each insurer to report such insurer's losses
123 from each covered event on an interim basis, as directed by the
124 board. The contract must ~~shall~~ require the insurer to report to
125 the board by ~~no later than~~ December 31 of each year, and
126 quarterly thereafter, its reimbursable losses from covered
127 events for the year. The contract shall require the board to
128 determine and pay, as soon as practicable after receiving these

548468

129 reports of reimbursable losses, the initial amount of
130 reimbursement due and adjustments to this amount based on later
131 loss information. The adjustments to reimbursement amounts shall
132 require the board to pay, or the insurer to return, amounts
133 reflecting the most recent calculation of losses.
134 2. In determining reimbursements pursuant to this
135 subsection, the contract must ~~shall~~ provide that the board ~~shall~~
136 pay to each insurer the ~~such~~ insurer's projected payout, which
137 is the amount of reimbursement it is owed, up to an amount equal
138 to the insurer's share of the actual premium paid for that
139 contract year, multiplied by the insurer's share of the limit
140 specified in subparagraph(c)1. ~~actual claims-paying capacity~~
141 ~~available for that contract year.~~
142 3. The board may reimburse insurers for amounts up to the
143 published factors or multiples for determining each
144 participating insurer's retention and projected payout derived
145 as a result of the development of the premium formula in those
146 situations in which the total reimbursement of losses to such
147 insurers would not exceed the estimated claims-paying capacity
148 of the fund. Otherwise, the projected payout factors or
149 multiples shall be reduced uniformly among all insurers to
150 reflect the estimated claims-paying capacity.
151 4. The board shall negotiate a line of credit to reimburse
152 insurers if payments exceed available assets and bonding
153 receipts. The line of credit must be sufficient to cover
154 projected receipts from a minimum of 3 years' bonding and for
155 second-event catastrophes. The line of credit must be closed by
156 July 1, 2014.
157 (5) REIMBURSEMENT PREMIUMS.—

548468

158 (b) The State Board of Administration shall select an
159 independent consultant to develop a formula for determining the
160 actuarially indicated premium to be paid to the fund. The
161 formula shall specify, for each zip code or other limited
162 geographical area, the amount of premium to be paid by an
163 insurer for each $1,000 of insured value under covered policies
164 in that zip code or other area. In establishing premiums, the
165 board shall consider the coverage elected under paragraph (4)(b)
166 and any factors that tend to enhance the actuarial
167 sophistication of ratemaking for the fund, including
168 deductibles, type of construction, type of coverage provided,
169 relative concentration of risks, and other ~~such~~ factors deemed
170 by the board to be appropriate. ~~The formula must provide for a~~
171 ~~cash build-up factor. For the 2009-2010 contract year, the~~
172 ~~factor is 5 percent. For the 2010-2011 contract year, the factor~~
173 ~~is 10 percent. For the 2011-2012 contract year, the factor is 15~~
174 ~~percent. For the 2012-2013 contract year, the factor is 20~~
175 ~~percent. For the 2013-2014 contract year and thereafter, the~~
176 ~~factor is 25 percent.~~ The formula may provide ~~for~~ a procedure
177 for determining ~~to determine~~ the premiums to be paid by new
178 insurers that begin writing covered policies after the beginning
179 of a contract year, taking into consideration when the insurer
180 starts writing covered policies, the potential exposure of the
181 insurer, the potential exposure of the fund, the administrative
182 costs to the insurer and to the fund, and any other factors
183 deemed appropriate by the board. The formula must be approved by
184 unanimous vote of the board. The board may, at any time, revise
185 the formula pursuant to the procedure provided in this
186 paragraph.

548468

187 Section 2. This act shall take effect July 1, 2013.
188
189 ========== T I T L E A M E N D M E N T ==========
190 And the title is amended as follows:
191 Delete everything before the enacting clause
192 and insert:
193 A bill to be entitled
194 An act relating to the Florida Hurricane Catastrophe
195 Fund; amending s. 215.555, F.S.; revising definitions
196 for the terms “losses” and “retention”; revising
197 requirements for reimbursement contracts; revising
198 provisions relating to times and circumstances wherein
199 the State Board of Administration publishes certain
200 statements and notices relating to the fund; requiring
201 the board to negotiate a line of credit to reimburse
202 insurers under certain circumstances; deleting a
203 requirement that the formula for determining premiums
204 to be paid to the fund include a cash build-up factor;
205 deleting obsolete provisions; providing an effective
206 date.

588276

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Substitute for Amendment (548468) (with title**
2 **amendment)**
3
4 Delete lines 28 - 1017
5 and insert:
6 Section 1. Effective June 1, 2013, paragraph (n) of
7 subsection (2), paragraph (c) of subsection (4), and paragraph
8 (d) of subsection (6) of section 215.555, Florida Statutes, are
9 amended to read:
10 215.555 Florida Hurricane Catastrophe Fund.—
11 (2) DEFINITIONS.—As used in this section:
12 (n) "Corporation" means the State Board of Administration

588276

13 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created
14 in paragraph (6)(d).
15 (4) REIMBURSEMENT CONTRACTS.—
16 (c)~~1.~~ The contract must ~~shall~~ also provide that the
17 obligation of the board with respect to all contracts covering a
18 particular contract year ~~shall~~ not exceed the actual claims-
19 paying capacity of the fund up to the limit specified in this
20 paragraph.
21 1. Fund limits are as follow:
22 a. For the 2013-2014 contract year, the limit is $17
23 billion.
24 b. For the 2014-2015 contract year and subsequent contract
25 years, the limit is $16 billion.
26 2. After the 2014-2015 contract year, if ~~a limit of $17~~
27 ~~billion for that contract year, unless~~ the board determines that
28 there is sufficient estimated claims-paying capacity to provide
29 $16 ~~$17~~ billion of capacity for the current contract year and an
30 additional $16 ~~$17~~ billion of capacity for subsequent contract
31 years~~. If the board makes such a determination~~, the estimated
32 claims-paying capacity for the particular contract year shall be
33 determined by adding to the $16 ~~$17~~ billion limit one-half of
34 the fund's estimated claims-paying capacity in excess of $32 ~~$34~~
35 billion. However, the dollar growth in the limit may not
36 increase in any year by an amount greater than the dollar growth
37 of the balance of the fund as of December 31~~, less any premiums~~
38 ~~or interest attributable to optional coverage~~, as defined by
39 rule, which occurred over the prior calendar year.
40 3.~~2.~~ In May and October of the contract year, the board
41 shall publish in the Florida Administrative Register ~~Weekly~~ a

588276

42 statement of the fund's estimated borrowing capacity, the fund's
43 estimated claims-paying capacity, and the projected balance of
44 the fund as of December 31. After the end of each calendar year,
45 the board shall notify insurers of the estimated borrowing
46 capacity, estimated claims-paying capacity, and the balance of
47 the fund as of December 31 to provide insurers with data
48 necessary to assist them in determining their retention and
49 projected payout from the fund for loss reimbursement purposes.
50 In conjunction with the development of the premium formula, as
51 provided ~~for~~ in subsection (5), the board shall publish factors
52 or multiples that assist insurers in determining their retention
53 and projected payout for the next contract year. For all
54 regulatory and reinsurance purposes, an insurer may calculate
55 its projected payout from the fund as its share of the total
56 fund premium for the current contract year multiplied by the sum
57 of the projected balance of the fund as of December 31 and the
58 estimated borrowing capacity for that contract year as reported
59 under this subparagraph.
60 (6) REVENUE BONDS.—
61 (d) *State Board of Administration* ~~*Florida Hurricane*~~
62 ~~*Catastrophe Fund*~~ *Finance Corporation.*—
63 1. In addition to the findings and declarations in
64 subsection (1), the Legislature also finds and declares that:
65 a. The public benefits corporation created under this
66 paragraph will provide a mechanism ~~necessary~~ for the cost-
67 effective and efficient issuance of bonds. This mechanism will
68 eliminate unnecessary costs in the bond issuance process,
69 thereby increasing the amounts available for ~~to pay~~
70 reimbursement for losses to property sustained as a result of

588276

71 hurricane damage.
72 b. The purpose of such bonds is to fund reimbursements
73 through the Florida Hurricane Catastrophe Fund ~~to pay~~ for the
74 costs of construction, reconstruction, repair, restoration, and
75 other costs associated with damage to properties of
76 policyholders of covered policies due to the occurrence of a
77 hurricane.
78 c. The efficacy of the financing mechanism will be enhanced
79 by the corporation's ownership of the assessments, by the
80 insulation of the assessments from possible bankruptcy
81 proceedings, and by covenants of the state with the
82 corporation's bondholders.
83 2.~~a.~~ The State Board of Administration Finance Corporation
84 ~~There~~ is created, which is a public benefits corporation and~~,~~
85 ~~which is~~ an instrumentality of the state~~, to be known as the~~
86 ~~Florida Hurricane Catastrophe Fund Finance Corporation~~. The
87 State Board of Administration Finance Corporation is for all
88 purposes the successor to the Florida Hurricane Catastrophe Fund
89 Finance Corporation.
90 a.~~b.~~ The corporation shall operate under a five-member
91 board of directors consisting of the Governor or a designee, the
92 Chief Financial Officer or a designee, the Attorney General or a
93 designee, the director of the Division of Bond Finance of the
94 State Board of Administration, and the Chief Operating Officer
95 ~~senior employee of the State Board of Administration responsible~~
96 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.
97 b.~~c.~~ The corporation has all of the powers of corporations
98 under chapter 607 and under chapter 617, subject only to ~~the~~
99 ~~provisions of~~ this subsection.

588276

100 c.~~d.~~ The corporation may issue bonds and engage in such
101 other financial transactions as are necessary to provide
102 sufficient funds to achieve the purposes of this section.
103 d.~~e.~~ The corporation may invest in any of the investments
104 authorized under s. 215.47.
105 e.~~f.~~ There is ~~shall be~~ no liability on the part of, and no
106 cause of action shall arise against, any board members or
107 employees of the corporation for any actions taken by them in
108 the performance of their duties under this paragraph.
109 3.a. In actions under chapter 75 to validate any bonds
110 issued by the corporation, the notice required by s. 75.06 must
111 ~~shall~~ be published in two newspapers of general circulation in
112 the state, and the complaint and order of the court shall be
113 served only on the State Attorney of the Second Judicial
114 Circuit.
115 b. The state hereby covenants with holders of bonds of the
116 corporation that the state will not repeal or abrogate the power
117 of the board to direct the Office of Insurance Regulation to
118 levy the assessments and to collect the proceeds of the revenues
119 pledged to the payment of such bonds as long as ~~any~~ such bonds
120 remain outstanding unless adequate provision has been made for
121 the payment of such bonds pursuant to the documents authorizing
122 the issuance of the ~~such~~ bonds.
123 c.~~4.~~ The bonds of the corporation are not a debt of the
124 state or of any political subdivision, and neither the state nor
125 any political subdivision is liable on such bonds. The
126 corporation may not ~~does not have the power to~~ pledge the
127 credit, the revenues, or the taxing power of the state or of any
128 political subdivision. The credit, revenues, or taxing power of

588276

129 the state or of any political subdivision may ~~shall~~ not be
130 deemed to be pledged to the payment of any bonds of the
131 corporation.
132 d.~~5.a.~~ The property, revenues, and other assets of the
133 corporation; the transactions and operations of the corporation
134 and the income from such transactions and operations; and all
135 bonds issued under this paragraph and interest on such bonds are
136 exempt from taxation by the state and any political subdivision,
137 including the intangibles tax under chapter 199 and the income
138 tax under chapter 220. This exemption does not apply to any tax
139 imposed by chapter 220 on interest, income, or profits on debt
140 obligations owned by corporations other than the State Board of
141 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
142 Corporation.
143 e.~~b.~~ All bonds of the corporation are ~~shall be and~~
144 ~~constitute~~ legal investments without limitation for all public
145 bodies of this state; for all banks, trust companies, savings
146 banks, savings associations, savings and loan associations, and
147 investment companies; for all administrators, executors,
148 trustees, and other fiduciaries; for all insurance companies and
149 associations and other persons carrying on an insurance
150 business; and for all other persons who are now or may hereafter
151 be authorized to invest in bonds or other obligations of the
152 state and are ~~shall be and constitute~~ eligible securities to be
153 deposited as collateral for the security of any state, county,
154 municipal, or other public funds. This sub-subparagraph shall be
155 considered ~~as~~ additional and supplemental authority and may
156 ~~shall~~ not be limited without specific reference to this sub-
157 subparagraph.

588276

158 4.~~6.~~ The corporation and its corporate existence shall
159 continue until terminated by law; however, no such law shall
160 take effect as long as the corporation has bonds outstanding
161 unless adequate provision has been made for the payment of such
162 bonds pursuant to the documents authorizing the issuance of such
163 bonds. Upon termination of the existence of the corporation, all
164 of its rights and properties in excess of its obligations shall
165 pass to and be vested in the state.
166 Section 2. Except as otherwise expressly provided in this
167 act, this act shall take effect upon becoming a law.
168
169 ========== T I T L E A M E N D M E N T ==========
170 And the title is amended as follows:
171 Delete lines 2 - 24
172 and insert:
173 An act relating to the Florida Hurricane Catastrophe
174 Fund; amending s. 215.555, F.S.; changing the name of
175 the Florida Hurricane Catastrophe Fund Finance
176 Corporation to the State Board of Administration
177 Finance Corporation; providing for the phase-in of
178 changes to the claims-paying capacity limits of the
179 fund; providing effective dates.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Ring) recommended the following:

1 **Senate Amendment to Substitute Amendment (588276) (with**
2 **title amendment)**
3
4 Delete lines 5 - 165
5 and insert:
6 Section 1. Paragraphs (d) and (e) of subsection (2),
7 paragraphs (c) and (d) of subsection (4), and paragraph (b) of
8 subsection (5) of section 215.555, Florida Statutes, are amended
9 to read:
10 215.555 Florida Hurricane Catastrophe Fund.—
11 (2) DEFINITIONS.—As used in this section:
12 (d) “Losses” means all incurred losses under covered

398790

13 policies, including additional living expenses of up to ~~not to~~
14 ~~exceed~~ 40 percent of the insured value of a residential
15 structure or its contents, loss adjustment expenses, and amounts
16 paid as fees on behalf of or inuring to the benefit of a
17 policyholder. The term does not include:
18 1. Losses for fair rental value, loss of rent or rental
19 income, or business interruption losses;
20 2. Losses under liability coverages;
21 3. Property losses that are proximately caused by any peril
22 other than a covered event, including, but not limited to, fire,
23 theft, flood or rising water, or windstorm that does not
24 constitute a covered event;
25 4. Amounts paid as the result of a voluntary expansion of
26 coverage by the insurer, including, but not limited to, a waiver
27 of an applicable deductible; or
28 5. ~~Amounts paid to reimburse a policyholder for condominium~~
29 ~~association or homeowners' association loss assessments or under~~
30 ~~similar coverages for contractual liabilities;~~
31 ~~6. Amounts paid as bad faith awards, punitive damage~~
32 ~~awards, or other court-imposed fines, sanctions, or penalties;~~
33 ~~7. Amounts in excess of the coverage limits under the~~
34 ~~covered policy; or~~
35 ~~8. Allocated or~~ Unallocated loss adjustment expenses.
36 (e) "Retention" means the amount of losses below which an
37 insurer is not entitled to reimbursement from the fund. An
38 insurer's retention shall be calculated as follows:
39 1. The board shall calculate and report to each insurer the
40 retention multiples for each ~~that year. For the~~ contract year.
41 The ~~beginning June 1, 2005, the retention multiple shall be~~

398790

42 ~~equal to $4.5 billion divided by the total estimated~~
43 ~~reimbursement premium for the contract year; for subsequent~~
44 ~~years, the~~ retention multiple shall be equal to $4.5 billion,
45 adjusted based upon the reported exposure for the contract year
46 occurring 2 years before the particular contract year to reflect
47 the percentage growth in exposure to the fund for covered
48 policies since 2004, divided by the total estimated
49 reimbursement premium for the contract year. Total reimbursement
50 premium ~~for purposes of the calculation under this subparagraph~~
51 shall be estimated using the assumption that all insurers have
52 selected the 90-percent coverage level. Effective June 1, 2014,
53 the aggregate retention level may not exceed $5 billion.
54 2. The retention multiple as determined under subparagraph
55 1. shall be adjusted to reflect the coverage level elected by
56 the insurer. For insurers electing the 90-percent coverage
57 level, the adjusted retention multiple is 100 percent of the
58 amount determined under subparagraph 1. For insurers electing
59 the 75-percent coverage level, the retention multiple is 120
60 percent of the amount determined under subparagraph 1. For
61 insurers electing the 45-percent coverage level, the adjusted
62 retention multiple is 200 percent of the amount determined under
63 subparagraph 1.
64 3. An insurer shall determine its provisional retention by
65 multiplying its provisional reimbursement premium by the
66 applicable adjusted retention multiple and ~~shall~~ determine its
67 actual retention by multiplying its actual reimbursement premium
68 by the applicable adjusted retention multiple.
69 4. For insurers who experience multiple covered events
70 causing loss during the contract year, ~~beginning June 1, 2005,~~

398790

71 each insurer's full retention shall be applied to each of the
72 covered events causing the two largest losses for that insurer.
73 For each other covered event resulting in losses, the insurer's
74 retention shall be reduced to one-third of the full retention.
75 The reimbursement contract shall provide for the reimbursement
76 of losses for each covered event based on the full retention
77 with adjustments made to reflect the reduced retentions on or
78 after January 1 of the contract year provided the insurer
79 reports its losses as specified in the reimbursement contract.
80 (4) REIMBURSEMENT CONTRACTS.—
81 (c)1. The contract must ~~shall~~ also provide that the
82 obligation of the board with respect to all contracts covering a
83 particular contract year be ~~shall not exceed the actual claims-~~
84 ~~paying capacity of the fund up to a limit of~~ $17 billion ~~for~~
85 ~~that contract year, unless the board determines that there is~~
86 ~~sufficient estimated claims-paying capacity to provide $17~~
87 ~~billion of capacity for the current contract year and an~~
88 ~~additional $17 billion of capacity for subsequent contract~~
89 ~~years~~. ~~If the board makes such a determination, the estimated~~
90 ~~claims-paying capacity for the particular contract year shall be~~
91 ~~determined by adding to the $17 billion limit one-half of the~~
92 ~~fund's estimated claims-paying capacity in excess of $34~~
93 ~~billion. However, the dollar growth in the limit may not~~
94 ~~increase in any year by an amount greater than the dollar growth~~
95 ~~of the balance of the fund as of December 31, less any premiums~~
96 ~~or interest attributable to optional coverage, as defined by~~
97 ~~rule which occurred over the prior calendar year.~~
98 2. Each January ~~In May and October of the contract year~~,
99 the board shall publish in the Florida Administrative Register

398790

100 ~~Weekly~~ a statement of the fund's estimated borrowing capacity
101 and~~, the fund's~~ estimated claims-paying capacity~~, and the~~
102 ~~projected balance of the fund as of December 31~~. Upon completing
103 the estimation of the fund's claims-paying capacity ~~After the~~
104 ~~end of each calendar year~~, the board shall notify insurers of
105 the estimated borrowing capacity, estimated claims-paying
106 capacity, and the balance of the fund as of December 31 to
107 provide insurers with data necessary to assist them in
108 determining their retention and projected payout from the fund
109 for loss reimbursement purposes. In conjunction with the
110 development of the premium formula, as provided ~~for~~ in
111 subsection (5), the board shall publish factors or multiples
112 that assist insurers in determining their retention and
113 projected payout for the next contract year. For all regulatory
114 and reinsurance purposes, an insurer may calculate its projected
115 payout from the fund as its share of the total fund premium for
116 the current contract year multiplied by the sum of the projected
117 balance of the fund as of December 31 and the estimated
118 borrowing capacity for that contract year as reported under this
119 subparagraph. The statement must include an estimate for a
120 minimum of 3 years of bonding capacity.
121 (d)1. For purposes of determining potential liability and
122 to aid in the sound administration of the fund, the contract
123 must ~~shall~~ require each insurer to report such insurer's losses
124 from each covered event on an interim basis, as directed by the
125 board. The contract must ~~shall~~ require the insurer to report to
126 the board by ~~no later than~~ December 31 of each year, and
127 quarterly thereafter, its reimbursable losses from covered
128 events for the year. The contract shall require the board to

398790

129 determine and pay, as soon as practicable after receiving these
130 reports of reimbursable losses, the initial amount of
131 reimbursement due and adjustments to this amount based on later
132 loss information. The adjustments to reimbursement amounts shall
133 require the board to pay, or the insurer to return, amounts
134 reflecting the most recent calculation of losses.
135 2. In determining reimbursements pursuant to this
136 subsection, the contract must ~~shall~~ provide that the board ~~shall~~
137 pay to each insurer the ~~such~~ insurer's projected payout, which
138 is the amount of reimbursement it is owed, up to an amount equal
139 to the insurer's share of the actual premium paid for that
140 contract year, multiplied by the insurer's share of the limit
141 specified in subparagraph(c)1. ~~actual claims-paying capacity~~
142 ~~available for that contract year.~~
143 3. The board may reimburse insurers for amounts up to the
144 published factors or multiples for determining each
145 participating insurer's retention and projected payout derived
146 as a result of the development of the premium formula in those
147 situations in which the total reimbursement of losses to such
148 insurers would not exceed the estimated claims-paying capacity
149 of the fund. Otherwise, the projected payout factors or
150 multiples shall be reduced uniformly among all insurers to
151 reflect the estimated claims-paying capacity.
152 4. The board shall negotiate a line of credit to reimburse
153 insurers if payments exceed available assets and bonding
154 receipts. The line of credit must be sufficient to cover
155 projected receipts from a minimum of 3 years' bonding and for
156 second-event catastrophes. The line of credit must be closed by
157 July 1, 2014.

398790

158 (5) REIMBURSEMENT PREMIUMS.—
159 (b) The State Board of Administration shall select an
160 independent consultant to develop a formula for determining the
161 actuarially indicated premium to be paid to the fund. The
162 formula shall specify, for each zip code or other limited
163 geographical area, the amount of premium to be paid by an
164 insurer for each $1,000 of insured value under covered policies
165 in that zip code or other area. In establishing premiums, the
166 board shall consider the coverage elected under paragraph (4)(b)
167 and any factors that tend to enhance the actuarial
168 sophistication of ratemaking for the fund, including
169 deductibles, type of construction, type of coverage provided,
170 relative concentration of risks, and other ~~such~~ factors deemed
171 by the board to be appropriate. ~~The formula must provide for a~~
172 ~~cash build-up factor. For the 2009-2010 contract year, the~~
173 ~~factor is 5 percent. For the 2010-2011 contract year, the factor~~
174 ~~is 10 percent. For the 2011-2012 contract year, the factor is 15~~
175 ~~percent. For the 2012-2013 contract year, the factor is 20~~
176 ~~percent. For the 2013-2014 contract year and thereafter, the~~
177 ~~factor is 25 percent.~~ The formula may provide ~~for~~ a procedure
178 for determining ~~to determine~~ the premiums to be paid by new
179 insurers that begin writing covered policies after the beginning
180 of a contract year, taking into consideration when the insurer
181 starts writing covered policies, the potential exposure of the
182 insurer, the potential exposure of the fund, the administrative
183 costs to the insurer and to the fund, and any other factors
184 deemed appropriate by the board. The formula must be approved by
185 unanimous vote of the board. The board may, at any time, revise
186 the formula pursuant to the procedure provided in this

398790

187 paragraph.
188
189 ========== T I T L E A M E N D M E N T ==========
190 And the title is amended as follows:
191 Delete lines 173 - 179
192 and insert:
193 An act relating to the Florida Hurricane Catastrophe
194 Fund; amending s. 215.555, F.S.; revising definitions
195 for the terms “losses” and “retention”; revising
196 requirements for reimbursement contracts; revising
197 provisions relating to times and circumstances wherein
198 the State Board of Administration publishes certain
199 statements and notices relating to the fund; requiring
200 the board to negotiate a line of credit to reimburse
201 insurers under certain circumstances; deleting a
202 requirement that the formula for determining premiums
203 to be paid to the fund include a cash build-up factor;
204 deleting obsolete provisions; providing an effective
205 date.

303624

LEGISLATIVE ACTION

Senate . House

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The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Effective June 1, 2013, paragraph (n) of
6 subsection (2), paragraph (c) of subsection (4), and paragraph
7 (d) of subsection (6) of section 215.555, Florida Statutes, are
8 amended to read:
9 215.555 Florida Hurricane Catastrophe Fund.—
10 (2) DEFINITIONS.—As used in this section:
11 (n) "Corporation" means the State Board of Administration
12 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created

303624

13 in paragraph (6)(d).
14 (4) REIMBURSEMENT CONTRACTS.—
15 (c)~~1.~~ The contract must ~~shall~~ also provide that the
16 obligation of the board with respect to all contracts covering a
17 particular contract year ~~shall~~ not exceed the actual claims-
18 paying capacity of the fund up to the limit specified in this
19 paragraph.
20 1. Fund limits are as follow:
21 a. For the 2013-2014 contract year, the limit is $17
22 billion.
23 b. For the 2014-2015 contract year and subsequent contract
24 years, the limit is $16 billion.
25 2. After the 2014-2015 contract year, if ~~a limit of $17~~
26 ~~billion for that contract year, unless~~ the board determines that
27 there is sufficient estimated claims-paying capacity to provide
28 $16 ~~$17~~ billion of capacity for the current contract year and an
29 additional $16 ~~$17~~ billion of capacity for subsequent contract
30 years~~. If the board makes such a determination~~, the estimated
31 claims-paying capacity for the particular contract year shall be
32 determined by adding to the $16 ~~$17~~ billion limit one-half of
33 the fund's estimated claims-paying capacity in excess of $32 ~~$34~~
34 billion. However, the dollar growth in the limit may not
35 increase in any year by an amount greater than the dollar growth
36 of the balance of the fund as of December 31~~, less any premiums~~
37 ~~or interest attributable to optional coverage~~, as defined by
38 rule, which occurred over the prior calendar year.
39 3.~~2.~~ In May and October of the contract year, the board
40 shall publish in the Florida Administrative Register ~~Weekly~~ a
41 statement of the fund's estimated borrowing capacity, the fund's

303624

42 estimated claims-paying capacity, and the projected balance of
43 the fund as of December 31. After the end of each calendar year,
44 the board shall notify insurers of the estimated borrowing
45 capacity, estimated claims-paying capacity, and the balance of
46 the fund as of December 31 to provide insurers with data
47 necessary to assist them in determining their retention and
48 projected payout from the fund for loss reimbursement purposes.
49 In conjunction with the development of the premium formula, as
50 provided ~~for~~ in subsection (5), the board shall publish factors
51 or multiples that assist insurers in determining their retention
52 and projected payout for the next contract year. For all
53 regulatory and reinsurance purposes, an insurer may calculate
54 its projected payout from the fund as its share of the total
55 fund premium for the current contract year multiplied by the sum
56 of the projected balance of the fund as of December 31 and the
57 estimated borrowing capacity for that contract year as reported
58 under this subparagraph.
59 (6) REVENUE BONDS.—
60 (d) *State Board of Administration* ~~*Florida Hurricane*~~
61 ~~*Catastrophe Fund*~~ *Finance Corporation.*—
62 1. In addition to the findings and declarations in
63 subsection (1), the Legislature also finds and declares that:
64 a. The public benefits corporation created under this
65 paragraph will provide a mechanism ~~necessary~~ for the cost-
66 effective and efficient issuance of bonds. This mechanism will
67 eliminate unnecessary costs in the bond issuance process,
68 thereby increasing the amounts available for ~~to pay~~
69 reimbursement for losses to property sustained as a result of
70 hurricane damage.

303624

71 b. The purpose of such bonds is to fund reimbursements
72 through the Florida Hurricane Catastrophe Fund ~~to pay~~ for the
73 costs of construction, reconstruction, repair, restoration, and
74 other costs associated with damage to properties of
75 policyholders of covered policies due to the occurrence of a
76 hurricane.
77 c. The efficacy of the financing mechanism will be enhanced
78 by the corporation's ownership of the assessments, by the
79 insulation of the assessments from possible bankruptcy
80 proceedings, and by covenants of the state with the
81 corporation's bondholders.
82 2.~~a.~~ The State Board of Administration Finance Corporation
83 ~~There~~ is created, which is a public benefits corporation and~~,~~
84 ~~which is~~ an instrumentality of the state~~, to be known as the~~
85 ~~Florida Hurricane Catastrophe Fund Finance Corporation~~. The
86 State Board of Administration Finance Corporation is for all
87 purposes the successor to the Florida Hurricane Catastrophe Fund
88 Finance Corporation.
89 a.~~b.~~ The corporation shall operate under a five-member
90 board of directors consisting of the Governor or a designee, the
91 Chief Financial Officer or a designee, the Attorney General or a
92 designee, the director of the Division of Bond Finance of the
93 State Board of Administration, and the Chief Operating Officer
94 ~~senior employee of the State Board of Administration responsible~~
95 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.
96 b.~~c.~~ The corporation has all of the powers of corporations
97 under chapter 607 and under chapter 617, subject only to ~~the~~
98 ~~provisions of~~ this subsection.
99 c.~~d.~~ The corporation may issue bonds and engage in such

303624

100 other financial transactions as are necessary to provide
101 sufficient funds to achieve the purposes of this section.
102 d.~~e.~~ The corporation may invest in any of the investments
103 authorized under s. 215.47.
104 e.~~f.~~ There is ~~shall be~~ no liability on the part of, and no
105 cause of action shall arise against, any board members or
106 employees of the corporation for any actions taken by them in
107 the performance of their duties under this paragraph.
108 3.a. In actions under chapter 75 to validate any bonds
109 issued by the corporation, the notice required by s. 75.06 must
110 ~~shall~~ be published in two newspapers of general circulation in
111 the state, and the complaint and order of the court shall be
112 served only on the State Attorney of the Second Judicial
113 Circuit.
114 b. The state hereby covenants with holders of bonds of the
115 corporation that the state will not repeal or abrogate the power
116 of the board to direct the Office of Insurance Regulation to
117 levy the assessments and to collect the proceeds of the revenues
118 pledged to the payment of such bonds as long as ~~any~~ such bonds
119 remain outstanding unless adequate provision has been made for
120 the payment of such bonds pursuant to the documents authorizing
121 the issuance of the ~~such~~ bonds.
122 c.~~4.~~ The bonds of the corporation are not a debt of the
123 state or of any political subdivision, and neither the state nor
124 any political subdivision is liable on such bonds. The
125 corporation may not ~~does not have the power to~~ pledge the
126 credit, the revenues, or the taxing power of the state or of any
127 political subdivision. The credit, revenues, or taxing power of
128 the state or of any political subdivision may ~~shall~~ not be

303624

129 deemed to be pledged to the payment of any bonds of the
130 corporation.
131 d.~~5.a.~~ The property, revenues, and other assets of the
132 corporation; the transactions and operations of the corporation
133 and the income from such transactions and operations; and all
134 bonds issued under this paragraph and interest on such bonds are
135 exempt from taxation by the state and any political subdivision,
136 including the intangibles tax under chapter 199 and the income
137 tax under chapter 220. This exemption does not apply to any tax
138 imposed by chapter 220 on interest, income, or profits on debt
139 obligations owned by corporations other than the State Board of
140 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
141 Corporation.
142 e.~~b.~~ All bonds of the corporation are ~~shall be and~~
143 ~~constitute~~ legal investments without limitation for all public
144 bodies of this state; for all banks, trust companies, savings
145 banks, savings associations, savings and loan associations, and
146 investment companies; for all administrators, executors,
147 trustees, and other fiduciaries; for all insurance companies and
148 associations and other persons carrying on an insurance
149 business; and for all other persons who are now or may hereafter
150 be authorized to invest in bonds or other obligations of the
151 state and are ~~shall be and constitute~~ eligible securities to be
152 deposited as collateral for the security of any state, county,
153 municipal, or other public funds. This sub-subparagraph shall be
154 considered ~~as~~ additional and supplemental authority and may
155 ~~shall~~ not be limited without specific reference to this sub-
156 subparagraph.
157 4.~~6.~~ The corporation and its corporate existence shall

303624

158 continue until terminated by law; however, no such law shall
159 take effect as long as the corporation has bonds outstanding
160 unless adequate provision has been made for the payment of such
161 bonds pursuant to the documents authorizing the issuance of such
162 bonds. Upon termination of the existence of the corporation, all
163 of its rights and properties in excess of its obligations shall
164 pass to and be vested in the state.
165 Section 2. Except as otherwise expressly provided in this
166 act, this act shall take effect upon becoming a law.
167
168 ========== T I T L E A M E N D M E N T ==========
169 And the title is amended as follows:
170 Delete everything before the enacting clause
171 and insert:
172 A bill to be entitled
173 An act relating to the Florida Hurricane Catastrophe
174 Fund; amending s. 215.555, F.S.; changing the name of
175 the Florida Hurricane Catastrophe Fund Finance
176 Corporation to the State Board of Administration
177 Finance Corporation; providing for the phase-in of
178 changes to the claims-paying capacity limits of the
179 fund; providing effective dates.

By Senator Hays

11-01142A-13 20131262__

A bill to be entitled

An act relating to the Florida Hurricane Catastrophe Fund; amending s. 215.555, F.S.; revising the definitions for "corporation," "covered policy," and "retention"; providing for calculation of an insurer's reimbursement premium and retention under the reimbursement contract; revising coverage levels available under the reimbursement contract; revising aggregate coverage limits; providing for the phase-in of changes to coverage levels and limits; changing the name of the Florida Hurricane Catastrophe Fund Finance Corporation to the State Board of Administration Finance Corporation; deleting obsolete provisions related to temporary emergency options for additional coverage; terminating the temporary increase in coverage limit options at the end of the 2012-2013 contract year; deleting other obsolete provisions; amending s. 627.062, F.S.; deleting a provision prohibiting the recoupment of certain costs; amending ss. 624.424, 627.0629, 627.351, F.S.; conforming cross-references; authorizing the State Board of Administration to adopt emergency rules if necessary and providing applicability; providing an effective date.

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

Section 1. Subsection (2) of section 215.555, Florida Statutes, is reordered and amended, and paragraphs (b) and (c)

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

11-01142A-13 20131262__

of subsection (4), paragraph (d) of subsection (6), and subsections (16) through (18) of that section are amended, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(2) DEFINITIONS.—As used in this section, the term:

(b) ~~(a)~~ "Actuarially indicated" means, with respect to premiums paid by insurers for reimbursement provided by the fund, an amount determined according to principles of actuarial science to be adequate, but not excessive, in the aggregate, to pay current and future obligations and expenses of the fund, including additional amounts if needed to pay debt service on revenue bonds issued under this section and to provide required debt service coverage in excess of the amounts required to pay actual debt service on revenue bonds issued under subsection (6), and determined ~~according to principles of actuarial science~~ to reflect each insurer's relative exposure to hurricane losses.

(f) ~~(b)~~ "Covered event" means any one storm declared to be a hurricane by the National Hurricane Center, which storm causes insured losses in this state.

(g) ~~(c)~~ "Covered policy" means an ~~any~~ insurance policy covering residential property in this state, including, but not limited to, a ~~any~~ homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, tenant's, or apartment building policy, or any other policy covering a residential structure or its contents issued by an ~~any~~ authorized insurer, including ~~a commercial self-insurance fund holding a certificate of authority issued by the Office of Insurance Regulation under s. 624.462,~~ the Citizens Property Insurance Corporation, and any joint underwriting association or

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59 similar entity created under law. The term ~~"covered policy"~~
60 includes a ~~any~~ collateral protection insurance policy covering
61 personal residences which protects both the borrower's and the
62 lender's financial interests, in an amount at least equal to the
63 coverage for the dwelling in place under the lapsed homeowner's
64 policy, if such policy can be accurately reported as required in
65 subsection (5). The term also includes ~~Additionally, covered~~
66 ~~policies include~~ policies covering the peril of wind removed
67 from the Florida Residential Property and Casualty Joint
68 Underwriting Association or from ~~the~~ Citizens Property Insurance
69 Corporation, created under s. 627.351(6), or from the Florida
70 Windstorm Underwriting Association, created under s. 627.351(2),
71 by an authorized insurer under the terms and conditions of an
72 executed assumption agreement between the authorized insurer and
73 such association or Citizens Property Insurance Corporation.
74 Each assumption agreement ~~between the association and such~~
75 ~~authorized insurer or Citizens Property Insurance Corporation~~
76 must be approved by the Office of Insurance Regulation before
77 the effective date of the assumption, and the office ~~of~~
78 ~~Insurance Regulation~~ must provide written notification to the
79 board within 15 working days after such approval. The term
80 ~~"Covered policy"~~ does not include any policy that excludes wind
81 coverage or hurricane coverage or any reinsurance agreement or
82 ~~and does not include any~~ policy otherwise meeting this
83 definition which is issued by a surplus lines insurer or a
84 reinsurer. All commercial residential excess policies and all
85 deductible buy-back policies that, based on sound actuarial
86 principles, require individual ratemaking must ~~shall~~ be excluded
87 by rule if the actuarial soundness of the fund is not

88 jeopardized. For this purpose, the term "excess policy" means a
89 policy that provides insurance protection for large commercial
90 property risks and that provides a layer of coverage above a
91 primary layer insured by another insurer.
92 (l) ~~(d)~~ "Losses" means all incurred losses under covered
93 policies, including additional living expenses of up to ~~not to~~
94 ~~exceed~~ 40 percent of the insured value of a residential
95 structure or its contents and amounts paid as fees on behalf of
96 or inuring to the benefit of a policyholder. The term does not
97 include:
98 1. Losses for fair rental value, loss of rent or rental
99 income, or business interruption losses;
100 2. Losses under liability coverages;
101 3. Property losses that are proximately caused by any peril
102 other than a covered event, including, but not limited to, fire,
103 theft, flood or rising water, or windstorm that does not
104 constitute a covered event;
105 4. Amounts paid as the result of a voluntary expansion of
106 coverage by the insurer, including, but not limited to, a waiver
107 of an applicable deductible;
108 5. Amounts paid to reimburse a policyholder for condominium
109 association or homeowners' association loss assessments or under
110 similar coverages for contractual liabilities;
111 6. Amounts paid as bad faith awards, punitive damage
112 awards, or other court-imposed fines, sanctions, or penalties;
113 7. Amounts in excess of the coverage limits under the
114 covered policy; or
115 8. Allocated or unallocated loss adjustment expenses.
116 (n) ~~(e)~~ "Retention" means the amount of losses below which

117 an insurer is not entitled to reimbursement from the fund. ~~An~~
118 ~~insurer's retention shall be calculated as follows:~~
119 ~~1. The board shall calculate and report to each insurer the~~
120 ~~retention multiples for that year. For the contract year~~
121 ~~beginning June 1, 2005, the retention multiple shall be equal to~~
122 ~~$4.5 billion divided by the total estimated reimbursement~~
123 ~~premium for the contract year; for subsequent years, the~~
124 ~~retention multiple shall be equal to $4.5 billion, adjusted~~
125 ~~based upon the reported exposure for the contract year occurring~~
126 ~~2 years before the particular contract year to reflect the~~
127 ~~percentage growth in exposure to the fund for covered policies~~
128 ~~since 2004, divided by the total estimated reimbursement premium~~
129 ~~for the contract year. Total reimbursement premium for purposes~~
130 ~~of the calculation under this subparagraph shall be estimated~~
131 ~~using the assumption that all insurers have selected the 90-~~
132 ~~percent coverage level.~~
133 ~~2. The retention multiple as determined under subparagraph~~
134 ~~1. shall be adjusted to reflect the coverage level elected by~~
135 ~~the insurer. For insurers electing the 90-percent coverage~~
136 ~~level, the adjusted retention multiple is 100 percent of the~~
137 ~~amount determined under subparagraph 1. For insurers electing~~
138 ~~the 75-percent coverage level, the retention multiple is 120~~
139 ~~percent of the amount determined under subparagraph 1. For~~
140 ~~insurers electing the 45-percent coverage level, the adjusted~~
141 ~~retention multiple is 200 percent of the amount determined under~~
142 ~~subparagraph 1.~~
143 ~~3. An insurer shall determine its provisional retention by~~
144 ~~multiplying its provisional reimbursement premium by the~~
145 ~~applicable adjusted retention multiple and shall determine its~~

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146 ~~actual retention by multiplying its actual reimbursement premium~~
147 ~~by the applicable adjusted retention multiple.~~
148 ~~4. For insurers who experience multiple covered events~~
149 ~~causing loss during the contract year, beginning June 1, 2005,~~
150 ~~each insurer's full retention shall be applied to each of the~~
151 ~~covered events causing the two largest losses for that insurer.~~
152 ~~For each other covered event resulting in losses, the insurer's~~
153 ~~retention shall be reduced to one-third of the full retention.~~
154 ~~The reimbursement contract shall provide for the reimbursement~~
155 ~~of losses for each covered event based on the full retention~~
156 ~~with adjustments made to reflect the reduced retentions on or~~
157 ~~after January 1 of the contract year provided the insurer~~
158 ~~reports its losses as specified in the reimbursement contract.~~
159 (o) ~~(f)~~ "Workers' compensation" includes both workers'
160 compensation and excess workers' compensation insurance.
161 (c) ~~(g)~~ "Bond" means any bond, debenture, note, or other
162 evidence of financial indebtedness issued under this section.
163 (h) "Debt service" means the amount required in any fiscal
164 year to pay the principal of, redemption premium, if any, and
165 interest on revenue bonds and any amounts required by the terms
166 of documents authorizing, securing, or providing liquidity for
167 revenue bonds necessary to maintain in effect any such liquidity
168 or security arrangements.
169 (i) "Debt service coverage" means the amount, if any,
170 required by the documents under which revenue bonds are issued,
171 which must ~~amount is to~~ be received in any fiscal year in excess
172 of the amount required to pay debt service for such fiscal year.
173 (k) ~~(j)~~ "Local government" means a unit of general purpose
174 local government as defined in s. 218.31~~(2)~~.

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175 (m) ~~(k)~~ "Pledged revenues" means all or any portion of
176 revenues to be derived from reimbursement premiums under
177 subsection (5) or from emergency assessments under paragraph
178 (6)(b), as determined by the board.
179 (j) ~~(l)~~ "Estimated claims-paying capacity" means the sum of
180 the projected year-end balance of the fund as of December 31 of
181 a contract year, ~~plus~~ any reinsurance purchased by the fund, and
182 ~~plus~~ the board's estimate of the board's borrowing capacity.
183 (a) ~~(m)~~ "Actual claims-paying capacity" means the sum of the
184 balance of the fund as of December 31 of a contract year, ~~plus~~
185 any reinsurance purchased by the fund, and ~~plus~~ the amount the
186 board is able to raise through the issuance of revenue bonds
187 under subsection (6).
188 (e) ~~(n)~~ "Corporation" means the State Board of
189 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
190 Corporation created in paragraph (6)(d).
191 (d) ~~(o)~~ "Contract year" means the period beginning on June 1
192 of a specified calendar year and ending on May 31 of the
193 following calendar year.
194 (4) REIMBURSEMENT CONTRACTS.—
195 (b) 1. An insurer's retention shall be calculated as
196 follows:
197 a. The board shall calculate and report to each insurer the
198 retention multiples for that year. For the contract year, the
199 retention multiple is equal to $4.5 billion, adjusted to reflect
200 the percentage growth in exposure to the fund for covered
201 policies since 2004 based upon the reported exposure for the
202 contract year occurring 2 years before the particular contract
203 year, divided by the total estimated reimbursement premium for

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204 the contract year. Total reimbursement premium for purposes of
205 this calculation shall be estimated using the assumption that
206 all insurers have selected the 90-percent coverage level.
207 b. In order to implement the phase-in of reduced coverage
208 levels as provided in subparagraph 2., total reimbursement
209 premium for purposes of the calculation under sub-subparagraph
210 a. shall be estimated using the following assumptions:
211 (I) For the 2013-2014 contract year, the assumption is that
212 all insurers have selected the 85-percent coverage level.
213 (II) For the 2014-2015 contract year, the assumption is
214 that all insurers have selected the 80-percent coverage level.
215 (III) For the 2015-2016 contract year and subsequent
216 contract years, the assumption is that all insurers have
217 selected the 75-percent coverage level.
218 c. The retention multiple shall be adjusted to reflect the
219 coverage level elected by the insurer.
220 (I) For an insurer electing the maximum coverage level
221 under subparagraph 2. for a particular contract year, the
222 adjusted retention multiple is 100 percent of the amount
223 determined under sub-subparagraph a.
224 (II) In order to implement the phase-in of reduced coverage
225 levels under subparagraph 2., for an insurer electing a coverage
226 level other than the maximum coverage level:
227 (A) For the 2013-2014 contract year, for an insurer
228 electing the 75-percent coverage level, the retention multiple
229 is 85/75ths of the amount determined under sub-subparagraph a.,
230 and for an insurer electing the 45-percent coverage level, the
231 adjusted retention multiple is 85/45ths of the amount determined
232 under sub-subparagraph a.

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233 (B) For the 2014-2015 contract year, for an insurer
234 electing the 75-percent coverage level, the retention multiple
235 is 80/75ths of the amount determined under sub-subparagraph a.,
236 and for an insurer electing the 45-percent coverage level, the
237 retention multiple is 80/45ths of the amount determined under
238 sub-subparagraph a.
239 (C) For the 2015-2016 contract year and subsequent contract
240 years, for an insurer electing the 45-percent coverage level,
241 the retention multiple is 75/45ths of the amount determined
242 under sub-subparagraph a.
243 d. An insurer shall determine its provisional retention by
244 multiplying its provisional reimbursement premium by the
245 applicable adjusted retention multiple and determine its actual
246 retention by multiplying its actual reimbursement premium by the
247 applicable adjusted retention multiple.
248 e. For insurers who experience multiple covered events
249 causing loss during the contract year, beginning June 1, 2005,
250 each insurer's full retention shall be applied to each of the
251 covered events causing the two largest losses for that insurer.
252 For each other covered event resulting in losses, the insurer's
253 retention shall be reduced to one-third of the full retention.
254 The reimbursement contract must provide for the reimbursement of
255 losses for each covered event based on the full retention with
256 adjustments that reflect the reduced retentions on or after
257 January 1 of the contract year if the insurer reports its losses
258 as specified in the reimbursement contract.
259 2.~~1.~~ The contract must ~~shall~~ contain a promise by the board
260 to reimburse the insurer for a specified percentage ~~45 percent,~~
261 ~~75 percent, or 90 percent~~ of its losses from each covered event

262 in excess of the insurer's retention, plus 10 ~~5~~ percent of the
263 reimbursed losses to cover loss adjustment expenses.
264 a. The available coverage levels are as follows:
265 (I) For the 2013-2014 contract year, 85 percent, 75
266 percent, and 45 percent.
267 (II) For the 2014-2015 contract year, 80 percent, 75
268 percent, and 45 percent.
269 (III) For the 2015-2016 contract year and subsequent
270 contract years, 75 percent and 45 percent.
271 3.~~2.~~ The insurer must elect one of the percentage coverage
272 levels specified in subparagraph 2. ~~this paragraph~~ and may, upon
273 renewal of a reimbursement contract, elect a lower percentage
274 coverage level if no revenue bonds issued under subsection (6)
275 after a covered event are outstanding, or elect a higher
276 percentage coverage level, regardless of whether or not revenue
277 bonds are outstanding. All members of an insurer group must
278 elect the same percentage coverage level. A ~~Any~~ joint
279 underwriting association, risk apportionment plan, or other
280 entity created under s. 627.351 must elect the maximum ~~90-~~
281 ~~percent~~ coverage level available under subparagraph 2.
282 4. In order to implement the phase-in of reduced coverage
283 levels, and notwithstanding subparagraph 2., if revenue bonds
284 issued under subsection (6) after a covered event are
285 outstanding and the insurer has elected the maximum coverage
286 level available under subparagraph 2., the insurer must, upon
287 renewal of the reimbursement contract, elect the maximum
288 coverage level for the renewal contract year.
289 5.~~3.~~ The contract must ~~shall~~ provide that reimbursement
290 amounts are ~~shall~~ not ~~be~~ reduced by reinsurance paid or payable

291 to the insurer from other sources.
292 ~~4. Notwithstanding any other provision contained in this~~
293 ~~section, the board shall make available to insurers that~~
294 ~~purchased coverage provided by this subparagraph in 2008,~~
295 ~~insurers qualifying as limited apportionment companies under s.~~
296 ~~627.351(6)(c), and insurers that have been approved to~~
297 ~~participate in the Insurance Capital Build-Up Incentive Program~~
298 ~~pursuant to s. 215.5595 a contract or contract addendum that~~
299 ~~provides an additional amount of reimbursement coverage of up to~~
300 ~~$10 million. The premium to be charged for this additional~~
301 ~~reimbursement coverage shall be 50 percent of the additional~~
302 ~~reimbursement coverage provided, which shall include one prepaid~~
303 ~~reinstatement. The minimum retention level that an eligible~~
304 ~~participating insurer must retain associated with this~~
305 ~~additional coverage layer is 30 percent of the insurer's surplus~~
306 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~
307 ~~December 31, 2009, for the 2010-2011 contract year; and as of~~
308 ~~December 31, 2010, for the 2011-2012 contract year. This~~
309 ~~coverage shall be in addition to all other coverage that may be~~
310 ~~provided under this section. The coverage provided by the fund~~
311 ~~under this subparagraph shall be in addition to the claims-~~
312 ~~paying capacity as defined in subparagraph (c)1., but only with~~
313 ~~respect to those insurers that select the additional coverage~~
314 ~~option and meet the requirements of this subparagraph. The~~
315 ~~claims-paying capacity with respect to all other participating~~
316 ~~insurers and limited apportionment companies that do not select~~
317 ~~the additional coverage option shall be limited to their~~
318 ~~reimbursement premium's proportionate share of the actual~~
319 ~~claims-paying capacity otherwise defined in subparagraph (c)1.~~

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320 ~~and as provided for under the terms of the reimbursement~~
321 ~~contract. The optional coverage retention as specified shall be~~
322 ~~accessed before the mandatory coverage under the reimbursement~~
323 ~~contract, but once the limit of coverage selected under this~~
324 ~~option is exhausted, the insurer's retention under the mandatory~~
325 ~~coverage will apply. This coverage will apply and be paid~~
326 ~~concurrently with mandatory coverage. This subparagraph expires~~
327 ~~on May 31, 2012.~~
328 (c)~~1.~~ The contract must ~~shall~~ also provide that the
329 obligation of the board with respect to all contracts covering a
330 particular contract year ~~shall~~ not exceed the actual claims-
331 paying capacity of the fund up to the limit specified in this
332 paragraph.
333 1. Fund limits are as follow:
334 a. For the 2013-2014 contract year, the limit is $16
335 billion.
336 b. For the 2014-2015 contract year, the limit is $15
337 billion.
338 c. For the 2015-2016 contract year and subsequent contract
339 years, the limit is $14 billion, except as provided in
340 subparagraph 2..
341 2. For contract years after the 2015-2016 contract year, if
342 ~~a limit of $17 billion for that contract year, unless~~ the board
343 determines that there is sufficient estimated claims-paying
344 capacity to provide $14 ~~$17~~ billion of capacity for the current
345 contract year and an additional $14 ~~$17~~ billion of capacity for
346 subsequent contract years~~. If the board makes such a~~
347 ~~determination~~, the estimated claims-paying capacity for the
348 particular contract year shall be determined by adding to the

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349 $14 ~~$17~~ billion limit one-half of the fund's estimated claims-
350 paying capacity in excess of $28 ~~$34~~ billion. However, the
351 dollar growth in the limit may not increase in any year by an
352 amount greater than the dollar growth of the balance of the fund
353 as of December 31~~, less any premiums or interest attributable to~~
354 ~~optional coverage~~, as defined by rule, which occurred over the
355 prior calendar year.
356 3.~~2.~~ In May and October of the contract year, the board
357 shall publish in the Florida Administrative Register ~~Weekly~~ a
358 statement of the fund's estimated borrowing capacity, the fund's
359 estimated claims-paying capacity, and the projected balance of
360 the fund as of December 31. After the end of each calendar year,
361 the board shall notify insurers of the estimated borrowing
362 capacity, estimated claims-paying capacity, and the balance of
363 the fund as of December 31 to provide insurers with data
364 necessary to assist them in determining their retention and
365 projected payout from the fund for loss reimbursement purposes.
366 In conjunction with the development of the premium formula, as
367 provided ~~for~~ in subsection (5), the board shall publish factors
368 or multiples that assist insurers in determining their retention
369 and projected payout for the next contract year. For all
370 regulatory and reinsurance purposes, an insurer may calculate
371 its projected payout from the fund as its share of the total
372 fund premium for the current contract year multiplied by the sum
373 of the projected balance of the fund as of December 31 and the
374 estimated borrowing capacity for that contract year as reported
375 under this subparagraph.
376 (6) REVENUE BONDS.—
377 (d) *State Board of Administration* ~~*Florida Hurricane*~~

378 ~~*Catastrophe Fund*~~ *Finance Corporation.*—
379 1. In addition to the findings and declarations in
380 subsection (1), the Legislature also finds and declares that:
381 a. The public benefits corporation created under this
382 paragraph will provide a mechanism ~~necessary~~ for the cost-
383 effective and efficient issuance of bonds. This mechanism will
384 eliminate unnecessary costs in the bond issuance process,
385 thereby increasing the amounts available for ~~to pay~~
386 reimbursement for losses to property sustained as a result of
387 hurricane damage.
388 b. The purpose of such bonds is to fund reimbursements
389 through the Florida Hurricane Catastrophe Fund ~~to pay~~ for the
390 costs of construction, reconstruction, repair, restoration, and
391 other costs associated with damage to properties of
392 policyholders of covered policies due to the occurrence of a
393 hurricane.
394 c. The efficacy of the financing mechanism will be enhanced
395 by the corporation's ownership of the assessments, by the
396 insulation of the assessments from possible bankruptcy
397 proceedings, and by covenants of the state with the
398 corporation's bondholders.
399 2.~~a.~~ The State Board of Administration Finance Corporation
400 ~~There~~ is created, which is a public benefits corporation and,
401 ~~which is~~ an instrumentality of the state~~, to be known as the~~
402 ~~Florida Hurricane Catastrophe Fund Finance Corporation~~. The
403 State Board of Administration Finance Corporation is for all
404 purposes the successor to the Florida Hurricane Catastrophe Fund
405 Finance Corporation.
406 a.~~b.~~ The corporation shall operate under a five-member

407 board of directors consisting of the Governor or a designee, the
408 Chief Financial Officer or a designee, the Attorney General or a
409 designee, the director of the Division of Bond Finance of the
410 State Board of Administration, and the Chief Operating Officer
411 ~~senior employee of the State Board of Administration responsible~~
412 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.
413 b.~~c.~~ The corporation has all of the powers of corporations
414 under chapter 607 and under chapter 617, subject only to ~~the~~
415 ~~provisions of~~ this subsection.
416 c.~~d.~~ The corporation may issue bonds and engage in such
417 other financial transactions as are necessary to provide
418 sufficient funds to achieve the purposes of this section.
419 d.~~e.~~ The corporation may invest in any of the investments
420 authorized under s. 215.47.
421 e.~~f.~~ There is ~~shall be~~ no liability on the part of, and no
422 cause of action shall arise against, any board members or
423 employees of the corporation for any actions taken by them in
424 the performance of their duties under this paragraph.
425 3.a. In actions under chapter 75 to validate any bonds
426 issued by the corporation, the notice required by s. 75.06 must
427 ~~shall~~ be published in two newspapers of general circulation in
428 the state, and the complaint and order of the court shall be
429 served only on the State Attorney of the Second Judicial
430 Circuit.
431 b. The state hereby covenants with holders of bonds of the
432 corporation that the state will not repeal or abrogate the power
433 of the board to direct the Office of Insurance Regulation to
434 levy the assessments and to collect the proceeds of the revenues
435 pledged to the payment of such bonds as long as ~~any~~ such bonds

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436 remain outstanding unless adequate provision has been made for
437 the payment of such bonds pursuant to the documents authorizing
438 the issuance of the ~~such~~ bonds.
439 c.~~4.~~ The bonds of the corporation are not a debt of the
440 state or of any political subdivision, and neither the state nor
441 any political subdivision is liable on such bonds. The
442 corporation may not ~~does not have the power to~~ pledge the
443 credit, the revenues, or the taxing power of the state or of any
444 political subdivision. The credit, revenues, or taxing power of
445 the state or of any political subdivision may ~~shall~~ not be
446 deemed to be pledged to the payment of any bonds of the
447 corporation.
448 d.~~5.a.~~ The property, revenues, and other assets of the
449 corporation; the transactions and operations of the corporation
450 and the income from such transactions and operations; and all
451 bonds issued under this paragraph and interest on such bonds are
452 exempt from taxation by the state and any political subdivision,
453 including the intangibles tax under chapter 199 and the income
454 tax under chapter 220. This exemption does not apply to any tax
455 imposed by chapter 220 on interest, income, or profits on debt
456 obligations owned by corporations other than the State Board of
457 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
458 Corporation.
459 e.~~b.~~ All bonds of the corporation are ~~shall be and~~
460 ~~constitute~~ legal investments without limitation for all public
461 bodies of this state; for all banks, trust companies, savings
462 banks, savings associations, savings and loan associations, and
463 investment companies; for all administrators, executors,
464 trustees, and other fiduciaries; for all insurance companies and

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465 associations and other persons carrying on an insurance
466 business; and for all other persons who are now or may hereafter
467 be authorized to invest in bonds or other obligations of the
468 state and are ~~shall be and constitute~~ eligible securities to be
469 deposited as collateral for the security of any state, county,
470 municipal, or other public funds. This sub-subparagraph shall be
471 considered ~~as~~ additional and supplemental authority and may
472 ~~shall~~ not be limited without specific reference to this sub-
473 subparagraph.
474 4.~~6.~~ The corporation and its corporate existence shall
475 continue until terminated by law; however, no such law shall
476 take effect as long as the corporation has bonds outstanding
477 unless adequate provision has been made for the payment of such
478 bonds pursuant to the documents authorizing the issuance of such
479 bonds. Upon termination of the existence of the corporation, all
480 of its rights and properties in excess of its obligations shall
481 pass to and be vested in the state.
482 ~~(16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.~~
483 ~~(a) *Findings and intent*.~~
484 ~~1. The Legislature finds that:~~
485 ~~a. Because of temporary disruptions in the market for~~
486 ~~catastrophic reinsurance, many property insurers were unable to~~
487 ~~procure reinsurance for the 2006 hurricane season with an~~
488 ~~attachment point below the insurers' respective Florida~~
489 ~~Hurricane Catastrophe Fund attachment points, were unable to~~
490 ~~procure sufficient amounts of such reinsurance, or were able to~~
491 ~~procure such reinsurance only by incurring substantially higher~~
492 ~~costs than in prior years.~~
493 ~~b. The reinsurance market problems were responsible, at~~

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494 ~~least in part, for substantial premium increases to many~~
495 ~~consumers and increases in the number of policies issued by the~~
496 ~~Citizens Property Insurance Corporation.~~
497 ~~c. It is likely that the reinsurance market disruptions~~
498 ~~will not significantly abate prior to the 2007 hurricane season.~~
499 ~~2. It is the intent of the Legislature to create a~~
500 ~~temporary emergency program, applicable to the 2007, 2008, and~~
501 ~~2009 hurricane seasons, to address these market disruptions and~~
502 ~~enable insurers, at their option, to procure additional coverage~~
503 ~~from the Florida Hurricane Catastrophe Fund.~~
504 ~~(b) *Applicability of other provisions of this section*. All~~
505 ~~provisions of this section and the rules adopted under this~~
506 ~~section apply to the program created by this subsection unless~~
507 ~~specifically superseded by this subsection.~~
508 ~~(c) *Optional coverage*. For the contract year commencing~~
509 ~~June 1, 2007, and ending May 31, 2008, the contract year~~
510 ~~commencing June 1, 2008, and ending May 31, 2009, and the~~
511 ~~contract year commencing June 1, 2009, and ending May 31, 2010,~~
512 ~~the board shall offer for each of such years the optional~~
513 ~~coverage as provided in this subsection.~~
514 ~~(d) *Additional definitions*. As used in this subsection, the~~
515 ~~term:~~
516 ~~1. "TEACO options" means the temporary emergency additional~~
517 ~~coverage options created under this subsection.~~
518 ~~2. "TEACO insurer" means an insurer that has opted to~~
519 ~~obtain coverage under the TEACO options in addition to the~~
520 ~~coverage provided to the insurer under its reimbursement~~
521 ~~contract.~~
522 ~~3. "TEACO reimbursement premium" means the premium charged~~

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523 ~~by the fund for coverage provided under the TEACO options.~~
524 ~~4. "TEACO retention" means the amount of losses below which~~
525 ~~a TEACO insurer is not entitled to reimbursement from the fund~~
526 ~~under the TEACO option selected. A TEACO insurer's retention~~
527 ~~options shall be calculated as follows:~~
528 ~~a. The board shall calculate and report to each TEACO~~
529 ~~insurer the TEACO retention multiples. There shall be three~~
530 ~~TEACO retention multiples for defining coverage. Each multiple~~
531 ~~shall be calculated by dividing $3 billion, $4 billion, or $5~~
532 ~~billion by the total estimated mandatory FHCF reimbursement~~
533 ~~premium assuming all insurers selected the 90 percent coverage~~
534 ~~level.~~
535 ~~b. The TEACO retention multiples as determined under sub-~~
536 ~~subparagraph a. shall be adjusted to reflect the coverage level~~
537 ~~elected by the insurer. For insurers electing the 90-percent~~
538 ~~coverage level, the adjusted retention multiple is 100 percent~~
539 ~~of the amount determined under sub-subparagraph a. For insurers~~
540 ~~electing the 75-percent coverage level, the retention multiple~~
541 ~~is 120 percent of the amount determined under sub-subparagraph~~
542 ~~a. For insurers electing the 45-percent coverage level, the~~
543 ~~adjusted retention multiple is 200 percent of the amount~~
544 ~~determined under sub-subparagraph a.~~
545 ~~c. An insurer shall determine its provisional TEACO~~
546 ~~retention by multiplying its estimated mandatory FHCF~~
547 ~~reimbursement premium by the applicable adjusted TEACO retention~~
548 ~~multiple and shall determine its actual TEACO retention by~~
549 ~~multiplying its actual mandatory FHCF reimbursement premium by~~
550 ~~the applicable adjusted TEACO retention multiple.~~
551 ~~d. For TEACO insurers who experience multiple covered~~

552 ~~events causing loss during the contract year, the insurer's full~~
553 ~~TEACO retention shall be applied to each of the covered events~~
554 ~~causing the two largest losses for that insurer. For other~~
555 ~~covered events resulting in losses, the TEACO option does not~~
556 ~~apply and the insurer's retention shall be one-third of the full~~
557 ~~retention as calculated under paragraph (2)(c).~~
558 ~~5. "TEACO addendum" means an addendum to the reimbursement~~
559 ~~contract reflecting the obligations of the fund and TEACO~~
560 ~~insurers under the program created by this subsection.~~
561 ~~6. "FHCF" means the Florida Hurricane Catastrophe Fund.~~
562 ~~(e) *TEACO addendum.*~~
563 ~~1. The TEACO addendum shall provide for reimbursement of~~
564 ~~TEACO insurers for covered events occurring during the contract~~
565 ~~year, in exchange for the TEACO reimbursement premium paid into~~
566 ~~the fund under paragraph (f). Any insurer writing covered~~
567 ~~policies has the option of choosing to accept the TEACO addendum~~
568 ~~for any of the 3 contract years that the coverage is offered.~~
569 ~~2. The TEACO addendum shall contain a promise by the board~~
570 ~~to reimburse the TEACO insurer for 45 percent, 75 percent, or 90~~
571 ~~percent of its losses from each covered event in excess of the~~
572 ~~insurer's TEACO retention, plus 5 percent of the reimbursed~~
573 ~~losses to cover loss adjustment expenses. The percentage shall~~
574 ~~be the same as the coverage level selected by the insurer under~~
575 ~~paragraph (4)(b).~~
576 ~~3. The TEACO addendum shall provide that reimbursement~~
577 ~~amounts shall not be reduced by reinsurance paid or payable to~~
578 ~~the insurer from other sources.~~
579 ~~4. The TEACO addendum shall also provide that the~~
580 ~~obligation of the board with respect to all TEACO addenda shall~~

581 ~~not exceed an amount equal to two times the difference between~~
582 ~~the industry retention level calculated under paragraph (2)(c)~~
583 ~~and the $3 billion, $4 billion, or $5 billion industry TEACO~~
584 ~~retention level options actually selected, but in no event may~~
585 ~~the board's obligation exceed the actual claims-paying capacity~~
586 ~~of the fund plus the additional capacity created in paragraph~~
587 ~~(g). If the actual claims-paying capacity and the additional~~
588 ~~capacity created under paragraph (g) fall short of the board's~~
589 ~~obligations under the reimbursement contract, each insurer's~~
590 ~~share of the fund's capacity shall be prorated based on the~~
591 ~~premium an insurer pays for its mandatory reimbursement coverage~~
592 ~~and the premium paid for its optional TEACO coverage as each~~
593 ~~such premium bears to the total premiums paid to the fund times~~
594 ~~the available capacity.~~
595 ~~5. The priorities, schedule, and method of reimbursements~~
596 ~~under the TEACO addendum shall be the same as provided under~~
597 ~~subsection (4).~~
598 ~~6. A TEACO insurer's maximum reimbursement for a single~~
599 ~~event shall be equal to the product of multiplying its mandatory~~
600 ~~FHCF premium by the difference between its FHCF retention~~
601 ~~multiple and its TEACO retention multiple under the TEACO option~~
602 ~~selected and by the coverage selected under paragraph (4)(b),~~
603 ~~plus an additional 5 percent for loss adjustment expenses. A~~
604 ~~TEACO insurer's maximum reimbursement under the TEACO option~~
605 ~~selected for a TEACO insurer's two largest events shall be twice~~
606 ~~its maximum reimbursement for a single event.~~
607 ~~(f) *TEACO reimbursement premiums.*—~~
608 ~~1. Each TEACO insurer shall pay to the fund, in the manner~~
609 ~~and at the time provided in the reimbursement contract for~~

610 ~~payment of reimbursement premiums, a TEACO reimbursement premium~~
611 ~~calculated as specified in this paragraph.~~
612 ~~2. The insurer's TEACO reimbursement premium associated~~
613 ~~with the $3 billion retention option shall be equal to 85~~
614 ~~percent of a TEACO insurer's maximum reimbursement for a single~~
615 ~~event as calculated under subparagraph (c)6. The TEACO~~
616 ~~reimbursement premium associated with the $4 billion retention~~
617 ~~option shall be equal to 80 percent of a TEACO insurer's maximum~~
618 ~~reimbursement for a single event as calculated under~~
619 ~~subparagraph (c)6. The TEACO premium associated with the $5~~
620 ~~billion retention option shall be equal to 75 percent of a TEACO~~
621 ~~insurer's maximum reimbursement for a single event as calculated~~
622 ~~under subparagraph (c)6.~~
623 ~~(g) *Effect on claims-paying capacity of the fund.*—For the~~
624 ~~contract term commencing June 1, 2007, the contract year~~
625 ~~commencing June 1, 2008, and the contract term beginning June 1,~~
626 ~~2009, the program created by this subsection shall increase the~~
627 ~~claims-paying capacity of the fund as provided in subparagraph~~
628 ~~(4)(c)1. by an amount equal to two times the difference between~~
629 ~~the industry retention level calculated under paragraph (2)(c)~~
630 ~~and the $3 billion industry TEACO retention level specified in~~
631 ~~sub-subparagraph (d)4.a. The additional capacity shall apply~~
632 ~~only to the additional coverage provided by the TEACO option and~~
633 ~~shall not otherwise affect any insurer's reimbursement from the~~
634 ~~fund.~~
635 ~~(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—~~
636 ~~(a) *Findings and intent.*—~~
637 ~~1. The Legislature finds that:~~
638 ~~a. Because of temporary disruptions in the market for~~

639 ~~catastrophic reinsurance, many property insurers were unable to~~
640 ~~procure sufficient amounts of reinsurance for the 2006 hurricane~~
641 ~~season or were able to procure such reinsurance only by~~
642 ~~incurring substantially higher costs than in prior years.~~
643 ~~b. The reinsurance market problems were responsible, at~~
644 ~~least in part, for substantial premium increases to many~~
645 ~~consumers and increases in the number of policies issued by~~
646 ~~Citizens Property Insurance Corporation.~~
647 ~~c. It is likely that the reinsurance market disruptions~~
648 ~~will not significantly abate prior to the 2007 hurricane season.~~
649 ~~2. It is the intent of the Legislature to create options~~
650 ~~for insurers to purchase a temporary increased coverage limit~~
651 ~~above the statutorily determined limit in subparagraph (4)(c)1.,~~
652 ~~applicable for the 2007, 2008, 2009, 2010, 2011, 2012, and 2013~~
653 ~~hurricane seasons, to address market disruptions and enable~~
654 ~~insurers, at their option, to procure additional coverage from~~
655 ~~the Florida Hurricane Catastrophe Fund.~~
656 ~~(b) *Applicability of other provisions of this section.*—All~~
657 ~~provisions of this section and the rules adopted under this~~
658 ~~section apply to the coverage created by this subsection unless~~
659 ~~specifically superseded by provisions in this subsection.~~
660 ~~(c) *Optional coverage.*—For the 2009-2010, 2010-2011, 2011-~~
661 ~~2012, 2012-2013, and 2013-2014 contract years, the board shall~~
662 ~~offer, for each of such years, the optional coverage as provided~~
663 ~~in this subsection.~~
664 ~~(d) *Additional definitions.* As used in this subsection, the~~
665 ~~term:~~
666 ~~1. "FHCF" means Florida Hurricane Catastrophe Fund.~~
667 ~~2. "FHCF reimbursement premium" means the premium paid by~~

668 ~~an insurer for its coverage as a mandatory participant in the~~
669 ~~FHCF, but does not include additional premiums for optional~~
670 ~~coverages.~~
671 ~~3. "Payout multiple" means the number or multiple created~~
672 ~~by dividing the statutorily defined claims-paying capacity as~~
673 ~~determined in subparagraph (4)(c)1. by the aggregate~~
674 ~~reimbursement premiums paid by all insurers estimated or~~
675 ~~projected as of calendar year-end.~~
676 ~~4. "TICL" means the temporary increase in coverage limit.~~
677 ~~5. "TICL options" means the temporary increase in coverage~~
678 ~~options created under this subsection.~~
679 ~~6. "TICL insurer" means an insurer that has opted to obtain~~
680 ~~coverage under the TICL options addendum in addition to the~~
681 ~~coverage provided to the insurer under its FHCF reimbursement~~
682 ~~contract.~~
683 ~~7. "TICL reimbursement premium" means the premium charged~~
684 ~~by the fund for coverage provided under the TICL option.~~
685 ~~8. "TICL coverage multiple" means the coverage multiple~~
686 ~~when multiplied by an insurer's reimbursement premium that~~
687 ~~defines the temporary increase in coverage limit.~~
688 ~~9. "TICL coverage" means the coverage for an insurer's~~
689 ~~losses above the insurer's statutorily determined claims-paying~~
690 ~~capacity based on the claims-paying limit in subparagraph~~
691 ~~(4)(c)1., which an insurer selects as its temporary increase in~~
692 ~~coverage from the fund under the TICL options selected. A TICL~~
693 ~~insurer's increased coverage limit options shall be calculated~~
694 ~~as follows:~~
695 ~~a. The board shall calculate and report to each TICL~~
696 ~~insurer the TICL coverage multiples based on 12 options for~~

697 ~~increasing the insurer's FHCF coverage limit. Each TICL coverage~~
698 ~~multiple shall be calculated by dividing $1 billion, $2 billion,~~
699 ~~$3 billion, $4 billion, $5 billion, $6 billion, $7 billion, $8~~
700 ~~billion, $9 billion, $10 billion, $11 billion, or $12 billion by~~
701 ~~the total estimated aggregate FHCF reimbursement premiums for~~
702 ~~the 2007-2008 contract year, and the 2008-2009 contract year.~~
703 ~~b. For the 2009-2010 contract year, the board shall~~
704 ~~calculate and report to each TICL insurer the TICL coverage~~
705 ~~multiples based on 10 options for increasing the insurer's FHCF~~
706 ~~coverage limit. Each TICL coverage multiple shall be calculated~~
707 ~~by dividing $1 billion, $2 billion, $3 billion, $4 billion, $5~~
708 ~~billion, $6 billion, $7 billion, $8 billion, $9 billion, and $10~~
709 ~~billion by the total estimated aggregate FHCF reimbursement~~
710 ~~premiums for the 2009-2010 contract year.~~
711 ~~c. For the 2010-2011 contract year, the board shall~~
712 ~~calculate and report to each TICL insurer the TICL coverage~~
713 ~~multiples based on eight options for increasing the insurer's~~
714 ~~FHCF coverage limit. Each TICL coverage multiple shall be~~
715 ~~calculated by dividing $1 billion, $2 billion, $3 billion, $4~~
716 ~~billion, $5 billion, $6 billion, $7 billion, and $8 billion by~~
717 ~~the total estimated aggregate FHCF reimbursement premiums for~~
718 ~~the contract year.~~
719 ~~d. For the 2011-2012 contract year, the board shall~~
720 ~~calculate and report to each TICL insurer the TICL coverage~~
721 ~~multiples based on six options for increasing the insurer's FHCF~~
722 ~~coverage limit. Each TICL coverage multiple shall be calculated~~
723 ~~by dividing $1 billion, $2 billion, $3 billion, $4 billion, $5~~
724 ~~billion, and $6 billion by the total estimated aggregate FHCF~~
725 ~~reimbursement premiums for the 2011-2012 contract year.~~

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726 ~~e. For the 2012-2013 contract year, the board shall~~
727 ~~calculate and report to each TICL insurer the TICL coverage~~
728 ~~multiples based on four options for increasing the insurer's~~
729 ~~FHCF coverage limit. Each TICL coverage multiple shall be~~
730 ~~calculated by dividing $1 billion, $2 billion, $3 billion, and~~
731 ~~$4 billion by the total estimated aggregate FHCF reimbursement~~
732 ~~premiums for the 2012-2013 contract year.~~
733 ~~f. For the 2013-2014 contract year, the board shall~~
734 ~~calculate and report to each TICL insurer the TICL coverage~~
735 ~~multiples based on two options for increasing the insurer's FHCF~~
736 ~~coverage limit. Each TICL coverage multiple shall be calculated~~
737 ~~by dividing $1 billion and $2 billion by the total estimated~~
738 ~~aggregate FHCF reimbursement premiums for the 2013-2014 contract~~
739 ~~year.~~
740 ~~g. The TICL insurer's increased coverage shall be the FHCF~~
741 ~~reimbursement premium multiplied by the TICL coverage multiple.~~
742 ~~In order to determine an insurer's total limit of coverage, an~~
743 ~~insurer shall add its TICL coverage multiple to its payout~~
744 ~~multiple. The total shall represent a number that, when~~
745 ~~multiplied by an insurer's FHCF reimbursement premium for a~~
746 ~~given reimbursement contract year, defines an insurer's total~~
747 ~~limit of FHCF reimbursement coverage for that reimbursement~~
748 ~~contract year.~~
749 ~~10. "TICL options addendum" means an addendum to the~~
750 ~~reimbursement contract reflecting the obligations of the fund~~
751 ~~and insurers selecting an option to increase an insurer's FHCF~~
752 ~~coverage limit.~~
753 ~~(c) *TICL options addendum.*~~
754 ~~1. The TICL options addendum shall provide for~~

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755 ~~reimbursement of TICL insurers for covered events occurring~~
756 ~~during the 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-~~
757 ~~2014 contract years in exchange for the TICL reimbursement~~
758 ~~premium paid into the fund under paragraph (f) based on the TICL~~
759 ~~coverage available and selected for each respective contract~~
760 ~~year. Any insurer writing covered policies has the option of~~
761 ~~selecting an increased limit of coverage under the TICL options~~
762 ~~addendum and shall select such coverage at the time that it~~
763 ~~executes the FHCF reimbursement contract.~~
764 ~~2. The TICL addendum shall contain a promise by the board~~
765 ~~to reimburse the TICL insurer for 45 percent, 75 percent, or 90~~
766 ~~percent of its losses from each covered event in excess of the~~
767 ~~insurer's retention, plus 5 percent of the reimbursed losses to~~
768 ~~cover loss adjustment expenses. The percentage shall be the same~~
769 ~~as the coverage level selected by the insurer under paragraph~~
770 ~~(4)(b).~~
771 ~~3. The TICL addendum shall provide that reimbursement~~
772 ~~amounts shall not be reduced by reinsurance paid or payable to~~
773 ~~the insurer from other sources.~~
774 ~~4. The priorities, schedule, and method of reimbursements~~
775 ~~under the TICL addendum shall be the same as provided under~~
776 ~~subsection (4).~~
777 ~~(f) *TICL reimbursement premiums.*—Each TICL insurer shall~~
778 ~~pay to the fund, in the manner and at the time provided in the~~
779 ~~reimbursement contract for payment of reimbursement premiums, a~~
780 ~~TICL reimbursement premium determined as specified in subsection~~
781 ~~(5), except that a cash build-up factor does not apply to the~~
782 ~~TICL reimbursement premiums. However, the TICL reimbursement~~
783 ~~premium shall be increased in the 2009-2010 contract year by a~~

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784 ~~factor of two, in the 2010-2011 contract year by a factor of~~
785 ~~three, in the 2011-2012 contract year by a factor of four, in~~
786 ~~the 2012-2013 contract year by a factor of five, and in the~~
787 ~~2013-2014 contract year by a factor of six.~~
788 ~~(g) *Effect on claims-paying capacity of the fund.*—For the~~
789 ~~2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014~~
790 ~~contract years, the program created by this subsection shall~~
791 ~~increase the claims-paying capacity of the fund as provided in~~
792 ~~subparagraph (4)(c)1. by an amount not to exceed $12 billion and~~
793 ~~shall depend on the TICL coverage options available and selected~~
794 ~~for the specified contract year and the number of insurers that~~
795 ~~select the TICL optional coverage. The additional capacity shall~~
796 ~~apply only to the additional coverage provided under the TICL~~
797 ~~options and shall not otherwise affect any insurer's~~
798 ~~reimbursement from the fund if the insurer chooses not to select~~
799 ~~the temporary option to increase its limit of coverage under the~~
800 ~~FHCF.~~
801 (16) ~~(18)~~ FACILITATION OF INSURERS' PRIVATE CONTRACT
802 NEGOTIATIONS BEFORE THE START OF THE HURRICANE SEASON.—
803 (a) In addition to the legislative findings and intent
804 provided elsewhere in this section:~~,~~
805 1. The Legislature finds that:
806 ~~1.~~a. Because a regular session of the Legislature begins
807 approximately 3 months before the start of a contract year and
808 ends approximately 1 month before the start of a contract year,
809 participants in the fund always face the possibility that
810 legislative actions will change the coverage provided or offered
811 by the fund with only a few days or weeks of advance notice.
812 b. The timing issues described in sub-subparagraph a. can

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813 create uncertainties and disadvantages for the residential
814 property insurers that are required to participate in the fund
815 when such insurers negotiate for the procurement of private
816 reinsurance or other sources of capital.
817 c. Providing participating insurers with a greater degree
818 of certainty regarding the coverage provided or offered by the
819 fund and more time to negotiate for the procurement of private
820 reinsurance or other sources of capital will enable the
821 residential property insurance market to operate with greater
822 stability.
823 d. Increased stability in the residential property
824 insurance market serves a primary purpose of the fund and
825 benefits state ~~Florida~~ consumers by enabling insurers to operate
826 more economically. In years when reinsurance and capital markets
827 are experiencing a capital shortage, the last-minute rush by
828 insurers only weeks before the start of the hurricane season to
829 procure adequate coverage in order to meet their capital
830 requirements can result in higher costs that are passed on to
831 ~~Florida~~ consumers. However, if more time is available,
832 residential property insurers should experience greater
833 competition for their business with a corresponding beneficial
834 effect for ~~Florida~~ consumers.
835 2. It is the intent of the Legislature:
836 a. To provide insurers with the terms and conditions of the
837 reimbursement contract well in advance of the insurers' need to
838 finalize their procurement of private reinsurance or other
839 sources of capital, and thereby improve insurers' negotiating
840 position with reinsurers and other sources of capital.
841 b.~~3.~~ ~~It is also the intent of the Legislature~~ That the

842 board publish the fund's maximum statutory limit of coverage and
843 the fund's total retention early enough for ~~that~~ residential
844 property insurers to ~~can~~ have the opportunity to better estimate
845 their coverage from the fund.
846 (b) The board shall adopt the reimbursement contract for a
847 particular contract year by February 1 of the immediately
848 preceding contract year. ~~However, the reimbursement contract~~
849 ~~shall be adopted as soon as possible in advance of the 2010-2011~~
850 ~~contract year.~~
851 (c) Insurers writing covered policies shall execute the
852 reimbursement contract by March 1 of the immediately preceding
853 contract year, and the contract shall have an effective date as
854 of the beginning of the contract year ~~defined in paragraph~~
855 ~~(2)(o)~~.
856 (d) The board shall publish in the Florida Administrative
857 Register ~~Weekly~~ the maximum statutory adjusted capacity for the
858 mandatory coverage for a particular contract year, the maximum
859 statutory coverage for any optional coverage for the particular
860 contract year, and the aggregate fund retention used to
861 calculate individual insurer's retention multiples for the
862 particular contract year by ~~no later than~~ January 1 of the
863 immediately preceding contract year.
864 Section 2. Subsection (5) of section 627.062, Florida
865 Statutes, is amended to read:
866 627.062 Rate standards.—
867 (5) With respect to a rate filing involving coverage of the
868 type for which the insurer is required to pay a reimbursement
869 premium to the Florida Hurricane Catastrophe Fund, the insurer
870 may fully recoup in its property insurance premiums any

871 reimbursement premiums paid to the fund, together with
872 reasonable costs of other reinsurance~~; however, except as~~
873 ~~otherwise provided in this section, the insurer may not recoup~~
874 ~~reinsurance costs that duplicate coverage provided by the fund~~.
875 An insurer may not recoup more than 1 year of reimbursement
876 premium at a time. Any under-recoupment from the prior year may
877 be added to the following year's reimbursement premium, and any
878 over-recoupment must be subtracted from the following year's
879 reimbursement premium.
880 Section 3. Subsection (10) of section 624.424, Florida
881 Statutes, is amended to read:
882 624.424 Annual statement and other information.—
883 (10) Each insurer or insurer group doing business in this
884 state shall file, on a quarterly basis, in conjunction with
885 financial reports required by paragraph (1)(a), a supplemental
886 report on an individual and group basis on a form prescribed by
887 the commission with information on personal lines and commercial
888 lines residential property insurance policies in this state. The
889 supplemental report must ~~shall~~ include separate information for
890 personal lines property policies and for commercial lines
891 property policies and totals for each item specified, including
892 premiums written for each of the property lines of business as
893 described in ss. 215.555(2)(g) ~~215.555(2)(c)~~ and 627.351(6)(a).
894 The report must ~~shall~~ include the following information for each
895 county on a monthly basis:
896 (a) Total number of policies in force at the end of each
897 month.
898 (b) Total number of policies canceled.
899 (c) Total number of policies nonrenewed.

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900 (d) Number of policies canceled due to hurricane risk.
901 (e) Number of policies nonrenewed due to hurricane risk.
902 (f) Number of new policies written.
903 (g) Total dollar value of structure exposure under policies
904 that include wind coverage.
905 (h) Number of policies that exclude wind coverage.
906 Section 4. Subsection (5) of section 627.0629, Florida
907 Statutes, is amended to read:
908 627.0629 Residential property insurance; rate filings.—
909 (5) In order to provide an appropriate transition period,
910 an insurer may implement an approved rate filing for residential
911 property insurance over a period of years. Such insurer must
912 provide an informational notice to the office setting out its
913 schedule for implementation of the phased-in rate filing. The
914 insurer may include in its rate the actual cost of private
915 market reinsurance that corresponds to available coverage of the
916 Temporary Increase in Coverage Limits, TICL, from the Florida
917 Hurricane Catastrophe Fund. ~~The insurer may also include the~~
918 ~~cost of reinsurance to replace the TICL reduction implemented~~
919 ~~pursuant to s. 215.555(17)(d)9.~~ However, this cost for
920 reinsurance may not include any expense or profit load or result
921 in a total annual base rate increase in excess of 10 percent.
922 Section 5. Paragraph (v) of subsection (6) of section
923 627.351, Florida Statutes, is amended to read:
924 627.351 Insurance risk apportionment plans.—
925 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
926 (v)1. Effective July 1, 2002, policies of the Residential
927 Property and Casualty Joint Underwriting Association become
928 policies of the corporation. All obligations, rights, assets and

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929 liabilities of the association, including bonds, note and debt
930 obligations, and the financing documents pertaining to them
931 become those of the corporation as of July 1, 2002. The
932 corporation is not required to issue endorsements or
933 certificates of assumption to insureds during the remaining term
934 of in-force transferred policies.
935 2. Effective July 1, 2002, policies of the Florida
936 Windstorm Underwriting Association are transferred to the
937 corporation and become policies of the corporation. All
938 obligations, rights, assets, and liabilities of the association,
939 including bonds, note and debt obligations, and the financing
940 documents pertaining to them are transferred to and assumed by
941 the corporation on July 1, 2002. The corporation is not required
942 to issue endorsements or certificates of assumption to insureds
943 during the remaining term of in-force transferred policies.
944 3. The Florida Windstorm Underwriting Association and the
945 Residential Property and Casualty Joint Underwriting Association
946 shall take all actions necessary to further evidence the
947 transfers and provide the documents and instruments of further
948 assurance as may reasonably be requested by the corporation for
949 that purpose. The corporation shall execute assumptions and
950 instruments as the trustees or other parties to the financing
951 documents of the associations ~~Florida Windstorm Underwriting~~
952 ~~Association or the Residential Property and Casualty Joint~~
953 ~~Underwriting Association~~ may reasonably request to further
954 evidence the transfers and assumptions, which transfers and
955 assumptions, however, are effective on the date provided under
956 this paragraph ~~whether or not, and~~ regardless of the date on
957 which, the assumptions or instruments are executed by the

958 corporation. Subject to the relevant financing documents
959 pertaining to their outstanding bonds, notes, indebtedness, or
960 other financing obligations, the moneys, investments,
961 receivables, choses in action, and other intangibles of the
962 Florida Windstorm Underwriting Association shall be credited to
963 the coastal account of the corporation, and those of the
964 personal lines residential coverage account and the commercial
965 lines residential coverage account of the Residential Property
966 and Casualty Joint Underwriting Association shall be credited to
967 the personal lines account and the commercial lines account,
968 respectively, of the corporation.
969 4. Effective July 1, 2002, a new applicant for property
970 insurance coverage who would otherwise have been eligible for
971 coverage in the Florida Windstorm Underwriting Association is
972 eligible for coverage from the corporation as provided in this
973 subsection.
974 5. The transfer of all policies, obligations, rights,
975 assets, and liabilities from the Florida Windstorm Underwriting
976 Association to the corporation and the renaming of the
977 Residential Property and Casualty Joint Underwriting Association
978 as the corporation does not affect ~~the~~ coverage with respect to
979 a covered policy ~~policies~~ as defined in s. 215.555(2)~~(c)~~
980 provided to these entities by the Florida Hurricane Catastrophe
981 Fund. The coverage provided by the fund to the Florida Windstorm
982 Underwriting Association based on its exposures as of June 30,
983 2002, and each June 30 thereafter shall be redesignated as
984 coverage for the coastal account of the corporation.
985 Notwithstanding any other provision of law, the coverage
986 provided by the fund to the Residential Property and Casualty

987 Joint Underwriting Association based on its exposures as of June
988 30, 2002, and each June 30 thereafter shall be transferred to
989 the personal lines account and the commercial lines account of
990 the corporation. Notwithstanding any other provision of law, the
991 coastal account shall be treated, for all Florida Hurricane
992 Catastrophe Fund purposes, as if it were a separate
993 participating insurer with its own exposures, reimbursement
994 premium, and loss reimbursement. Likewise, the personal lines
995 and commercial lines accounts shall ~~be viewed together~~, for all
996 fund purposes, be viewed together as if the two accounts were
997 one and represent a single, separate participating insurer with
998 its own exposures, reimbursement premium, and loss
999 reimbursement. The coverage provided by the fund to the
1000 corporation shall constitute and operate as a full transfer of
1001 coverage from the Florida Windstorm Underwriting Association and
1002 Residential Property and Casualty Joint Underwriting Association
1003 to the corporation.
1004 Section 6. Transitional provisions.—In order to implement
1005 the revisions to section 215.555, Florida Statutes, as provided
1006 in section 1 of this act, the State Board of Administration
1007 shall adopt such revised or amended rules and forms, or addenda
1008 thereto, as necessary to ensure that these statutory changes
1009 apply to each participating insurer's Florida Hurricane
1010 Catastrophe Fund reimbursement contract for the contract year
1011 commencing on June 1, 2013. The board may use the emergency
1012 rulemaking process as needed to assure timely adoption of these
1013 rules, forms, and addenda. Such rules, forms, and addenda
1014 adopted under the authority of this section supersede previously
1015 adopted rules, forms, and addenda applicable to the 2013-2014

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1016 contract year to the extent of any conflict therewith.
1017 Section 7. This act shall take effect July 1, 2013.

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THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

4/2/13
Date

1262
Bill Number

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Speaking: [✓] For [ ] Against [ ] Information

Appearing at request of Chair [ ]

Subject Cat. Fund Reform

Representing Florida Wildlife Federation

Lobbyist registered with Legislature: [✓] Yes [ ] No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ ___ .m. to _____ ___ .m.

S-001 (08/2005)

THE FLORIDA SENATE

APPEARANCE RECORD

April 2, 2013 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

Topic: CAT FUND

Bill Number: S. 1262 *(if applicable)*

Name: Steve Pociask

Amendment Barcode: *(if applicable)*

Job Title: President

Address: 1701 Pennsylvania Ave, NW
Street

Washington, DC 20006
City *State* *Zip*

Phone: 850-391-7677

E-mail: steve@theAmericanConsumer.org

Speaking: ☐ For ☐ Against ☒ Information

Representing: The American Consumer Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2013
Meeting Date

Topic: CAT. FUND

Bill Number: 1262 *(if applicable)*

Name: CHRISTIAN CAMARA

Amendment Barcode: *(if applicable)*

Job Title: STATE DIRECTOR

Address: PO BOX 10577
Street

TALLAHASSEE FL 32303
City *State* *Zip*

Phone: (305) 608-4300

E-mail: CCAMARA@R

Speaking: ☐ For ☐ Against ☒ Information

Representing: R STREET INSTITUTE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2 2013
Meeting Date

Topic: Florida Hurricane Catastrophe

Bill Number: SB 1262 *(if applicable)*

Name: Janet Bowman

Amendment Barcode: _____ *(if applicable)*

Job Title: Director of Legislative Policy & Strategies

Address: 625 N. Adams Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: [✓] For [ ] Against [ ] Information

Representing: The Nature Conservancy

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: _____

Topic: Property Insurance/CAT Fund

Bill Number: 1262 - for (if applicable)

Name: David Christian

Amendment Barcode: 398790 - Against (if applicable)

Job Title: VP Government Affairs

Address: 136 S. Bronough St (Street)

Tallahassee (City) FL (State) 32301 (Zip)

Phone: 850/521-1211

E-mail: dchristian@flchamber.com

Speaking: [x] For [x] Against [ ] Information

Representing: FL Chamber

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

RING AMENDMENT

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: CAT Fund (Sen. Hays)

Bill Number: SB 1262 (if applicable)

Name: Gary Farmer

Amendment Barcode: (Sen. Ring's amendment) (if applicable)

Job Title: President

Address: 218 S. Monroe Street
Street

Tall, Fla. 32301
City, State, Zip

Phone: 224-9403

E-mail: —

Speaking: ☐ For ☐ Against ☐ Information

Representing: Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

1262

Topic: FLORIDA HURRICANE CAT FUND

Bill Number: SB 7018 *(if applicable)*

Name: Tom JERGER

Amendment Barcode: Sen. Ring's Amendment *(if applicable)*

Job Title: CEO / COB

Address: 7785 66th Street
Street

Pinellas Park FL 33781
City *State* *Zip*

Phone: 727-560-1113

E-mail: Tomj@westpointtw.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: American Traditions Ins. Co.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/2013
Meeting Date

Topic: CAT FUND

Bill Number: 1262 (if applicable)

Name: DON BROWN

Amendment Barcode: RING AMEND (if applicable)

Job Title:

Address: POB 866
Street

DEFUNIAK SPRINGS, FL 32435
City State Zip

Phone: 850-865-9280

E-mail: DON@DONBROWNFLORIDA.COM

Speaking: ☐ For ☐ Against ☐ Information

Representing: AIF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/20/11)

SB 1262

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

Ring Amend.

(Submit to Committee Chair or Administrative Assistant)

4/2/13
Date

588276
Bill Number

Name Jay Liles

Phone 850/294-5004

Address PO Box 6870
Street

E-mail jliles@fwfonline.org

Tallahassee FL 32314
City State Zip

Job Title Policy Consultant

Speaking: ☐ For ☑ Against ☐ Information

Appearing at request of Chair ☐

Subject Ring substitute Amend.

Representing Florida Wildlife Federation

Lobbyist registered with Legislature: ☑ Yes ☐ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ ___ .m. to _____ ___ .m.

S-001 (08/2005)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Cat Fund

Bill Number: 1262 *(if applicable)*

Name: Jay Neal

Amendment Barcode: 548468 *(if applicable)*

Job Title: Executive Director

Address: 2930 S Military Tr
Street

Lake Worth FL 33462
City *State* *Zip*

Phone: (888) 745 5551

E-mail: jneal@floridainsurance reform.org

Speaking: [X] For [ ] Against [ ] Information

Representing: FAIR

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic FACF

Bill Number 1262 (if applicable)

Name Melissa Burt Pourriese

Amendment Barcode 548868 (if applicable)

Job Title General Counsel & Director

Address 140 S. Atlantic Ave
Street

Ormond Beach FL 32174
City State Zip

Phone 386-523-2318

E-mail MPourriese@SecurityFirstAdmin.com

Speaking: [X] For [ ] Against [ ] Information

Representing Security First Ins. Co.

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/2013
Meeting Date

Topic: CAT FUND

Bill Number: 1262 *(if applicable)*

Name: DON BROWN

Amendment Barcode: *(if applicable)*

Job Title:

Address: POB 866
Street

DEFUNIAK SPRINGS, FL 32435
City *State* *Zip*

Phone: 850-865-9280

E-mail: DON@DONBROWNFLORIDA.COM

Speaking: [✓] For [ ] Against [ ] Information

Representing: ALF

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: CAT FUND

Bill Number: 1262 *(if applicable)*

Name: GARY FARMER

Amendment Barcode: 588276 *(if applicable)*

Job Title: ATTORNEY

Address: 425 N ANDREWS AVE
Street

FT. LAUD FL 33301
City *State* *Zip*

Phone: 954- [redacted] 524-2820

E-mail: GARY@PATHTOJUSTICE.COM

Speaking: [X] For [ ] Against [ ] Information

Representing: FLORIDA JUSTICE ASS'N

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

A 19 Amendment

4-2
Meeting Date

Topic: CAT Fund

Bill Number: 1262 *(if applicable)*

Name: Robin Westcott

Amendment Barcode: _____ *(if applicable)*

Job Title: Ins. Consumer Advocate

Address: LL22 The Capitol
Street

TLH FL 32399
City *State* *Zip*

Phone: 850 413 2868

E-mail: Robin[redacted]westcott@myflorida cfo.com

Speaking: [x] For [ ] Against [ ] Information

Representing: _____

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 836

INTRODUCER: Senator Simmons

SUBJECT: Insurer Solvency

DATE: March 7, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Burgess	BI	**Pre-meeting**
2.			JU	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 836 revises provisions within the Insurance Code relating to solvency requirements and regulatory oversight of insurers by the Office of Insurance Regulation (OIR). The bill incorporates provisions of model acts and regulations that have been adopted by the National Association of Insurance Commissioners (NAIC).[1] Some of these provisions are in response to the 2008 financial crisis and the globalization of the insurance market and are intended to enhance the regulation of insurers as well as their affiliated entities and provide more solvency tools for evaluating risks within insurance groups. The bill provides the following changes:

- Requires acquirers of controlling interests to disclose enterprise risk and for ultimate controlling persons to file an annual enterprise risk report with the OIR that identifies material risk within the insurance company holding company system that could pose a risk or have a material adverse effect upon the insurer;
- Requires insurance holding companies to file an annual registration statement, including disclosure of material risks between affiliates;
- Allows the OIR to examine an insurer and its affiliates to assess enterprise risk;
- Incorporates a risk-based capital trend test for life and health and property and casualty insurers;
- Requires health maintenance organizations and prepaid limited health service organizations to file risk-based capital reports;
- Requires insurers to file actuarial opinion summaries and supporting workpapers annually;

[1] The NAIC is a voluntary association of insurance regulators from all 50 states. The NAIC was created to coordinate regulation and examination of multistate insurers, provide a forum for addressing major insurance issues, and promote uniform model laws among the states.

- Provides a privilege for memoranda supporting actuarial opinions on reserves, actuarial opinion summaries and related information;
- Provides for confidentiality of enterprise risk reports and actuarial opinion summaries; and
- Allows the OIR to participate in supervisory colleges with other regulators for the regulation of any domestic insurer that is part of an insurance holding company system with international operations.

As a member of the NAIC, the OIR is required to participate in the Financial Regulation Standards and Accreditation Program. For purposes of the NAIC Fall Accreditation Review, the OIR has identified model provisions or updates that are not found in the current Insurance Code that must be implemented or updated for the OIR to maintain accreditation.[2] The adoption of the Property and Casualty Trend Test of the Risk-Based Capital Model Act and the Property and Casualty Actuarial Opinion Model Law are necessary for purposes of accreditation Fall 2013 since the accreditation effective dates for these provisions were January 1, 2012, and January 1, 2010, respectively. In addition, two other NAIC model acts, Risk-Based Capital for Health Organizations and the Life Trend Test of the Risk Based Capital Model Act are necessary for accreditation effective January 1, 2015 and January 1, 2017, respectively. The accreditation effective date for amendments to the Insurance Holding Company System Regulatory Act is tentatively set for January 1, 2016.

This bill substantially amends the following sections of the Florida Statutes: 624.4085, 624.424, 625.121, 628.461, 628.801, 628.803 628.461, 636.045, and 641.255. This bill creates the following sections of the Florida Statutes: 624.085 and 628.805.

II. Present Situation:

Insurance companies are regulated primarily by the states. The state of domicile serves as the primary regulator for insurers. Solvency regulation is designed to protect policyholders against the risk that insurers will not be able to meet their financial responsibilities. The OIR[3] is primarily responsible for monitoring the solvency of regulated insurers and examining insurers to determine compliance with applicable laws, and taking administrative action, if necessary. Solvency regulation includes the requirements for starting and operating an insurance company,[4] monitoring the financial condition of insurers through examinations and audits, and procedures for the administrative supervision,[5] rehabilitation,[6] or liquidation[7] of an insurance company if it is in unsound financial condition or insolvent.

[2] OIR NAIC Model Act Accreditation Effective Date Chart. On file with Banking and Insurance Committee Staff.
[3] Section 20.121(3)(a), F.S.
[4] Sections 624.411 - 624.414, F.S.
[5] Administrative supervision allows the Department of Financial Services (DFS) to supervise the management of a consenting troubled insurance company in an attempt to cure the company's troubles rather than close it down.
[6] In rehabilitation, the DFS is authorized as receiver to conduct all business of the insurer in an attempt to place the insurance company back in sound financial condition.
[7] In liquidation, the DFS is authorized as receiver to gather the insurance company's assets, convert them to cash, and distribute them to various claimants, and shut down the company.

NAIC Solvency-Related Model Acts

The NAIC accreditation is a certification that legal, financial, and organizational standards are being fulfilled by the OIR. The NAIC establishes accreditation effective dates for states to adopt in substantially similar form models and acts for purposes of NAIC accreditation review.

Model Holding Company Act and Regulations
The NAIC has adopted amendments to its Insurance Holding Company System Regulatory Model Act and the Insurance Holding Company Model Regulation with Reporting Forms and Instructions. In light of the recent financial crisis, the NAIC, insurance regulators and other stakeholders reviewed the potential impact of non-insurance operations on insurance companies in the same group to determine the best methods to evaluate the risks and activities of entities within a holding company system. The amendments to these model acts are tentatively scheduled to be effective for purposes of accreditation on January 1, 2016. The revised model act adds the concept of "enterprise risk" and require controlled insurers to file a new annual form (Form F) detailing specified matters relating to the holding company group. The NAIC model act defines "enterprise risk" as:

[A]ny activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer of its insurance company as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital as set forth in [state requirement] or would cause the insurer to be in a hazardous financial condition.[8]

Amendments to the model act also address divestitures. Prior to the amendments to the model act, a person could divest control of an insurer without prior regulatory review as long as no single acquirer obtained control of 10 percent or more of the outstanding voting shares. Amendments to the model act generally require a person divesting control over an insurer to provide 30 days' prior notice to the regulator.

The revised model act also provides insurance regulators access to information of an insurer and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party. The regulator may require any insurer registered as a controlled insurer to produce information not in the possession of the insurer if the insurer can obtain access to such. If the insurer fails to obtain the requested information, the insurer is required to provide an explanation of such failure. If the regulator determines that the explanation is without merit, the regulator may require the insurer to pay a penalty for each day's delay, or may suspend or revoke the insurer's certificate of authority.[9]

The amendments to the model acts also authorize a regulator to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance. Insurers would pay for expenses associated with the insurance regulator's participation in a supervisory college. State, federal,

[8] Section 1F of the NAIC Insurance Holding Company System Regulatory Act.
[9] Section 6B of the NAIC Insurance Holding Company System Regulatory Act.

and international regulators may participate in the supervision of the insurer or its affiliates.[10] According to the NAIC Center for Insurance Policy & Research, "a supervisory college is a meeting of insurance regulators or supervisors where the topic of discussion is regulatory oversight of one specific insurance group that is writing significant amounts of insurance in other jurisdictions."[11] Supervisory colleges facilitate oversight of internationally active insurance companies at the group level and promote regulatory information sharing, subject to applicable confidentiality agreements.[12]

Risk-Based Capital for Insurers & Health Organizations

Risk-based capital (RBC) is a capital adequacy standard that represents the amount of required capital that an insurer must maintain, based on the inherent risks in the insurer's operations. It is determined by a formula that considers various risks depending on the type of insurer (e.g., subsidiary insurance companies, fixed income, equity, credit, reserves, and net written premium). The RBC provides a safety net for insurers, is uniform among states, and provides state insurance regulators with authority for timely corrective action.[13] The NAIC's *Risk-Based Capital for Insurers Model Act* provides that states must require both life and health and property and casualty insurers to submit RBC filings with their regulators. Presently, this requirement is incorporated in the Insurance Code; however, it does not apply to health maintenance organizations (HMOs) and prepaid limited health service organizations.[14] Prepaid limited health service organizations provide limited health services (such as dental or vision care) through an exclusive panel of providers in return for a prepayment,[15] and HMOs generally provide a range of health coverage with contracted providers.[16] The NAIC Risk-Based Capital Health Organizations Model Act will be effective as an accreditation standard beginning January 1, 2015, and applies to health maintenance organizations and prepaid limited health service organization.

In March 2006, the NAIC adopted revisions to the Risk-Based Capital for Insurers Model Act. The revisions were made to incorporate a new Property and Casualty Trend Test for property and casualty companies. The accreditation effective date for property and casualty trend test was January 1, 2012. A statutory provision relating to a life trend test was already included in the RBC for Insurers Model Act; but the changes equalize the trigger between life and health, property, and casualty companies that prompt the need for a trend test calculation. The model was amended to cite the Property & Casualty Trend Test as a means for the company action level to be triggered. The accreditation effective date for these changes is January 1, 2017.

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[10] Section 7 of the NAIC Insurance Holding Company System Regulatory Act.
[11] "Supervisory Colleges: A Regulatory Tool for Enhancing Supervisory Cooperation and Coordination," http://www.naic.org/cipr_newsletter_archive/vol4_supervisory_colleges.htm (last accessed March 1, 2013).
[12] NAIC on Supervisory Colleges, http://www.naic.org/cipr_topics/topic_supervisory_college.htm (last accessed March 1, 2013). Additionally, the linked/public records bill, SB 834, provides for confidential treatment of regulatory information, including within the context of a supervisory college that is shared between insurance regulators and law enforcement, pursuant to confidentiality agreements.
[13] NAIC on Risk-Based Capital, http://www.naic.org/cipr_topics/topic_risk_based_capital.htm (last accessed March 1, 2013).
[14] Section 624.4085, F.S.
[15] Section 636.003(7), F.S.
[16] Section 641.19(12), F.S.

Property and Casualty Actuarial Opinion Model Law

The NAIC Property and Casualty Actuarial Opinion Model Law specifies that states must require property and casualty insurers to submit a Statement of Actuarial Opinion, which is a public document. The model act also requires the submission of an Actuarial Opinion Summary, an Actuarial Report, and workpapers to support each actuarial opinion, which must be treated as confidential and privileged document. The accreditation effective date for the adoption of this model act was January 1, 2010.

Current law requires insurers (except those providing life insurance and title insurance) to provide to the OIR an annual statement of its financial condition and a statement of opinion on loss and loss adjustment expense reserves prepared by an actuary or a qualified loss reserve specialists. These insurers are also required to provide supporting workpapers upon the OIR's request.[17] Currently, these materials are not exempt from ch. 119, F.S., relating to public records.

III. Effect of Proposed Changes:

Model Insurance Holding Company Act and Regulations

Section 1 creates s. 624.085, F.S., which establishes definitions of affiliate, affiliated person, and control. The definitions of "affiliated person" and "controlling company" currently defined in s. 628.461(12)(a), F.S., are transferred to this section.

Section 5 amends s. 628.461, F.S., relating to acquisition of controlling stock. The section deletes the provision in "lieu of filing an acquisition statement, a party acquiring less than 10 percent of the outstanding voting securities of an insurer, may file a disclaimer of affiliation and control."

The section specifies that the acquiring party's statement must include an agreement to file an "annual enterprise risk report," if control exists as described in section 6 of the bill. The bill adds language that states the person required to file the statement pursuant to s. 628.461(1), F.S. will provide the annual report specified in s. 628.801(2), F.S., if control exists. A provision is added that the presumption of control may be rebutted by filing a disclaimer of control, which will be in effect unless the OIR disallows the disclaimer. Any controlling person of a domestic insurer that seeks to divest its controlling interest in the domestic insurer is required to file with the OIR a confidential notice of its proposed divestiture at least 30 days prior to the relinquishment of control.

Currently, an individual or company must file a letter of notification and a statement for the OIR's approval before concluding a tender offer to acquire 5 percent or more of a domestic stock insurer or of a controlling company. During the pendency of the OIR's review of an acquisition filing, the insurer is not permitted to make a "material change" to its operation or management, unless the OIR has approved or been notified, respectively. A "material change" consists of a disposal or obligation of 5 percent or more of the insurer's capital and surplus, or a change in management involving a person who has the authority to dispose or obligate 5 percent of the insurer's capital and surplus

[17] Section 624.424, F.S.

Section 6 amends s. 628.801, F.S., relating to the regulation of insurance holding companies, to amend and update the provisions of the NAIC Insurance Holding Company System Regulatory Model Act and the Insurance Holding Company System Model Regulation by incorporating reference to the 2010 version. The section requires insurers to file an annual holding company registration statement, including disclosure of material transaction between affiliates. Currently, authorized insurers are required to register with the OIR and be subject to regulation with respect to the relationship with the holding company.

Additionally, the ultimate controlling person in an insurer's holding company must identify and report material risk within the system that could pose enterprise risk to the insurer in an annual enterprise risk report filed with the OIR. The enterprise risk report will contain detailed information including the holding company's business plan, material developments concerning risk management, and rating agency information. Information contained in the enterprise risk report filed with OIR is confidential and exempt as provided in s. 624.4212, F.S. The bill also adds a provision that prohibits the waiver of any applicable privilege or claim of confidentiality in the enterprise risk report because of disclosures to the OIR.

Pursuant to its authority under ch. 624, F.S., the OIR is authorized to examine any insurer and its affiliates registered under this section to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party.

If an insurer fails to file a registration statement, a summary of the registration statement, or enterprise risk filing report within the specified time, it is a violation of this section.
The section also provides criteria under which an insurer may apply for waiver of the requirements contained in s. 628.801, F.S.

Section 7 amends s. 628.803, F.S., relating to sanctions against an insurance holding company, to provide that a violation of the enterprise risk requirements will serve as an independent basis for OIR to disapprove dividends and grounds for placing the insurer under an order of administrative supervision. The bill incorporates a model NAIC sanction that specifies that if there are violations of s. 628.461, F.S., (i.e., the filing requirements for acquisition of controlling stock described in section 5 of the bill) which prevent "the full understanding of the enterprise risk to the insurer," OIR can disapprove dividends and distributions and place the insurer under an order of supervision per part VI of ch. 624, F.S.

Currently, the Insurance Code states that noncompliant insurance holding companies (and their directors, officers, employees, and agents) can be subject to a number of sanctions that include:

- a penalty, not to exceed $10,000, for failing to file registration statements or certificate of exemption,
- civil forfeitures, not to exceed $5,000 per violation, for knowingly engaging in transactions that have not been properly filed, approved, or in accordance with commission rule,
- a cease and desist order for engaging in transactions or entering into contracts that violate commission rules, and rescission orders if in the best interests of the policyholders, creditors, or public.

Additionally, an officer, director, or employee of an insurance holding company willfully and knowingly submits a false statement, false report, or false filing with the intent to deceive the OIR, is guilty of a felony of the third degree.

Section 8 creates s. 628.805, F.S., which provides for the creation and participation by the OIR in a Supervisory College with other state, federal, and international regulators charged with supervising an insurer or its affiliates. The section provides for the terms and conditions of participation. In accordance with s. 624.4212, F.S., regarding confidential information sharing, the OIR is authorized to enter into cooperative agreements with other regulators. Expenses associated with a supervisory college would be liable for the payment of reasonable expenses for the OIR's participation.

Risk-Based Capital for Insurers and Health Organizations

Section 2 amends 624.4085, F.S., to revise the definition of the term, "life and health insurer," for purposes of risk-based capital (RBC) requirements to include HMOs and prepaid limited health service organizations that are authorized in Florida and one or more other states, jurisdictions, or countries. The section also clarifies the RBC requirements for a life and health insurer that reports using the life and health annual statement instructions and changes a company action level event to total adjusted capital that is greater than or equal to its company action level RBC but less than the product of its authorized control level risk-based capital and 3.0.

The section also defines the RBC requirements for a life and health as well as property and casualty insurer that reports using the health annual statement instructions and defines a company action level event as total adjusted capital that is greater than or equal to its company action level risk-based capital but less than the product of its authorized control level RBC and 3.0 and triggers the trend test calculation. An insurer that fails the Trend Test would be subject to filing a corrective action plan with the OIR.

Section 9 amends s. 636.045, F.S., relating to minimum surplus requirements, to provide that prepaid limited health service organizations authorized in Florida are subject to the RBC requirements and confidentially requirements pursuant to s. 624.4085, F.S., and s. 624.40851, F.S., respectively.

Section 10 amends s. 641.225, F.S., relating to surplus requirements, to provide that an HMO that is authorized in one or more other states, jurisdictions, or countries is subject to the risk-based capital requirements for insurers as well as the confidentiality protections of risk-based capital information provided in ss. 624.4085, F.S., and s. 624.4615, F.S., respectively. The section also provides that an HMO that is a member of a holding company system are subject to the acquisition and enterprise risk reporting requirements of s. 628.461, F.S., but not to the acquisition requirements for specialty insurers in s. 628.4615, F.S.

Property and Casualty Actuarial Opinion Model Law

Section 3 amends s. 624.424, F.S. to require property and casualty insurers to file an annual Statement of Actuarial Opinion and Actuarial Opinion Summary in accordance with the NAIC

annual statement instructions. Proprietary business information contained in the summary is confidential and exempt under s. 624.4212, F.S. This section also protects the summary and related information from subpoena, discovery, or admissibility in any private civil action. The section also updates the Financial Services Commission's rulemaking authority under this section to specify that rule must be in substantial conformity with the 2006 Annual Financial Reporting Model Regulation adopted by the NAIC.

Standard Valuation Law for Life Insurers

Section 4 amends s. 625.121, F.S., relating to the Standard Valuation Law for life insurance, to provide that any memorandum or other material in support of the actuarial opinion that is currently confidential and exempt from s. 119.07(1), F.S., is not subject to subpoena or discovery, or admissible in evidence in any private civil action. Currently, authorized life insurance companies are required to submit an annual actuarial opinion of reserves, reflecting the valuation of reserve liabilities.[18] This section also provides that neither the OIR nor any person who receives information while acting under the authority of the OIR or with whom such information is shared to testify in any private civil action concerning confidential information. These changes incorporate a provision of the NAIC Standard Valuation Law that provides that this information should not be subject to subpoena or discovery, and should not be admissible in any civil action in either documentary or testimonial form.

Section 11 provides that the bill takes effect October 1, 2013, if SB 834 or similar legislation is adopted in the same legislative session or an extension thereof, and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[18] Section 625.121(3)(a)1., F.S.

B. Private Sector Impact:

Insurers may incur an indeterminate amount of administrative costs in complying with the additional reporting requirements and costs associated with the OIR's participation in the supervisory colleges.

C. Government Sector Impact:

The bill greater solvency tools and regulatory authority for the OIR.

Greater coordination of efforts in the examination of multistate insurers will reduce regulatory redundancies and expenses among the state regulators.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Incorporation by reference and delegation of legislative authority
Currently, Section 628.801, F.S. gives rulemaking authority to the Financial Services Commission to adopt rules regarding annual registration statements to be filed by insurers within a holding company. Lines 560-562 of the bill specify that the rules must be in accordance with the most recent NAIC Holding Company Model Act (adopted December 2010).The bill also requires the commission to "adopt subsequent amendments thereto *if the methodology remains substantially consistent"* (emphasis added).[19]

Generally, a cross-reference to a specific statute incorporates the language of the referenced statute as it existed at the time the reference was enacted, unaffected by any subsequent amendments to or repeal of the incorporated statute.[20] The legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body "that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future."[21]

A court would likely apply this same principle in reviewing a statute that incorporates a model act promulgated by an organization, although it is uncertain whether the qualifying language "if the methodology remains substantially consistent" would change a court's conclusion. Accordingly, while the bill may adopt the current NAIC model act in effect, it is possible that a

[19] It is noted that other provisions in the current Insurance Code gives the Financial Services authority to adopt subsequent amendments to a NAIC model rule. See ss. 624.424(8)(e), F.S. and 625.121(3)(a)4., F.S.
[20] See *Overstreet v. Blum*, 227 So. 2d 197 (Fla. 1969); *Hecht v. Shaw*, 151 So. 333 (1933).
[21] *Florida Industrial Commission v. State*, 155 Fla. 772, 21 So.2d 599 (1945). *See also Freimuth v. State*, 272 So.2d 473 (Fla.1972); *State v. Camil*, 279 So.2d 832 (Fla.1973).

reviewing court would not uphold that part of a statute that adopts any future amendments to that model act.[22]

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[22] Courts may sever a valid portion of laws from the remainder and continue to enforce the valid portion. *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936); *Florida Hosp. Waterman, Inc. v. Buster*, 984 So.2d 478 (Fla. 2008); *Ray v. Mortham*, 742 So.2d 1276 (Fla. 1999); *Wright v. State*, 351 So.2d 708 (Fla. 1977).

355782

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Section 624.085, Florida Statutes, is created to
6 read:
7 624.085 Other definitions.—As used in the Florida Insurance
8 Code, the term:
9 (1) "Affiliate" means any entity that exercises control
10 over or is controlled by the insurer, directly or indirectly,
11 through:
12 (a) Equity ownership of voting securities;

355782

13 (b) Common managerial control; or
14 (c) Collusive participation by the management of the
15 insurer and affiliate in the management of the insurer or the
16 affiliate.
17 (2) “Affiliated person” of another person means:
18 (a) The spouse of such other person;
19 (b) The parents of such other person and their lineal
20 descendants, or the parents of such other person’s spouse and
21 their lineal descendants;
22 (c) Any person who directly or indirectly owns or controls,
23 or holds with the power to vote, 10 percent or more of the
24 outstanding voting securities of such other person;
25 (d) Any person 10 percent or more of whose outstanding
26 voting securities are directly or indirectly owned or
27 controlled, or held with power to vote, by such other person;
28 (e) Any person or group of persons who directly or
29 indirectly control, are controlled by, or are under common
30 control with such other person;
31 (f) Any officer, director, partner, copartner, or employee
32 of such other person;
33 (g) If such other person is an investment company, any
34 investment adviser of such company, or any member of an advisory
35 board of such company;
36 (h) If such other person is an unincorporated investment
37 company not having a board of directors, the depositor of such
38 company; or
39 (i) Any person who has entered into an agreement, written
40 or unwritten, to act in concert with such other person in
41 acquiring or limiting the disposition of securities of a

355782

42 domestic stock insurer or controlling company.
43 (3) "Control," including the terms "controlling,"
44 "controlled by," and "under common control with," means the
45 possession, direct or indirect, of the power to direct or cause
46 the direction of the management and policies of a person,
47 whether through the ownership of voting securities, by contract
48 other than a commercial contract for goods or nonmanagement
49 services, or otherwise. Control is presumed to exist if any
50 person, directly or indirectly, owns, controls, holds with the
51 power to vote, or holds proxies representing 10 percent or more
52 of the voting securities of any other person.
53 Section 2. Paragraph (g) of subsection (1), paragraph (a)
54 of subsection (3), and paragraph (b) of subsection (6) of
55 section 624.4085, Florida Statutes, are amended to read:
56 624.4085 Risk-based capital requirements for insurers.—
57 (1) As used in this section, the term:
58 (g) "Life and health insurer" means any insurer authorized
59 or eligible under the Florida Insurance Code to underwrite life
60 or health insurance. The term includes a property and casualty
61 insurer that writes accident and health insurance only; a health
62 maintenance organization that is authorized in this state and
63 one or more other states, jurisdictions, or countries; and a
64 prepaid health service organization that is authorized in this
65 state and one or more other states, jurisdictions, or countries.
66 (3)(a) A company action level event includes:
67 1. The filing of a risk-based capital report by an insurer
68 which indicates that:
69 a. The insurer's total adjusted capital is greater than or
70 equal to its regulatory action level risk-based capital but less

355782

71 than its company action level risk-based capital; ~~or~~
72 b. If a life and health insurer that reports using the life
73 and health annual statement instructions, the insurer has total
74 adjusted capital that is greater than or equal to its company
75 action level risk-based capital, but is less than the product of
76 its authorized control level risk-based capital and 3.0 ~~2.5~~, and
77 has a negative trend;
78 c. If a life and health or property and casualty insurer
79 that reports using the health annual statement instructions, the
80 insurer or organization has total adjusted capital that is
81 greater than or equal to its company action level risk-based
82 capital, but is less than the product of its authorized control
83 level risk-based capital and 3.0, and triggers the trend test
84 determined in accordance with the trend test calculation
85 included in the Risk-Based Capital Forecasting and Instructions,
86 Health, updated annually by the National Association of
87 Insurance Commissioners; or
88 d. If a property and casualty insurer that reports using
89 the property and casualty annual statement instructions, the
90 insurer has total adjusted capital that is greater than or equal
91 to its company action level risk-based capital, but is less than
92 the product of its authorized control level risk-based capital
93 and 3.0, and triggers the trend test determined in accordance
94 with the trend test calculation included in the Risk-Based
95 Capital Forecasting and Instructions, Property/Casualty, updated
96 annually by the National Association of Insurance Commissioners;
97 2. The notification by the office to the insurer of an
98 adjusted risk-based capital report that indicates an event in
99 subparagraph 1., unless the insurer challenges the adjusted

355782

100 risk-based capital report under subsection (7); or
101 3. If, under subsection (7), an insurer challenges an
102 adjusted risk-based capital report that indicates an event in
103 subparagraph 1., the notification by the office to the insurer
104 that the office has, after a hearing, rejected the insurer's
105 challenge.
106 (6)
107 (b) If a mandatory control level event occurs:
108 1. With respect to a life and health insurer, the office
109 shall, after due consideration of s. 624.408, take any action
110 necessary to place the insurer under regulatory control,
111 including any remedy available under chapter 631. A mandatory
112 control level event is sufficient ground for the department to
113 be appointed as receiver as provided in chapter 631. The office
114 may forego taking action for up to 90 days after the mandatory
115 control level event if the office finds there is a reasonable
116 expectation that the ~~mandatory control level~~ event may be
117 eliminated within the 90-day period.
118 2. With respect to a property and casualty insurer, the
119 office shall, after due consideration of s. 624.408, s. 641.225
120 for a health maintenance organization, or s. 636.045 for a
121 prepaid limited health service organization, take any action
122 necessary to place the insurer under regulatory control,
123 including any remedy available under chapter 631, or, in the
124 case of an insurer that is not writing new business, may allow
125 the insurer to continue to operate under the supervision of the
126 office. In either case, the mandatory control level event is
127 sufficient ground for the department to be appointed as receiver
128 as provided in chapter 631. The office may forego taking action

355782

129 for up to 90 days after the mandatory control level event if the
130 office finds there is a reasonable expectation that the
131 ~~mandatory control level~~ event may ~~will~~ be eliminated within the
132 90-day period.
133 Section 3. Subsection (1) and paragraph (e) of subsection
134 (8) of section 624.424, Florida Statutes, are amended to read:
135 624.424 Annual statement and other information.—
136 (1)(a) Each authorized insurer shall file with the office
137 full and true statements of its financial condition,
138 transactions, and affairs. An annual statement covering the
139 preceding calendar year shall be filed on or before March 1, and
140 quarterly statements covering the periods ending on March 31,
141 June 30, and September 30 shall be filed within 45 days after
142 each such date. The office may, for good cause, grant an
143 extension of time for filing ~~of~~ an annual or quarterly
144 statement. The statements must ~~shall~~ contain information
145 generally included in insurers' financial statements prepared in
146 accordance with generally accepted insurance accounting
147 principles and practices and in a form generally used ~~utilized~~
148 by insurers for financial statements, sworn to by at least two
149 executive officers of the insurer or, if a reciprocal insurer,
150 by ~~the~~ oath of the attorney in fact or its like officer if a
151 corporation. To facilitate uniformity in financial statements
152 and to facilitate office analysis, the commission may by rule
153 adopt the form for financial statements approved by the National
154 Association of Insurance Commissioners in 2002, and ~~may adopt~~
155 subsequent amendments thereto if the methodology remains
156 substantially consistent, and may by rule require each insurer
157 to submit to the office, or such organization as the office may

355782

158 designate, all or part of the information contained in the
159 financial statement in a computer-readable form compatible with
160 the electronic data processing system specified by the office.
161 (b) Each insurer's annual statement must contain:
162 1. A statement of opinion on loss and loss adjustment
163 expense reserves made by a member of the American Academy of
164 Actuaries or by a qualified loss reserve specialist, pursuant to
165 ~~under~~ criteria established by rule of the commission. In
166 adopting the rule, the commission shall ~~must~~ consider any
167 criteria established by the National Association of Insurance
168 Commissioners. The office may require semiannual updates of the
169 annual statement of opinion for ~~as to~~ a particular insurer if
170 the office has reasonable cause to believe that such reserves
171 are understated to the extent of materially misstating the
172 financial position of the insurer. Workpapers in support of the
173 statement of opinion must be provided to the office upon
174 request. This paragraph does not apply to life insurance, health
175 insurance, or title insurance.
176 2. An actuarial opinion summary written by the insurer's
177 appointed actuary. The summary must be filed in accordance with
178 the appropriate National Association of Insurance Commissioners
179 property and casualty annual statement instructions. Proprietary
180 business information contained in the summary is confidential
181 and exempt under s. 624.4212, and the summary and related
182 information are not subject to subpoena or discovery or
183 admissible in evidence in any private civil action. Neither the
184 office nor any person who received documents, materials, or any
185 other information while acting under the authority of the office
186 or with whom such information is shared pursuant to s. 624.4212

355782

187 may testify in a private civil action concerning such
188 confidential information. A waiver of any other applicable claim
189 of confidentiality or privilege may not occur as a result of a
190 disclosure to the office under this section or any other section
191 of the insurance code. This paragraph does not apply to life and
192 health insurers subject to s. 625.121(3).
193 (c) The commission may by rule require reports or filings
194 required under the insurance code to be submitted by electronic
195 means in a computer-readable form compatible with the electronic
196 data processing equipment specified by the commission.
197 (8)
198 (e) The commission shall adopt rules to administer
199 ~~implement~~ this subsection, which rules must be in substantial
200 conformity with the 2006 Annual Financial Reporting Model
201 Regulation ~~1998 Model Rule requiring annual audited financial~~
202 ~~reports~~ adopted by the National Association of Insurance
203 Commissioners or subsequent amendments, except where
204 inconsistent with the requirements of this subsection. Any
205 exception to, waiver of, or interpretation of accounting
206 requirements of the commission must be in writing and signed by
207 an authorized representative of the office. An ~~No~~ insurer may
208 not raise ~~as a defense in any action,~~ any exception to, waiver
209 of, or interpretation of accounting requirements as a defense in
210 an action, unless previously issued in writing by an authorized
211 representative of the office.
212 Section 4. Paragraphs (a) and (b) of subsection (3) of
213 section 625.121, Florida Statutes, are amended to read:
214 625.121 Standard Valuation Law; life insurance.—
215 (3) ACTUARIAL OPINION OF RESERVES.—

355782

216 (a)~~1.~~ Each life insurance company doing business in this
217 state shall annually submit the opinion of a qualified actuary
218 as to whether the reserves and related actuarial items held in
219 support of the policies and contracts specified by the
220 commission by rule are computed appropriately, are based on
221 assumptions that ~~which~~ satisfy contractual provisions, are
222 consistent with prior reported amounts, and comply with
223 applicable laws of this state. The commission by rule shall
224 define the specifics of this opinion and add any other items
225 determined to be necessary to its scope.
226 1.~~2.~~ The opinion shall be submitted with the annual
227 statement reflecting the valuation of such reserve liabilities
228 ~~for each year ending on or after December 31, 1992~~.
229 2.~~3.~~ The opinion applies ~~shall apply~~ to all business in
230 force, including individual and group health insurance plans, in
231 the form and substance acceptable to the office as specified by
232 rule of the commission.
233 3.~~4.~~ The commission may adopt rules providing the standards
234 of the actuarial opinion consistent with standards adopted by
235 the Actuarial Standards Board on December 31, 2002, and
236 subsequent revisions thereto, if ~~provided that~~ the standards
237 remain substantially consistent.
238 4.~~5. In the case of an opinion required to be submitted by~~
239 ~~a foreign or alien company,~~ The office may accept an ~~the~~ opinion
240 filed by a foreign or alien ~~that~~ company with the insurance
241 supervisory official of another state if the office determines
242 that the opinion reasonably meets the requirements applicable to
243 a company domiciled in this state.
244 5.~~6.~~ As used in ~~For the purposes of~~ this subsection, the

355782

245 term "qualified actuary" means a member in good standing of the
246 American Academy of Actuaries who also meets the requirements
247 specified by rule of the commission.
248 6.~~7.~~ Disciplinary action by the office against the company
249 or the qualified actuary shall be in accordance with the
250 insurance code and related rules adopted by the commission.
251 7.~~8.~~ A memorandum in the form and substance specified by
252 rule shall be prepared to support each actuarial opinion.
253 8.~~9.~~ If the insurance company fails to provide a supporting
254 memorandum at the request of the office within a period
255 specified by rule of the commission, or if the office determines
256 that the supporting memorandum provided by the insurance company
257 fails to meet the standards prescribed by rule of the
258 commission, the office may engage a qualified actuary at the
259 expense of the company to review the opinion and the basis for
260 the opinion and prepare such supporting memorandum as ~~is~~
261 required by the office.
262 9.~~10.~~ Except as otherwise provided in this paragraph, any
263 memorandum or other material in support of the opinion is
264 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
265 is not subject to subpoena or discovery or admissible in
266 evidence in any private civil action; however, the memorandum or
267 other material may be released by the office with the written
268 consent of the company, or to the American Academy of Actuaries
269 upon request stating that the memorandum or other material is
270 required for the purpose of professional disciplinary
271 proceedings and setting forth procedures satisfactory to the
272 office for preserving the confidentiality of the memorandum or
273 other material. If any portion of the confidential memorandum is

355782

274 cited by the company in its marketing, ~~or~~ is cited before any
275 governmental agency other than a state insurance department, or
276 is released by the company to the news media, no portion of the
277 memorandum is confidential. Neither the office nor any person
278 who received documents, materials, or any other information
279 while acting under the authority of the office or with whom such
280 information is shared pursuant to this paragraph may testify in
281 any private civil action concerning the confidential documents,
282 materials, or information. A waiver of any applicable privilege
283 or claim of confidentiality in the documents, materials, or
284 information may not occur as a result of disclosure to the
285 office under this section or any other section of the insurance
286 code, or as a result of sharing as authorized under s. 624.4212.
287 (b) In addition to the opinion required by paragraph (a)
288 ~~subparagraph (a)1.~~, the office may, pursuant to commission rule,
289 require an opinion of the same qualified actuary as to whether
290 the reserves and related actuarial items held in support of the
291 policies and contracts specified by the commission by rule, when
292 considered in light of the assets held by the company with
293 respect to the reserves and related actuarial items, including,
294 but not limited to, the investment earnings on the assets and
295 considerations anticipated to be received and retained under the
296 policies and contracts, make adequate provision for the
297 company's obligations under the policies and contracts,
298 including, but not limited to, the benefits under, and expenses
299 associated with, the policies and contracts.
300 Section 5. Subsections (1), (3), (10), (12), and (13) of
301 section 628.461, Florida Statutes, are amended to read:
302 628.461 Acquisition of controlling stock.—

355782

303 (1) A person may not, individually or in conjunction with
304 any affiliated person of such person, acquire directly or
305 indirectly, conclude a tender offer or exchange offer for, enter
306 into any agreement to exchange securities for, or otherwise
307 finally acquire 10 ~~5~~ percent or more of the outstanding voting
308 securities of a domestic stock insurer or of a controlling
309 company, unless:
310 (a) The person or affiliated person has filed with the
311 office and sent to the insurer and controlling company a letter
312 of notification regarding the transaction or proposed
313 transaction within ~~no later than~~ 5 days after any form of tender
314 offer or exchange offer is proposed, or within ~~no later than~~ 5
315 days after the acquisition of the securities if no tender offer
316 or exchange offer is involved. The notification must be provided
317 on forms prescribed by the commission containing information
318 determined necessary to understand the transaction and identify
319 all purchasers and owners involved;
320 (b) The person or affiliated person has filed with the
321 office the ~~a~~ statement as specified in subsection (3). The
322 statement must be completed and filed within 30 days after:
323 1. Any definitive acquisition agreement is entered;
324 2. Any form of tender offer or exchange offer is proposed;
325 or
326 3. The acquisition of the securities, if no definitive
327 acquisition agreement, tender offer, or exchange offer is
328 involved; and
329 (c) The office has approved the tender or exchange offer,
330 or acquisition if no tender offer or exchange offer is involved,
331 and approval is in effect.

355782

332
333 ~~In lieu of a filing as required under this subsection, a~~
334 ~~party acquiring less than 10 percent of the outstanding voting~~
335 ~~securities of an insurer may file a disclaimer of affiliation~~
336 ~~and control. The disclaimer shall fully disclose all material~~
337 ~~relationships and basis for affiliation between the person and~~
338 ~~the insurer as well as the basis for disclaiming the affiliation~~
339 ~~and control. After a disclaimer has been filed, the insurer~~
340 ~~shall be relieved of any duty to register or report under this~~
341 ~~section which may arise out of the insurer's relationship with~~
342 ~~the person unless and until the office disallows the disclaimer.~~
343 ~~The office shall disallow a disclaimer only after furnishing all~~
344 ~~parties in interest with notice and opportunity to be heard and~~
345 ~~after making specific findings of fact to support the~~
346 ~~disallowance.~~ A filing ~~as~~ required under this subsection must be
347 made for ~~as to~~ any acquisition that equals or exceeds 10 percent
348 of the outstanding voting securities.
349 (3) The statement to be filed with the office under
350 subsection (1) and furnished to the insurer and controlling
351 company must ~~shall~~ contain all the following information and any
352 additional information that ~~as~~ the office deems necessary to
353 determine the character, experience, ability, and other
354 qualifications of the person or affiliated person of such person
355 for the protection of the policyholders and shareholders of the
356 insurer and the public:
357 (a) The identity of, and the background information
358 specified in subsection (4) on, each natural person by whom, or
359 on whose behalf, the acquisition is to be made; and, if the
360 acquisition is to be made by, or on behalf of, a corporation,

355782

361 association, or trust, as to the corporation, association, or
362 trust and as to any person who controls, ~~either~~ directly or
363 indirectly, the corporation, association, or trust, the identity
364 of, and the background information specified in subsection (4)
365 on, each director, officer, trustee, or other natural person
366 performing duties similar to those of a director, officer, or
367 trustee for the corporation, association, or trust.~~;~~
368 (b) The source and amount of the funds or other
369 consideration used, or to be used, in making the acquisition.~~;~~
370 (c) Any plans or proposals that ~~which~~ such persons may have
371 made to liquidate such insurer, to sell any of its assets or
372 merge or consolidate it with any person, or to make any other
373 major change in its business or corporate structure or
374 management; and any plans or proposals that ~~which~~ such persons
375 may have made to liquidate any controlling company of such
376 insurer, to sell any of its assets or merge or consolidate it
377 with any person, or to make any other major change in its
378 business or corporate structure or management.~~;~~
379 (d) The number of shares or other securities that ~~which~~ the
380 person or affiliated person of such person proposes to acquire,
381 the terms of the proposed acquisition, and the manner in which
382 the securities are to be acquired.~~; and~~
383 (e) Information as to any contract, arrangement, or
384 understanding with any party with respect to any of the
385 securities of the insurer or controlling company, including, but
386 not limited to, information relating to the transfer of any of
387 the securities, option arrangements, puts or calls, or the
388 giving or withholding of proxies, which information names the
389 party with whom the contract, arrangement, or understanding has

355782

390 been entered into and gives the details thereof.
391 (f) An agreement by the person required to file the
392 statement that the person will provide the annual report
393 specified in s. 628.801(2) if control exists.
394 (g) An acknowledgement by the person required to file the
395 statement that the person and all subsidiaries within the
396 person's control in the insurance holding company system will
397 provide, as necessary, information to the office upon request to
398 evaluate enterprise risk to the insurer.
399 (10) Upon notification to the office by the domestic stock
400 insurer or a controlling company that any person or any
401 affiliated person of such person has acquired 10 ~~5~~ percent or
402 more of the outstanding voting securities of the domestic stock
403 insurer or controlling company without complying with the
404 provisions of this section, the office shall order that the
405 person and any affiliated person of such person cease
406 acquisition of any further securities of the domestic stock
407 insurer or controlling company; however, the person or any
408 affiliated person of such person may request a proceeding, which
409 proceeding shall be convened within 7 days after the rendering
410 of the order for the sole purpose of determining whether the
411 person, individually or in connection with any affiliated person
412 of such person, has acquired 10 ~~5~~ percent or more of the
413 outstanding voting securities of a domestic stock insurer or
414 controlling company. Upon the failure of the person or
415 affiliated person to request a hearing within 7 days, or upon a
416 determination at a hearing convened pursuant to this subsection
417 that the person or affiliated person has acquired voting
418 securities of a domestic stock insurer or controlling company in

355782

419 violation of this section, the office may order the person and
420 affiliated person to divest themselves of any voting securities
421 so acquired.
422 (12)(a) A presumption of control may be rebutted by filing
423 a disclaimer of control. Any person may file a disclaimer of
424 control with the office. The disclaimer must fully disclose all
425 material relationships and bases for affiliation between the
426 person and the insurer as well as the basis for disclaiming the
427 affiliation. After a disclaimer has been filed, the insurer is
428 relieved of any duty to register or report under this section
429 that may arise out of the insurer's relationship with the person
430 unless the office disallows the disclaimer.
431 (b) Any controlling person of a domestic insurer who seeks
432 to divest the person's controlling interest in the domestic
433 insurer in any manner shall file with the office, with a copy to
434 the insurer, confidential notice, not subject to public
435 inspection as provided under s. 624.4212, of the person's
436 proposed divestiture at least 30 days before the cessation of
437 control. The office shall determine those instances in which the
438 party seeking to divest or to acquire a controlling interest in
439 an insurer must file for and obtain approval of the transaction.
440 The information remains confidential until the conclusion of the
441 transaction unless the office, in its discretion, determines
442 that confidential treatment interferes with enforcement of this
443 section. If the statement referred to in subsection (1) is
444 otherwise filed, this paragraph does not apply. ~~For the purpose~~
445 ~~of this section, the term "affiliated person" of another person~~
446 ~~means:~~
447 ~~1. The spouse of such other person;~~

355782

448 ~~2. The parents of such other person and their lineal~~
449 ~~descendants and the parents of such other person's spouse and~~
450 ~~their lineal descendants;~~
451 ~~3. Any person who directly or indirectly owns or controls,~~
452 ~~or holds with power to vote, 5 percent or more of the~~
453 ~~outstanding voting securities of such other person;~~
454 ~~4. Any person 5 percent or more of the outstanding voting~~
455 ~~securities of which are directly or indirectly owned or~~
456 ~~controlled, or held with power to vote, by such other person;~~
457 ~~5. Any person or group of persons who directly or~~
458 ~~indirectly control, are controlled by, or are under common~~
459 ~~control with such other person;~~
460 ~~6. Any officer, director, partner, copartner, or employee~~
461 ~~of such other person;~~
462 ~~7. If such other person is an investment company, any~~
463 ~~investment adviser of such company or any member of an advisory~~
464 ~~board of such company;~~
465 ~~8. If such other person is an unincorporated investment~~
466 ~~company not having a board of directors, the depositor of such~~
467 ~~company; or~~
468 ~~9. Any person who has entered into an agreement, written or~~
469 ~~unwritten, to act in concert with such other person in acquiring~~
470 ~~or limiting the disposition of securities of a domestic stock~~
471 ~~insurer or controlling company.~~
472 (c) ~~(b)~~ For the purposes of this section, the term
473 "controlling company" means any corporation, trust, or
474 association owning, directly or indirectly, 25 percent or more
475 of the voting securities of one or more domestic stock insurance
476 companies.

355782

477 (13) The commission may adopt, amend, or repeal rules that
478 are necessary to administer ~~implement the provisions of~~ this
479 section~~, pursuant to chapter 120~~.
480 Section 6. Section 628.801, Florida Statutes, is amended to
481 read:
482 628.801 Insurance holding companies; registration;
483 regulation.—
484 (1) An ~~Every~~ insurer that is authorized to do business in
485 this state and that is a member of an insurance holding company
486 shall, on or before April 1 of each year, register with the
487 office and file a registration statement and be subject to
488 regulation with respect to its relationship to the holding
489 company as provided by law or rule ~~or statute~~. The commission
490 shall adopt rules establishing the information and statement
491 form required for registration and the manner in which
492 registered insurers and their affiliates are regulated. The
493 rules apply to domestic insurers, foreign insurers, and
494 commercially domiciled insurers, except for a foreign insurer
495 domiciled in states that were ~~are~~ accredited by the National
496 Association of Insurance Commissioners by December 31, 1995.
497 Except to the extent of any conflict with this code, the rules
498 must include all requirements and standards of ss. 4 and 5 of
499 the Insurance Holding Company System Regulatory Act and the
500 Insurance Holding Company System Model Regulation of the
501 National Association of Insurance Commissioners, as adopted on
502 December 2010. The commission may adopt subsequent amendments
503 thereto if the methodology remains substantially consistent. The
504 rules ~~Regulatory Act and the Model Regulation existed on~~
505 ~~November 30, 2001, and~~ may include a prohibition on oral

355782

506 contracts between affiliated entities. Material transactions
507 between an insurer and its affiliates shall be filed with the
508 office as provided by rule ~~Upon request, the office may waive~~
509 ~~filing requirements under this section for a domestic insurer~~
510 ~~that is the subsidiary of an insurer that is in full compliance~~
511 ~~with the insurance holding company registration laws of its~~
512 ~~state of domicile, which state is accredited by the National~~
513 ~~Association of Insurance Commissioners~~.
514 (2) The ultimate controlling person of every insurer
515 subject to registration must also file an annual enterprise risk
516 report on or before April 1. As used in this subsection, the
517 term "ultimate controlling person" means a person who is not
518 controlled by any other person. The report, to the best of the
519 ultimate controlling person's knowledge and belief, must
520 identify the material risks within the insurance holding company
521 system that could pose enterprise risk to the insurer. The
522 report shall be filed with the lead state office of the
523 insurance holding company system as determined by the procedures
524 within the Financial Analysis Handbook adopted by the National
525 Association of Insurance Commissioners and is confidential and
526 exempt from public disclosure as provided in s. 624.4212.
527 (a) An insurer may satisfy this requirement by providing
528 the office with the most recently filed parent corporation
529 reports that have been filed with the Securities and Exchange
530 Commission which provide the appropriate enterprise risk
531 information.
532 (b) The term "enterprise risk" means any activity,
533 circumstance, event, or series of events involving one or more
534 affiliates of an insurer which, if not remedied promptly, is

355782

535 likely to have a materially adverse effect upon the financial
536 condition or liquidity of the insurer or its insurance holding
537 company system as a whole, including anything that would cause
538 the insurer's risk-based capital to fall into company action
539 level as set forth in s. 624.4085 or would cause the insurer to
540 be in hazardous financial condition.
541 (3) Pursuant to chapter 624 relating to the examination of
542 insurers, the office may examine any insurer registered under
543 this section and its affiliates to ascertain the financial
544 condition of the insurer, including the enterprise risk to the
545 insurer by the ultimate controlling party, or by any entity or
546 combination of entities within the insurance holding company
547 system, or by the insurance holding company system on a
548 consolidated basis.
549 (4) The filings and related documents filed pursuant to
550 this section are confidential and exempt as provided in s.
551 624.4212 and are not subject to subpoena or discovery, or
552 admissible in evidence in any private civil action. A waiver of
553 any applicable privilege or claim of confidentiality in the
554 filings and related documents may not occur as a result of any
555 disclosure to the office under this section or any other section
556 of the insurance code as authorized under s. 624.4212. Neither
557 the office nor any person who received the filings and related
558 documents while acting under the authority of the office or with
559 whom such information is shared pursuant to s. 624.4212 is
560 permitted or required to testify in any private civil action
561 concerning any confidential documents, materials, or information
562 subject to s. 624.4212.
563 (5) The failure to file a registration statement, or a

355782

564 summary of the registration statement, or the enterprise risk
565 filing report required by this section within the time specified
566 for filing is a violation of this section.
567 (6) Upon request, the office may waive the filing
568 requirements of this section:
569 (a) If the insurer is a domestic insurer that is the
570 subsidiary of an insurer that is in full compliance with the
571 insurance holding company registration laws of its state of
572 domicile, which state is accredited by the National Association
573 of Insurance Commissioners; or
574 (b) If the insurer is a domestic insurer that writes only
575 in this state and has annual direct written and assumed premium
576 of less than $300 million, excluding premiums reinsured with the
577 Federal Crop Insurance Corporation and Federal Flood Program,
578 and demonstrates that compliance with this section would not
579 provide substantial regulatory or consumer benefit. In
580 evaluating a waiver request made under this paragraph, the
581 office may consider various factors including, but not limited
582 to, the type of business entity, the volume of business written,
583 the ownership or organizational structure of the entity, or
584 whether the company is in run-off.
585
586 A waiver granted pursuant to this subsection is valid for 2
587 years unless sooner withdrawn due to a change in the
588 circumstances under which the waiver was granted.
589 Section 7. Subsection (4) of section 628.803, Florida
590 Statutes, is renumbered as subsection (5), and a new subsection
591 (4) is added to that section to read:
592 628.803 Sanctions.—

355782

593 (4) If the office determines that any person committed a
594 violation of s. 628.461 or s. 628.801, the violation may serve
595 as an independent basis for disapproving dividends or
596 distributions and for placing the insurer under an order of
597 supervision in accordance with part VI of chapter 624.
598 Section 8. Section 628.805, Florida Statutes, is created to
599 read:
600 628.805 Supervisory colleges.—In order to assess the
601 business strategy, financial position, legal and regulatory
602 position, risk exposure, risk management, and governance
603 processes, and as part of the examination of individual insurers
604 in accordance with ss. 628.801 and 624.316, the office may
605 participate in a supervisory college with other regulators
606 charged with supervision of the insurer or its affiliates,
607 including other state, federal, and international regulatory
608 agencies. In accordance with s. 624.4212 regarding confidential
609 information sharing, the office may enter into agreements that
610 provide the basis for cooperation between the office and the
611 other regulatory agencies and the activities of the supervisory
612 college. This section does not delegate to the supervisory
613 college the office's authority to regulate or supervise the
614 insurer or its affiliates under its jurisdiction.
615 (1) With respect to participation in a supervisory college,
616 the office may:
617 (a) Initiate the establishment of a supervisory college.
618 (b) Clarify the membership and participation of other
619 supervisors in the supervisory college.
620 (c) Clarify the functions of the supervisory college and
621 the role of other regulators, including the establishment of a

355782

622 group-wide supervisor.
623 (d) Coordinate the ongoing activities of the supervisory
624 college, including planning meetings, supervisory activities,
625 and processes for information sharing.
626 (e) Establish a crisis management plan.
627 (2) With respect to an insurer registered under s. 628.801,
628 and in accordance with this section, the office may participate
629 in a supervisory college for any domestic insurer that is part
630 of an insurance holding company system that has international
631 operations in order to determine the insurer's compliance with
632 this chapter.
633 (3) Each registered insurer subject to this section is
634 liable for and shall pay reasonable expenses for the office's
635 participation in a supervisory college, including reasonable
636 travel expenses. A supervisory college may be convened as a
637 temporary or permanent forum for communication and cooperation
638 between the regulators charged with the supervision of the
639 insurer or its affiliates, and the office may impose a regular
640 assessment on the insurer for the payment of these expenses.
641 Section 9. Subsection (3) is added to section 636.045,
642 Florida Statutes, to read:
643 636.045 Minimum surplus requirements.—
644 (3) A prepaid limited health service organization that is
645 authorized in this state and one or more other states,
646 jurisdictions, or countries is subject to ss. 624.4085 and
647 624.40851.
648 Section 10. Subsection (7) is added to section 641.225,
649 Florida Statutes, to read:
650 641.225 Surplus requirements.—

355782

651 (7) A health maintenance organization that is authorized in
652 this state and one or more other states, jurisdictions, or
653 countries is subject to ss. 624.4085 and 624.40851.
654 Section 11. Subsection (3) is added to section 641.255,
655 Florida Statutes, to read:
656 641.255 Acquisition, merger, or consolidation.—
657 (3) A health maintenance organization that is a member of a
658 holding company system is subject to s. 628.461 but not s.
659 628.4615.
660 Section 12. This act shall take effect October 1, 2013, if
661 SB 834 or similar legislation is adopted in the same legislative
662 session or an extension thereof and becomes law.
663
664
665 ========== T I T L E A M E N D M E N T ==========
666 And the title is amended as follows:
667 Delete everything before the enacting clause
668 and insert:
669 A bill to be entitled
670 An act relating to insurer solvency; creating s.
671 624.085, F.S.; providing definitions applicable to the
672 Florida Insurance Code; amending s. 624.4085, F.S.;
673 revising a definition; providing additional
674 calculations for determining whether an insurer has a
675 company action level event; revising provisions
676 relating to mandatory control level events; amending
677 s. 624.424, F.S.; requiring an insurer's annual
678 statement to include an actuarial opinion summary;
679 providing criteria for such summary; providing an

355782

680 exception for life and health insurers; updating
681 provisions; amending s. 625.121, F.S.; protecting
682 material supporting an insurer’s annual actuarial
683 opinion from subpoena, discovery, or admissibility in
684 a civil action; amending s. 628.461, F.S.; revising
685 the amount of outstanding voting securities of a
686 domestic stock insurer or a controlling company that a
687 person is prohibited from acquiring unless certain
688 requirements have been met; deleting a provision
689 authorizing an insurer to file a disclaimer of
690 affiliation and control in lieu of a letter notifying
691 the Office of Insurance Regulation of the Financial
692 Services Commission of the acquisition of the voting
693 securities of a domestic stock company under certain
694 circumstances; requiring the statement notifying the
695 office to include additional information; conforming a
696 provision to changes made by the act; providing that
697 control is presumed to exist under certain conditions;
698 specifying how control may be rebutted and how a
699 controlling interest may be divested; deleting
700 definitions; amending s. 628.801, F.S.; requiring an
701 insurer to file annually by a specified date a
702 registration statement; revising the requirements and
703 standards for the rules establishing the information
704 and statement form for the registration; requiring an
705 insurer to file an annual enterprise risk report;
706 authorizing the office to conduct examinations to
707 determine the financial condition of registrants;
708 providing that failure to file a registration or

355782

709 report is a violation of the section; providing
710 additional grounds, requirements, and conditions with
711 respect to a waiver from the registration
712 requirements; amending s. 628.803, F.S.; providing for
713 sanctions for persons who violate s. 628.461, F.S.,
714 relating to the acquisition of controlling stock;
715 creating s. 628.805, F.S.; authorizing the office to
716 participate in supervisory colleges; authorizing the
717 office to assess fees on insurers for participation;
718 amending ss. 636.045 and 641.225, F.S.; applying
719 certain statutes related to solvency to prepaid
720 limited health service organizations and health
721 maintenance organizations; amending s. 641.255, F.S.;
722 providing for applicability of specified provisions to
723 a health maintenance organization that is a member of
724 a holding company; providing a contingent effective
725 date.

By Senator Simmons

10-00917-13 2013836__

A bill to be entitled

An act relating to insurer solvency; creating s. 624.085, F.S.; providing definitions applicable to the insurance code; amending s. 624.4085, F.S.; revising definitions; providing additional calculations for determining whether an insurer has a company action level event; revising provisions relating to mandatory control level events; amending s. 642.424, F.S.; requiring an insurer's annual statement to include an actuarial opinion summary and providing criteria for such summary; providing an exception for life and health insurers; updating provisions; amending s. 625.121, F.S.; protecting a memorandum supporting an insurer's annual actuarial opinion from subpoena, discovery, or admissibility in a civil action; amending s. 628.461, F.S.; deleting a provision authorizing an insurer to file a disclaimer of affiliation and control in lieu of a letter notifying the Office of Insurance Regulation of the Financial Services Commission of the acquisition of the voting securities of a domestic stock company under certain circumstances; requiring the statement notifying the office to include additional information; providing for consideration of enterprise risk in an acquisition application; providing that control is presumed to exist under certain conditions; specifying how control may be rebutted and how a controlling interest may be divested; deleting definitions; amending s. 628.801, F.S.; requiring an insurer to file annually by a

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10-00917-13 2013836__

specified date a registration statement; revising the requirements and standards for the rules establishing the information and statement form for the registration; requiring an insurer to file an annual enterprise risk report; providing that failure to file a registration or report is a violation of the section; authorizing the office to conduct examinations to determine the financial condition of registrants; providing additional grounds for a waiver from the registration requirements; amending s. 628.803, F.S.; providing for sanctions for persons who violate the provisions of s. 628.461, F.S., relating to the acquisition of controlling stock; creating s. 628.805, F.S.; authorizing the office to participate in supervisory colleges; authorizing the office to assess fees on insurers for participation; amending ss. 636.045 and 641.255, F.S.; applying certain statutes related to solvency to prepaid limited health service organizations and health maintenance organizations; applying provisions relating to acquisition of controlling stock to a health maintenance organization that is a member of a holding company; providing a contingent effective date.

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

Section 1. Section 624.085, Florida Statutes, is created to read:

624.085 Other definitions.—As used in the Florida Insurance

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59 Code, the term:
60 (1) "Affiliate" means any entity that exercises control
61 over or is controlled by the insurer, directly or indirectly,
62 through:
63 (a) Equity ownership of voting securities;
64 (b) Common managerial control; or
65 (c) Collusive participation by the management of the
66 insurer and affiliate in the management of the insurer or the
67 affiliate.
68 (2) "Affiliated person" of another person means:
69 (a) The spouse of such other person;
70 (b) The parents of such other person and their lineal
71 descendants, or the parents of such other person's spouse and
72 their lineal descendants;
73 (c) Any person who directly or indirectly owns or controls,
74 or holds with the power to vote, 10 percent or more of the
75 outstanding voting securities of such other person;
76 (d) Any person 10 percent or more of the outstanding voting
77 securities of which are directly or indirectly owned or
78 controlled, or held with power to vote, by such other person;
79 (e) Any person or group of persons who directly or
80 indirectly control, are controlled by, or are under common
81 control with such other person;
82 (f) Any officer, director, partner, copartner, or employee
83 of such other person;
84 (g) If such other person is an investment company, any
85 investment adviser of such company, or any member of an advisory
86 board of such company;
87 (h) If such other person is an unincorporated investment

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88 company not having a board of directors, the depositor of such
89 company; or
90 (i) Any person who has entered into an agreement, written
91 or unwritten, to act in concert with such other person in
92 acquiring or limiting the disposition of securities of a
93 domestic stock insurer or controlling company.
94 (3) "Control," including the terms "controlling,"
95 "controlled by," and "under common control with" means the
96 possession, direct or indirect, of the power to direct or cause
97 the direction of the management and policies of a person,
98 whether through the ownership of voting securities, by contract
99 other than a commercial contract for goods or nonmanagement
100 services, or otherwise. Control is presumed to exist if any
101 person, directly or indirectly, owns, controls, holds with the
102 power to vote, or holds proxies representing 10 percent or more
103 of the voting securities of any other person.
104 Section 2. Paragraph (g) of subsection (1), paragraph (a)
105 of subsection (3), and paragraph (b) of subsection (6) of
106 section 624.4085, Florida Statutes, are amended to read:
107 624.4085 Risk-based capital requirements for insurers.—
108 (1) As used in this section, the term:
109 (g) "Life and health insurer" means any insurer authorized
110 or eligible under the Florida Insurance Code to underwrite life
111 or health insurance. The term includes a property and casualty
112 insurer that writes accident and health insurance only; a health
113 maintenance organization that is authorized in this state and
114 one or more other states, jurisdictions, or countries; and a
115 prepaid health service organization that is authorized in this
116 state and one or more other states, jurisdictions, or countries.

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117 (3)(a) A company action level event includes:
118 1. The filing of a risk-based capital report by an insurer
119 which indicates that:
120 a. The insurer's total adjusted capital is greater than or
121 equal to its regulatory action level risk-based capital but less
122 than its company action level risk-based capital; ~~or~~
123 b. If a life and health insurer that reports using the life
124 and health annual statement instructions, the insurer has total
125 adjusted capital that is greater than or equal to its company
126 action level risk-based capital, but is less than the product of
127 its authorized control level risk-based capital and 3.0 ~~2.5~~, and
128 has a negative trend;
129 c. If a life and health or property and casualty insurer
130 that reports using the health annual statement instructions, the
131 insurer or organization has total adjusted capital that is
132 greater than or equal to its company action level risk-based
133 capital, but is less than the product of its authorized control
134 level risk-based capital and 3.0, and triggers the trend test
135 determined in accordance with the trend test calculation
136 included in the Risk-Based Capital Forecasting and Instructions,
137 Health, updated annually by the National Association of
138 Insurance Commissioners; or
139 d. If a property and casualty insurer that reports using
140 the property and casualty annual statement instructions, the
141 insurer has total adjusted capital that is greater than or equal
142 to its company action level risk-based capital, but is less than
143 the product of its authorized control level risk-based capital
144 and 3.0, and triggers the trend test determined in accordance
145 with the trend test calculation included in the Risk-Based

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146 Capital Forecasting and Instructions, Property/Casualty, updated
147 annually by the National Association of Insurance Commissioners;
148 2. The notification by the office to the insurer of an
149 adjusted risk-based capital report that indicates an event in
150 subparagraph 1., unless the insurer challenges the adjusted
151 risk-based capital report under subsection (7); or
152 3. If, under subsection (7), an insurer challenges an
153 adjusted risk-based capital report that indicates an event in
154 subparagraph 1., the notification by the office to the insurer
155 that the office has, after a hearing, rejected the insurer's
156 challenge.
157 (6)
158 (b) If a mandatory control level event occurs:
159 1. With respect to a life and health insurer, the office
160 shall, after due consideration of s. 624.408, take any action
161 necessary to place the insurer under regulatory control,
162 including any remedy available under chapter 631. A mandatory
163 control level event is sufficient ground for the department to
164 be appointed as receiver as provided in chapter 631. The office
165 may forego taking action for up to 90 days after the mandatory
166 control level event if the office finds there is a reasonable
167 expectation that the ~~mandatory control level~~ event may be
168 eliminated within the 90-day period.
169 2. With respect to a property and casualty insurer, the
170 office shall, after due consideration of s. 624.408, s. 641.225
171 for a health maintenance association, or s. 636.045 for a
172 prepaid limited health service organization, take any action
173 necessary to place the insurer under regulatory control,
174 including any remedy available under chapter 631, or, in the

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175 case of an insurer that is not writing new business, may allow
176 the insurer to continue to operate under the supervision of the
177 office. In either case, the mandatory control level event is
178 sufficient ground for the department to be appointed as receiver
179 as provided in chapter 631. The office may forego taking action
180 for up to 90 days after the mandatory control level event if the
181 office finds there is a reasonable expectation that the
182 ~~mandatory control level~~ event may ~~will~~ be eliminated within the
183 90-day period.
184 Section 3. Subsection (1) and paragraph (e) of subsection
185 (8) of section 624.424, Florida Statutes, are amended to read:
186 624.424 Annual statement and other information.—
187 (1)(a) Each authorized insurer shall file with the office
188 full and true statements of its financial condition,
189 transactions, and affairs. An annual statement covering the
190 preceding calendar year shall be filed on or before March 1, and
191 quarterly statements covering the periods ending on March 31,
192 June 30, and September 30 shall be filed within 45 days after
193 each such date. The office may, for good cause, grant an
194 extension of time for filing ~~of~~ an annual or quarterly
195 statement. The statements must ~~shall~~ contain information
196 generally included in insurers' financial statements prepared in
197 accordance with generally accepted insurance accounting
198 principles and practices and in a form generally used ~~utilized~~
199 by insurers for financial statements, sworn to by at least two
200 executive officers of the insurer or, if a reciprocal insurer,
201 by ~~the~~ oath of the attorney in fact or its like officer if a
202 corporation. To facilitate uniformity in financial statements
203 and to facilitate office analysis, the commission may by rule

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204 adopt the form for financial statements approved by the National
205 Association of Insurance Commissioners in 2002, and ~~may adopt~~
206 subsequent amendments thereto if the methodology remains
207 substantially consistent, and may by rule require each insurer
208 to submit to the office, or such organization as the office may
209 designate, all or part of the information contained in the
210 financial statement in a computer-readable form compatible with
211 the electronic data processing system specified by the office.
212 (b) Each insurer's annual statement must contain:
213 1. A statement of opinion on loss and loss adjustment
214 expense reserves made by a member of the American Academy of
215 Actuaries or by a qualified loss reserve specialist, pursuant to
216 ~~under~~ criteria established by rule of the commission. In
217 adopting the rule, the commission shall ~~must~~ consider any
218 criteria established by the National Association of Insurance
219 Commissioners. The office may require semiannual updates of the
220 annual statement of opinion for ~~as to~~ a particular insurer if
221 the office has reasonable cause to believe that such reserves
222 are understated to the extent of materially misstating the
223 financial position of the insurer. Workpapers in support of the
224 statement of opinion must be provided to the office upon
225 request. This paragraph does not apply to life insurance, health
226 insurance, or title insurance.
227 2. An actuarial opinion summary written by the insurer's
228 appointed actuary. The summary must be filed in accordance with
229 the appropriate National Association of Insurance Commissioners
230 property and casualty annual statement instructions. Proprietary
231 business information contained in the summary is confidential
232 and exempt under s. 624.4212, and the summary and related

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233 information is not subject to subpoena or discovery, or
234 admissible in evidence in any private civil action. Neither the
235 office nor any person who received documents, materials, or any
236 other information while acting under the authority of the office
237 or with whom such information is shared pursuant to s. 624.4212
238 may testify in a private civil action concerning such
239 confidential information. No waiver of any other applicable
240 claim of confidentiality or privilege may occur as a result of a
241 disclosure to the office under this section or any other section
242 of the insurance code. This paragraph does not apply to life and
243 health insurers subject to s. 625.121(3).
244 (c) The commission may by rule require reports or filings
245 required under the insurance code to be submitted by electronic
246 means in a computer-readable form compatible with the electronic
247 data processing equipment specified by the commission.
248 (8)
249 (e) The commission shall adopt rules to administer
250 ~~implement~~ this subsection, which rules must be in substantial
251 conformity with the 2006 Annual Financial Reporting Model
252 Regulation ~~1998 Model Rule requiring annual audited financial~~
253 ~~reports~~ adopted by the National Association of Insurance
254 Commissioners or subsequent amendments, except where
255 inconsistent with the requirements of this subsection. Any
256 exception to, waiver of, or interpretation of accounting
257 requirements of the commission must be in writing and signed by
258 an authorized representative of the office. An ~~No~~ insurer may
259 not raise ~~as a defense in any action,~~ any exception to, waiver
260 of, or interpretation of accounting requirements as a defense in
261 an action, unless previously issued in writing by an authorized

262 representative of the office.
263 Section 4. Paragraph (a) of subsection (3) of section
264 625.121, Florida Statutes, is amended to read:
265 625.121 Standard Valuation Law; life insurance.—
266 (3) ACTUARIAL OPINION OF RESERVES.—
267 (a)~~1.~~ Each life insurance company doing business in this
268 state shall annually submit the opinion of a qualified actuary
269 as to whether the reserves and related actuarial items held in
270 support of the policies and contracts specified by the
271 commission by rule are computed appropriately, are based on
272 assumptions that ~~which~~ satisfy contractual provisions, are
273 consistent with prior reported amounts, and comply with
274 applicable laws of this state. The commission by rule shall
275 define the specifics of this opinion and add any other items
276 determined to be necessary to its scope.
277 1.~~2.~~ The opinion shall be submitted with the annual
278 statement reflecting the valuation of such reserve liabilities
279 ~~for each year ending on or after December 31, 1992~~.
280 2.~~3.~~ The opinion applies ~~shall apply~~ to all business in
281 force, including individual and group health insurance plans, in
282 the form and substance acceptable to the office as specified by
283 rule of the commission.
284 3.~~4.~~ The commission may adopt rules providing the standards
285 of the actuarial opinion consistent with standards adopted by
286 the Actuarial Standards Board on December 31, 2002, and
287 subsequent revisions thereto, if ~~provided that~~ the standards
288 remain substantially consistent.
289 4.~~5. In the case of an opinion required to be submitted by~~
290 ~~a foreign or alien company,~~ The office may accept an ~~the~~ opinion

291 filed by a foreign or alien ~~that~~ company with the insurance
292 supervisory official of another state if the office determines
293 that the opinion reasonably meets the requirements applicable to
294 a company domiciled in this state.
295 5.~~6.~~ As used in ~~For the purposes of~~ this subsection, the
296 term "qualified actuary" means a member in good standing of the
297 American Academy of Actuaries who also meets the requirements
298 specified by rule of the commission.
299 6.~~7.~~ Disciplinary action by the office against the company
300 or the qualified actuary shall be in accordance with the
301 insurance code and related rules adopted by the commission.
302 7.~~8.~~ A memorandum in the form and substance specified by
303 rule shall be prepared to support each actuarial opinion.
304 8.~~9.~~ If the insurance company fails to provide a supporting
305 memorandum at the request of the office within a period
306 specified by rule of the commission, or if the office determines
307 that the supporting memorandum provided by the insurance company
308 fails to meet the standards prescribed by rule of the
309 commission, the office may engage a qualified actuary at the
310 expense of the company to review the opinion and the basis for
311 the opinion and prepare such supporting memorandum as ~~is~~
312 required by the office.
313 9.~~10.~~ Except as otherwise provided in this paragraph, any
314 memorandum or other material in support of the opinion is
315 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
316 is not subject to subpoena or discovery, or admissible in
317 evidence in any private civil action; however, the memorandum or
318 other material may be released by the office with the written
319 consent of the company, or to the American Academy of Actuaries

320 upon request stating that the memorandum or other material is
321 required for the purpose of professional disciplinary
322 proceedings and setting forth procedures satisfactory to the
323 office for preserving the confidentiality of the memorandum or
324 other material. If any portion of the confidential memorandum is
325 cited by the company in its marketing, ~~or~~ is cited before any
326 governmental agency other than a state insurance department, or
327 is released by the company to the news media, no portion of the
328 memorandum is confidential. Neither the office nor any person
329 who received documents, materials, or any other information
330 while acting under the authority of the office or with whom such
331 information is shared pursuant to this paragraph may testify in
332 any private civil action concerning the confidential documents,
333 materials, or information.
334 Section 5. Subsections (1), (3), (5), (12), and (13) of
335 section 628.461, Florida Statutes, are amended to read:
336 628.461 Acquisition of controlling stock.—
337 (1) A person may not, individually or in conjunction with
338 any affiliated person of such person, acquire directly or
339 indirectly, conclude a tender offer or exchange offer for, enter
340 into any agreement to exchange securities for, or otherwise
341 finally acquire 5 percent or more of the outstanding voting
342 securities of a domestic stock insurer or of a controlling
343 company, unless:
344 (a) The person or affiliated person has filed with the
345 office and sent to the insurer and controlling company a letter
346 of notification regarding the transaction or proposed
347 transaction within ~~no later than~~ 5 days after any form of tender
348 offer or exchange offer is proposed, or within ~~no later than~~ 5

349 days after the acquisition of the securities if no tender offer
350 or exchange offer is involved. The notification must be provided
351 on forms prescribed by the commission containing information
352 determined necessary to understand the transaction and identify
353 all purchasers and owners involved;
354 (b) The person or affiliated person has filed with the
355 office the ~~a~~ statement ~~as~~ specified in subsection (3). The
356 statement must be completed and filed within 30 days after:
357 1. Any definitive acquisition agreement is entered;
358 2. Any form of tender offer or exchange offer is proposed;
359 or
360 3. The acquisition of the securities, if no definitive
361 acquisition agreement, tender offer, or exchange offer is
362 involved; and
363 (c) The office has approved the tender or exchange offer,
364 or acquisition if no tender offer or exchange offer is involved,
365 and approval is in effect.
366
367 ~~In lieu of a filing as required under this subsection, a party~~
368 ~~acquiring less than 10 percent of the outstanding voting~~
369 ~~securities of an insurer may file a disclaimer of affiliation~~
370 ~~and control. The disclaimer shall fully disclose all material~~
371 ~~relationships and basis for affiliation between the person and~~
372 ~~the insurer as well as the basis for disclaiming the affiliation~~
373 ~~and control. After a disclaimer has been filed, the insurer~~
374 ~~shall be relieved of any duty to register or report under this~~
375 ~~section which may arise out of the insurer's relationship with~~
376 ~~the person unless and until the office disallows the disclaimer.~~
377 ~~The office shall disallow a disclaimer only after furnishing all~~

378 ~~parties in interest with notice and opportunity to be heard and~~
379 ~~after making specific findings of fact to support the~~
380 ~~disallowance.~~ A filing ~~as~~ required under this subsection must be
381 made for ~~as to~~ any acquisition that equals or exceeds 10 percent
382 of the outstanding voting securities.
383 (3) The statement to be filed with the office under
384 subsection (1) and furnished to the insurer and controlling
385 company must ~~shall~~ contain all the following information and any
386 additional information that ~~as~~ the office deems necessary to
387 determine the character, experience, ability, and other
388 qualifications of the person or affiliated person of such person
389 for the protection of the policyholders and shareholders of the
390 insurer and the public:
391 (a) The identity of, and the background information
392 specified in subsection (4) on, each natural person by whom, or
393 on whose behalf, the acquisition is to be made; and, if the
394 acquisition is to be made by, or on behalf of, a corporation,
395 association, or trust, as to the corporation, association, or
396 trust and as to any person who controls, ~~either~~ directly or
397 indirectly, the corporation, association, or trust, the identity
398 of, and the background information specified in subsection (4)
399 on, each director, officer, trustee, or other natural person
400 performing duties similar to those of a director, officer, or
401 trustee for the corporation, association, or trust.~~;~~
402 (b) The source and amount of the funds or other
403 consideration used, or to be used, in making the acquisition.~~;~~
404 (c) Any plans or proposals that ~~which~~ such persons may have
405 made to liquidate such insurer, to sell any of its assets or
406 merge or consolidate it with any person, or to make any other

407 major change in its business or corporate structure or
408 management; and any plans or proposals that ~~which~~ such persons
409 may have made to liquidate any controlling company of such
410 insurer, to sell any of its assets or merge or consolidate it
411 with any person, or to make any other major change in its
412 business or corporate structure or management.~~;~~
413 (d) The number of shares or other securities which the
414 person or affiliated person of such person proposes to acquire,
415 the terms of the proposed acquisition, and the manner in which
416 the securities are to be acquired.~~; and~~
417 (e) Information as to any contract, arrangement, or
418 understanding with any party with respect to any of the
419 securities of the insurer or controlling company, including, but
420 not limited to, information relating to the transfer of any of
421 the securities, option arrangements, puts or calls, or the
422 giving or withholding of proxies, which information names the
423 party with whom the contract, arrangement, or understanding has
424 been entered into and gives the details thereof.
425 (f) An agreement by the person required to file the
426 statement that the person will provide the annual report
427 specified in s. 628.801(2) if control exists.
428 (g) An acknowledgement by the person required to file the
429 statement that the person and all subsidiaries within its
430 control in the insurance holding company system will provide, as
431 necessary, information to the office upon request to evaluate
432 enterprise risk to the insurer.
433 (5)~~(a)~~ The acquisition of voting securities shall be deemed
434 approved unless the office disapproves the proposed acquisition
435 within 90 days after the statement required by subsection (1)

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436 has been filed. The office may on its own initiate, or if
437 requested to do so in writing by a substantially affected party
438 shall conduct, a proceeding to consider the appropriateness of
439 the proposed filing. The 90-day time period shall be tolled
440 during the pendency of the proceeding. Any written request for a
441 proceeding must be filed with the office within 10 days after ~~of~~
442 the date notice of the filing is given.
443 (a) During the pendency of the proceeding or review period
444 by the office, any person or affiliated person complying with
445 the filing requirements of this section may proceed and take all
446 steps necessary to conclude the acquisition if ~~so long as~~ the
447 acquisition becoming final is conditioned upon obtaining office
448 approval. ~~The office shall,~~ However, if at any time the office
449 ~~that it~~ finds that an immediate danger to the public health,
450 safety, and welfare of the domestic policyholders exists, it
451 shall immediately order, pursuant to s. 120.569(2)(n), the
452 proposed acquisition temporarily disapproved and any further
453 steps to conclude the acquisition ceased.
454 (b) During the pendency of the office's review of any
455 acquisition subject to ~~the provisions of~~ this section, the
456 acquiring person may ~~shall~~ not make any material change in the
457 operation of the insurer or controlling company unless the
458 office has specifically approved the change nor may ~~shall~~ the
459 acquiring person make any material change in the management of
460 the insurer unless advance written notice of the change in
461 management is furnished to the office. A material change in the
462 operation of the insurer is a transaction that ~~which~~ disposes of
463 or obligates 10 ~~5~~ percent or more of the capital and surplus of
464 the insurer. A material change in the management of the insurer

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465 is any change in management involving officers or directors of
466 the insurer or any person of the insurer or controlling company
467 having authority to dispose of or obligate 10 ~~5~~ percent or more
468 of the insurer's capital or surplus. The office shall approve a
469 material change in operation if it finds the applicable
470 provisions of subsection (7) have been met. The office may
471 disapprove a material change in management if it finds that the
472 applicable provisions of subsection (7) have not been met and in
473 such case the insurer shall promptly change management as
474 acceptable to the office.
475 (c) If a request for a proceeding is filed, the proceeding
476 shall be conducted within 60 days after the date the written
477 request for a proceeding is received by the office. A
478 recommended order shall be issued within 20 days after ~~of~~ the
479 date of the close of the proceedings. A final order shall be
480 issued within 20 days after ~~of~~ the date of the recommended order
481 or, if exceptions to the recommended order are filed, within 20
482 days after ~~of~~ the date the exceptions are filed.
483 (12)(a) A presumption of control may be rebutted by filing
484 a disclaimer of control. Any person may file a disclaimer of
485 control with the office. The disclaimer must fully disclose all
486 material relationships and bases for affiliation between the
487 person and the insurer as well as the basis for disclaiming the
488 affiliation. After a disclaimer has been filed, the insurer is
489 relieved of any duty to register or report under this section
490 which may arise out of the insurer's relationship with the
491 person unless the office disallows the disclaimer.
492 (b) Any controlling person of a domestic insurer that seeks
493 to divest its controlling interest in the domestic insurer in

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494 any manner, shall file with the office, with a copy to the
495 insurer, confidential notice, not subject to public inspection
496 as provided under s. 624.4212, of its proposed divestiture at
497 least 30 days before the cessation of control. The office shall
498 determine those instances in which the party seeking to divest
499 or to acquire a controlling interest in an insurer must file for
500 and obtain approval of the transaction. The information remains
501 confidential until the conclusion of the transaction unless the
502 office, in its discretion, determines that confidential
503 treatment interferes with enforcement of this section. If the
504 statement referred to in subsection (1) is otherwise filed, this
505 paragraph does not apply. ~~For the purpose of this section, the~~
506 ~~term "affiliated person" of another person means:~~
507 ~~1. The spouse of such other person;~~
508 ~~2. The parents of such other person and their lineal~~
509 ~~descendants and the parents of such other person's spouse and~~
510 ~~their lineal descendants;~~
511 ~~3. Any person who directly or indirectly owns or controls,~~
512 ~~or holds with power to vote, 5 percent or more of the~~
513 ~~outstanding voting securities of such other person;~~
514 ~~4. Any person 5 percent or more of the outstanding voting~~
515 ~~securities of which are directly or indirectly owned or~~
516 ~~controlled, or held with power to vote, by such other person;~~
517 ~~5. Any person or group of persons who directly or~~
518 ~~indirectly control, are controlled by, or are under common~~
519 ~~control with such other person;~~
520 ~~6. Any officer, director, partner, copartner, or employee~~
521 ~~of such other person;~~
522 ~~7. If such other person is an investment company, any~~

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523 ~~investment adviser of such company or any member of an advisory~~
524 ~~board of such company;~~
525 ~~8. If such other person is an unincorporated investment~~
526 ~~company not having a board of directors, the depositor of such~~
527 ~~company; or~~
528 ~~9. Any person who has entered into an agreement, written or~~
529 ~~unwritten, to act in concert with such other person in acquiring~~
530 ~~or limiting the disposition of securities of a domestic stock~~
531 ~~insurer or controlling company.~~
532 ~~(b) For the purposes of this section, the term "Controlling~~
533 ~~company" means any corporation, trust, or association owning,~~
534 ~~directly or indirectly, 25 percent or more of the voting~~
535 ~~securities of one or more domestic stock insurance companies.~~
536 (13) The commission may adopt, amend, or repeal rules that
537 are necessary to administer ~~implement the provisions of~~ this
538 section~~, pursuant to chapter 120~~.
539 Section 6. Section 628.801, Florida Statutes, is amended to
540 read:
541 628.801 Insurance holding companies; registration;
542 regulation.—
543 (1) An ~~Every~~ insurer that is authorized to do business in
544 this state and that is a member of an insurance holding company
545 shall, on or before April 1 of each year, register with the
546 office and file a registration statement and be subject to
547 regulation with respect to its relationship to the holding
548 company as provided by law or rule ~~or statute~~. The commission
549 shall adopt rules establishing the information and statement
550 form required for registration and the manner in which
551 registered insurers and their affiliates are regulated. The

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552 rules apply to domestic insurers, foreign insurers, and
553 commercially domiciled insurers, except for a foreign insurer
554 domiciled in states that were ~~are~~ accredited by the National
555 Association of Insurance Commissioners by December 31, 1995.
556 Except to the extent of any conflict with this code, the rules
557 must include all requirements and standards of ss. 4 and 5 of
558 the Insurance Holding Company System Regulatory Act and the
559 Insurance Holding Company System Model Regulation of the
560 National Association of Insurance Commissioners, as adopted on
561 December 2010, and may adopt subsequent amendments thereto if
562 the methodology remains substantially consistent ~~the Regulatory~~
563 ~~Act and the Model Regulation existed on November 30, 2001~~, and
564 may include a prohibition on oral contracts between affiliated
565 entities. Material transactions between an insurer and its
566 affiliates shall be filed with the office as provided by rule.
567 Upon request, the office may waive the filing requirements ~~under~~
568 ~~this section~~ for a domestic insurer that is the subsidiary of an
569 insurer that is in full compliance with the insurance holding
570 company registration laws of its state of domicile, which state
571 is accredited by the National Association of Insurance
572 Commissioners.
573 (2) The ultimate controlling person of every insurer
574 subject to registration must also file an annual enterprise risk
575 report, on or before April 1. As used in this subsection, the
576 term "ultimate controlling person" means a person that is not
577 controlled by any other person. The report, to the best of the
578 ultimate controlling person's knowledge and belief, must
579 identify the material risks within the insurance holding company
580 system which could pose enterprise risk to the insurer. The

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581 report shall be filed with the lead state office of the
582 insurance holding company system as determined by the procedures
583 within the Financial Analysis Handbook adopted by the National
584 Association of Insurance Commissioners and is confidential and
585 exempt from public disclosure as provided in s. 624.4212.
586 (a) No waiver of any applicable privilege or claim of
587 confidentiality in the annual enterprise risk report and related
588 documents may occur as a result of any disclosure to the office
589 under this section or any other section of the insurance code as
590 authorized under s. 624.4212. Neither the office nor any person
591 who received the report and related documents while acting under
592 the authority of the office or with whom such information is
593 shared pursuant to s. 624.4212 is permitted or required to
594 testify in any private civil action concerning any confidential
595 documents, materials, or information subject to s. 624.4212. An
596 insurer may satisfy this requirement by providing the office
597 with the most recently filed parent corporation reports that
598 have been filed with the Securities and Exchange Commission
599 which provide the appropriate enterprise risk information.
600 (b) The term "enterprise risk" means any activity,
601 circumstance, event, or series of events involving one or more
602 affiliates of an insurer which, if not remedied promptly, is
603 likely to have a materially adverse effect upon the financial
604 condition or liquidity of the insurer or its insurance holding
605 company system as a whole, including anything that would cause
606 the insurer's risk-based capital to fall into company action
607 level as set forth in s. 624.4085 or would cause the insurer to
608 be in hazardous financial condition.
609 (3) Pursuant to chapter 624 relating to the examination of

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610 insurers, the office may examine any insurer registered under
611 this section and its affiliates to ascertain the financial
612 condition of the insurer, including the enterprise risk to the
613 insurer by the ultimate controlling party, or by any entity or
614 combination of entities within the insurance holding company
615 system, or by the insurance holding company system on a
616 consolidated basis.
617 (4) The failure to file a registration statement, or a
618 summary of the registration statement, or the enterprise risk
619 filing report required by this section within the time specified
620 for filing is a violation of this section.
621 (5) An insurer may apply to the office for a waiver from
622 the requirements of this section:
623 (a) If the insurer is a domestic insurer that is the
624 subsidiary of an insurer that is in full compliance with the
625 insurance holding company registration laws of its state of
626 domicile, which state is accredited by the National Association
627 of Insurance Commissioners;
628 (b) If the insurer's annual direct written and assumed
629 premium, excluding premiums reinsured with the Federal Crop
630 Insurance Corporation and Federal Flood Program, is less than
631 $300,000,000; or
632 (c) Based upon unique circumstances. The office may
633 consider various factors including, but not limited to, the type
634 of business entity, volume of business written, availability of
635 qualified board members, or the ownership or organizational
636 structure of the entity.
637 Section 7. Present subsection (4) of section 628.803,
638 Florida Statutes, is renumbered as subsection (5), and a new

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639 subsection (4) is added to that section, to read:
640 628.803 Sanctions.—
641 (4) If it appears to the office that any person has
642 committed a violation of s. 628.461 which prevents the full
643 understanding of the enterprise risk to the insurer by
644 affiliates or by the insurance holding company system, the
645 violation may serve as an independent basis for disapproving
646 dividends or distributions and for placing the insurer under an
647 order of supervision in accordance with part VI of chapter 624.
648 Section 8. Section 628.805, Florida Statutes, is created to
649 read:
650 628.805 Supervisory colleges.—In order to assess the
651 business strategy, financial position, legal and regulatory
652 position, risk exposure, risk management and governance
653 processes, and as part of the examination of individual insurers
654 in accordance with ss. 628.801 and 624.316, the office may
655 participate in a supervisory college with other regulators
656 charged with supervision of the insurer or its affiliates,
657 including other state, federal, and international regulatory
658 agencies. In accordance with s. 624.4212 regarding confidential
659 information sharing, the office may enter into agreements that
660 provide the basis for cooperation between the office and the
661 other regulatory agencies, and the activities of the supervisory
662 college. This section does not delegate to the supervisory
663 college the office's authority to regulate or supervise the
664 insurer or its affiliates under its jurisdiction.
665 (1) With respect to participation in a supervisory college,
666 the office may:
667 (a) Initiate the establishment of a supervisory college;

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668 (b) Clarify the membership and participation of other
669 supervisors in the supervisory college;
670 (c) Clarify the functions of the supervisory college and
671 the role of other regulators, including the establishment of a
672 group-wide supervisor;
673 (d) Coordinate the ongoing activities of the supervisory
674 college, including planning meetings, supervisory activities,
675 and processes for information sharing; and
676 (e) Establish a crisis management plan.
677 (2) With respect to an insurer registered under s. 628.801,
678 and in accordance with this section, the office may participate
679 in a supervisory college for any domestic insurer that is part
680 of an insurance holding company system in order to determine the
681 insurer's compliance with this chapter.
682 (3) Each registered insurer subject to this section is
683 liable for and shall pay reasonable expenses for the office's
684 participation in a supervisory college, including reasonable
685 travel expenses. A supervisory college may be convened as a
686 temporary or permanent forum for communication and cooperation
687 between the regulators charged with the supervision of the
688 insurer or its affiliates, and the office may impose a regular
689 assessment on the insurer for the payment of these expenses.
690 Section 9. Subsection (3) is added to section 636.045,
691 Florida Statutes, to read:
692 636.045 Minimum surplus requirements.—
693 (3) A prepaid limited health service organization that is
694 authorized in this state and one or more other states,
695 jurisdictions, or countries is subject to ss. 624.4085 and
696 624.40851.

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697 Section 10. Present subsections (3), (4), (5), and (6) of
698 section 641.225, Florida Statutes, are renumbered as subsections
699 (4), (5), (6), and (7), respectively, and new subsections (3)
700 and (8) are added to that section, to read:
701 641.225 Surplus requirements.—
702 (3) A health maintenance organization that is a member of a
703 holding company system is subject to s. 628.461 but not s.
704 628.4615.
705 (8) A health maintenance organization that is authorized in
706 this state and one or more other states, jurisdictions, or
707 countries is subject to ss. 624.4085 and 624.40851.
708 Section 11. This act shall take effect October 1, 2013, if
709 SB _____ or similar legislation is adopted in the same
710 legislative session or an extension thereof and becomes a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Insurer Solvency

Bill Number: 836 (if applicable)

Name: Rebecca Matthews

Amendment Barcode: (if applicable)

Job Title: Government Affairs Director

Address: 200 G Gaines St
Street

City State Zip

Phone: 509-3494

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Office of Insurance Reg

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 834

INTRODUCER: Senator Simmons

SUBJECT: Public Records/Proprietary Business Information/Office of Insurance Regulation

DATE: March 28, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Pre-meeting**
2.			GO	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 834, which is linked to SB 836, defines "proprietary information" for purposes of the public record exemption. The bill provides that proprietary business information held by the Office of Insurance Regulation is confidential and exempt from public records requirements.

The bill provides for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature pursuant to the Open Government Sunset Review Act. It also provides a statement of public necessity as required by the State Constitution[1].

This bill creates the following section of the Florida Statutes: 624.4241.

II. Present Situation:

Public Records Law

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[2] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of

[1] Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new exemption; thus, it appears to require a two-thirds vote for final passage.

[2] Section 1390, 1391 F.S. (Rev. 1892)

access to public records to a constitutional level.[3] Article I, s. 24 of the State Constitution, provides that:

(a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[4] which pre-dates public records provision of the State Constitution, specifies conditions under which public access must be provided to records of an agency.[5] Section 119.07(1) (a), F.S., states:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.

Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean:

. . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[6]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.[7] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[8]

Only the Legislature is authorized to create exemptions to open government requirements.[9] Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to

[3] Article I, s. 24 of the State Constitution
[4] Chapter 119, F.S.
[5] The word "agency" is defined in s. 119.011(2), F.S., to mean". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Florida Constitution also establishes a right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted by law or the State Constitution.
[6] Section 119.011(11), F.S.
[7] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).
[8] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla.1979).
[9] Article I, s. 24(c) of the State Constitution.

accomplish the stated purpose of the law.[10] A bill enacting an exemption[11] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[12]

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.[13] If a record is simply made exempt from disclosure requirements an agency is not prohibited from disclosing the record in all circumstances.[14]

Open Government Sunset Review Act

The Open Government Sunset Review Act [15] provides for the systematic review, through a 5-year cycle ending October 2nd of the 5th year following enactment, of an exemption from the Public Records Act or the Public Meetings Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The act states that an exemption may be created or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety, or;
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[16]

The act also requires consideration of the following:

- What specific records or meetings are affected by the exemption?

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[10] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So.2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).
[11] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[12] Art. I, s. 24 (c) of the State Constitution.
[13] Attorney General Opinion 85-62.
[14] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[15] Section 119.15, F.S.
[16] Section 119.15(4)(b), F.S.

- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

While the standards in the Open Government Sunset Review Act may appear to limit the Legislature in the exemption review process, those aspects of the act that are only statutory, as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another.[17] The Legislature is only limited in its review process by constitutional requirements.

Further, s. 119.15(4) (e), F.S., makes explicit that:

… notwithstanding s. 768.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of any exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

Public Records Exemptions and the Insurance Code

The Insurance Code currently provides a number of public records exemptions relating to insurance-related information, including:

- Trade secret documents;[18]
- Risk-based capital information;[19]
- Information related to orders of supervision;[20] and
- Personal consumer and personal financial information.[21]

Section 624.319, F.S., makes OIR's examination and investigation reports and workpapers confidential during the pendency of an examination or investigation. This provision allows the OIR to share this information with other governmental entities (if disclosure is necessary for the receiving entity to perform its duties and responsibilities) and with the NAIC.
While there is no generic exemption for information claimed to be proprietary business information in the Florida Statutes, the Legislature has created a number of exemptions from ch. 119, F.S. for proprietary business information held by certain agencies. This term is generally defined by the statute creating the exemption, and frequently includes trade secrets.

[17] *Straughn v. Camp*, 293 So.2d 689, 694 (Fla. 1974).
[18] Section 624.4213, F.S. Even in the absence of a statutory exemption for particular trade secrets, s. 815.045, F.S., "should be read to exempt from disclosure as public records *all* trade secrets [as defined in s. 812.081(1)(c), F.S.]." *Sepro Corp. v. Florida Dep't of Environmental Protection*, 911 So.2d 792 (Fla. 1st DCA 2003), *review denied sub nom.*
[19] Section 624.40851, F.S.
[20] Section 624.82, F.S.
[21] Section 624.23, F.S.

Currently, the Insurance Code has a specific exemption relating to "proprietary business information" held by the OIR, but relates only to such information provided by a title insurance agency or insurer.[22]

Senate Bill 836: Insurer Solvency

The Office of Insurance Regulation (OIR) is a member of the National Association of Insurance Commissioners (NAIC), an organization consisting of state insurance regulators. As a member of the NAIC, the OIR is required to participate in the organization's accreditation program. NAIC accreditation is a certification that legal, regulatory, and organizational oversight standards and practices are being fulfilled by a state insurance department. Once accredited, a member state is subject to a full accreditation review every five years. The OIR is slated for its accreditation review during the fall of 2013.

Senate Bill 836 implements the following NAIC confidentiality requirements:

NAIC Property and Casualty Actuarial Opinion Model Law
Current law requires insurers (except those providing life insurance and title insurance) to provide to OIR a statement of opinion on loss and loss adjustment expense reserves prepared by an actuary or a qualified loss reserve specialists, and supporting workpapers. Current law treats these documents as public.[23]

The NAIC model law provides that states must require insurers to provide *actuarial opinion summaries* and that the regulators must keep these summaries confidential. Senate Bill 836 adopts this requirement and states that "proprietary business information" contained in these summaries are confidential and exempt from public records disclosure.

Model Holding Company Act & Regulations
In response to the recent financial crisis, a NAIC workgroup focused on group supervision issues in the context of large insurers and their affiliates in their respective holding companies. The workgroup noted the corresponding regulatory need to enhance insurance regulators' ability to obtain and evaluate financial information from affiliates, especially regarding "enterprise risk."[24] In adopting the NAIC model act, Senate Bill 836 will require persons seeking a controlling interest in an insurer or controlling company to file an annual enterprise risk report to OIR. The bill requires insurers agree to have the ultimate controlling person and all its affiliates to provide information regarding enterprise risk to the OIR, and provides that the enterprise risk report is confidential and exempt from public disclosure.

[22] Section 626.94195, F.S.
[23] Section 624.424, F.S.
[24] Enterprise risk is "any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedies promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer of its insurance company as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital as set forth in [state statutory requirement] or would cause the insurer to be in a hazardous financial condition." Section 1(F) of the NAIC Model Insurance Holding Company System Regulatory Act.

Senate Bill 836 also provides that a controlling person of a domestic insurer may divest its controlling interest by providing notice to the OIR. Senate Bill 836 provides that this notice is confidential and exempt until the divestiture transaction is completed, unless the OIR, in its discretion, determines that confidential treatment interferes with enforcement of this section. The NAIC also made establishment and participation in supervisory colleges an accreditation standard. Supervisory colleges are essentially interstate meetings for insurance regulators to focus on large insurers that write significant amounts of insurance in multiple jurisdictions. Senate Bill 836 provides for the OIR's participation in a supervisory college with other insurance regulators. This bill creates a public records exemption for proprietary business information as it may be found in information obtained by OIR pursuant to its participation in a supervisory college.

III. Effect of Proposed Changes:

Senate Bill 834, which is linked to Senate Bill 836, incorporates the necessary confidentiality elements for OIR to meet NAIC accreditation standards. The bill provides that proprietary business information held by OIR is confidential and exempt from public records requirements. OIR may disclose the confidential and exempt proprietary business information:

- If the insurer to which it pertains gives prior written consent;
- Pursuant to a court order;
- To the American Academy of Actuaries upon a request stating the information is for the purpose of professional disciplinary proceedings and specifying procedures satisfactory to OIR for preserving the confidentiality of the information;
- To other states, federal and international agencies, NAIC, and state, federal, and international law enforcement authorities, including members of a supervisory college, if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information and has verified in writing its legal authority to maintain such confidentiality; or
- For the purpose of aggregating information on an industry wide basis and disclosing the information to the public only if the specific identities of the insurers, or persons or affiliated persons, are not revealed.

The bill defines "proprietary business information" to mean information, regardless of form or characteristics, that is owned or controlled by an insurer, or a person or affiliated person who seeks acquisition of controlling stock in a domestic stock insurer or controlling company, and that:

- Is intended to be and is treated by the insurer or the person as private in that the disclosure of the information would cause harm to the insurer, the person, or the company's business operations and has not been disclosed unless disclosed pursuant to a statutory requirement, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public;
- Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as requested by the office; and
- Includes, but is not limited to:
    - Trade secrets.
    - Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

- The source, nature, and amount of the consideration used or to be used in carrying out a merger or other acquisition of control in the ordinary course of business, including the identity of the lender, if the person filing a statement regarding consideration so requests.
- Information relating to bids or other contractual data, the disclosure of which would impair the efforts of the insurer or its affiliates to contract for goods or services on favorable terms.
- Internal auditing controls and reports of internal auditors.

The bill provides a statement of public necessity and for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature.

As indicated in the bill's statement of public necessity, public disclosure of proprietary business information would disadvantage insurers' competitive interests, particularly in proposed acquisitions, and in turn could lead to some insurers providing inaccurate or biased information to the OIR and an overall loss of confidence in the marketplace. Without this public records exemption, release of this information could impair the economic value of such information and result in financial loss to the proprietor.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Proprietary business information held by the Office of Insurance Regulation will be protected.

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

939038

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 37 - 67
4 and insert:
5 (c) Includes, but is not limited to:
6 1. Trade secrets as defined in s. 688.002 which comply with
7 s. 624.4213.
8 2. Information relating to competitive interests the
9 disclosure of which would impair the competitive business of the
10 provider of the information.
11 3. The source, nature, and amount of the consideration used
12 or to be used in carrying out a merger or other acquisition of

939038

13 control in the ordinary course of business, including the
14 identity of the lender, if the person filing a statement
15 regarding consideration so requests.
16 4. Information relating to bids or other contractual data
17 the disclosure of which would impair the efforts of the insurer
18 or its affiliates to contract for goods or services on favorable
19 terms.
20 5. Internal auditing controls and reports of internal
21 auditors.
22 6. The actuarial opinion summary required under s.
23 624.424(1)(b) and the documents, materials, and other
24 information related thereto.
25 7. A notice filed with the office by the person or
26 affiliated person who seeks to divest controlling stock in an
27 insurer pursuant to s. 628.461.
28 8. The filings required under s. 628.801 and all documents,
29 materials, and other information related thereto.
30 9. The enterprise risk report required under ss. 628.461(3)
31 and 628.801 and the documents, materials, and other information
32 related to the enterprise risk report.
33 10. Information provided to or obtained by the office
34 pursuant to participation in a supervisory college established
35 under s. 628.805.
36 11. Information received from another governmental entity
37 or the National Association of Insurance Commissioners which is
38 confidential or exempt if held by that entity for use by the
39 office in the office's performance of its duties.
40 (2) The office may disclose confidential and exempt

436368

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 90 - 93
4 and insert:
5 (3) This section is subject to the Open Government Sunset
6 Review Act in accordance with s. 119.15 and shall stand repealed
7 on October 2, 2018, unless reviewed and saved from repeal
8 through reenactment by the Legislature.

536046

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment**
2
3 Delete line 136
4 and insert:
5 SB 836 or similar legislation is adopted in the same

By Senator Simmons

10-00918-13 2013834__

A bill to be entitled

An act relating to public records; creating s. 624.4212, F.S.; creating an exemption from public records requirements for proprietary business information submitted to the Office of Insurance Regulation; defining the term "proprietary business information"; providing exceptions; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 624.4212, Florida Statutes, is created to read:

624.4212 Confidentiality of proprietary business information.—Proprietary business information held by the Office of Insurance Regulation in accordance with its statutory duties with respect to insurer solvency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(1) As used in this section, the term "proprietary business information" means information, regardless of form or characteristics, which is owned or controlled by an insurer, or a person or affiliated person who seeks acquisition of controlling stock in a domestic stock insurer or controlling company, and which:

(a) Is intended to be and is treated by the insurer or the person as private in that the disclosure of the information would cause harm to the insurer, the person, or the company's

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

10-00918-13 2013834__

business operations and has not been disclosed unless disclosed pursuant to a statutory requirement, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public;

(b) Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as requested by the office; and

(c) Includes, but is not limited to:

1. Trade secrets.

2. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

3. The source, nature, and amount of the consideration used or to be used in carrying out a merger or other acquisition of control in the ordinary course of business, including the identity of the lender, if the person filing a statement regarding consideration so requests.

4. Information relating to bids or other contractual data, the disclosure of which would impair the efforts of the insurer or its affiliates to contract for goods or services on favorable terms.

5. Internal auditing controls and reports of internal auditors.

(2) Proprietary business information may be found in:

1. The actuarial opinion summary required under s. 624.424(1)(b);

2. Information filed by the person or affiliated person who seeks to divest or acquire controlling stock in an insurer pursuant to s. 628.461;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

3. The enterprise risk report required under s. 628.801;

4. Information obtained by the office pursuant to participation in a supervisory college established under s. 628.805; or

5. Information received from another governmental entity or the National Association of Insurance Commissioners which is confidential or exempt if held by that entity, for use by the office in the performance of its duties.

(3) The office may disclose confidential and exempt proprietary business information:

(a) If the insurer to which it pertains gives prior written consent;

(b) Pursuant to a court order;

(c) To the American Academy of Actuaries upon a request stating that the information is for the purpose of professional disciplinary proceedings and specifying procedures satisfactory to the office for preserving the confidentiality of the information;

(d) To other states, federal and international agencies, the National Association of Insurance Commissioners and its affiliates and subsidiaries, and state, federal, and international law enforcement authorities, including members of a supervisory college described in s. 628.805 if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information, and has verified in writing its legal authority to maintain such confidentiality; or

(e) For the purpose of aggregating information on an industrywide basis and disclosing the information to the public

only if the specific identities of the insurers, or persons or affiliated persons, are not revealed.

(4) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that proprietary business information that is provided to the Office of Insurance Regulation by an insurer or acquiring party pursuant to the requirements of the Florida Insurance Code or the Holding Company System Regulatory Act of the National Association of Insurance Commissioners in order for the office to conduct its regulatory duties with respect to insurer solvency, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The disclosure of such information could injure an insurer in the marketplace by providing its competitors with detailed insight into the financial status and strategic plans of the insurer, thereby diminishing the advantage that the insurer maintains over competitors that do not possess such information. Without this exemption, an insurer or acquiring party might refrain from providing accurate and unbiased data, thus impairing the office's ability to accurately evaluate the propriety of proposed acquisitions in the state, and the financial condition of insurers and their affiliates. Proprietary business information derives actual or potential independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can derive economic value from its disclosure or

117 use. The office, in performing its duties and responsibilities,
118 may need to obtain proprietary business information from
119 insurers and regulated entities. Without an exemption from
120 public records requirements for proprietary business information
121 provided to the office, such information becomes a public record
122 when received and must be divulged upon request. Divulgence of
123 proprietary business information under the public records law
124 would destroy the value of that property to the proprietor,
125 causing a financial loss not only to the proprietor but also to
126 the residents of this state due to the loss of reliable
127 financial data necessary for the accurate evaluation of proposed
128 acquisitions. Release of proprietary business information would
129 give business competitors an unfair advantage and weaken the
130 position in the marketplace of the proprietor who owns or
131 controls the business information. The harm to insurers in the
132 marketplace and to the effective administration of acquisitions
133 caused by the public disclosure of such information far
134 outweighs the public benefits derived from its release.
135 Section 3. This act shall take effect October 1, 2013, if
136 SB _____ or similar legislation is adopted in the same
137 legislative session or an extension thereof and becomes a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Insurer Solvency / Public Records
Bill Number: 834 (if applicable)

Name: Rebecca Matthews
Amendment Barcode: (if applicable)

Job Title: Government Affairs Director

Address: 200 E. Gaines Street
Street

Tallahassee FL 32311
City State Zip

Phone: 509-3494

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Office of Insurance Reg

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 1172

INTRODUCER: Judiciary Committee and Senator Simmons

SUBJECT: Land Trusts

DATE: March 13, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Fav/CS**
2.	Knudson	Burgess	BI	**Favorable**
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1172 revises the laws relating to land trusts. In general, a land trust is a written instrument in which title to real property is vested in a trustee who has the authority to manage or dispose of the property.

More specifically, the bill:

- Clarifies the distinction between a land trust governed by s. 689.071, F.S., and other trusts governed by the Florida Trust Code.
- Defines a land trust based on the functional scope of the land trustee's duties, although the power to manage or dispose of property remains an essential element of a Florida land trust.
- Relocates provisions of s. 689.071, F.S., to a newly-created section, s. 689.073, F.S. These provisions generally state that purchasers and others can rely on a land trustee's authority over property as described in a recorded instrument. These provisions will remain equally applicable to any recorded instrument, created before or after the effective date of the bill, which conveys title to property and the power to manage or dispose of the property.

- Codifies a number of land trust practices and principles commonly used in Florida and Illinois which are derived from judicial precedents or treatises on land trusts.[1]

This bill creates section 689.073, Florida Statutes.

This bill substantially amends sections 689.071, 689.073, and 736.0102 of the Florida Statutes.

II. Present Situation:

"A land trust is a unique creature of Illinois law where real estate is conveyed to a trustee under an arrangement reserving to the beneficiaries the full management and control of the property."[2] Under a land trust:

> [t]he trustee executes deeds, mortgages or otherwise deals with the property at the written direction of the beneficiaries. The beneficiaries collect rents, improve and operate the property and exercise all rights of ownership other than holding or dealing with the legal title…. While legal title to the real estate is held by the trustee, the beneficiaries retain 'the power of direction' to deal with the title, to manage and control the property, to receive proceeds from sales or mortgages and all rentals and avails on the property.[3]

Land trusts were initially developed in Illinois. The use of these trusts in Florida was validated by the enactment of s. 689.071, F.S., the Florida Land Trust Act, in 1963.[4] Section 689.071, F.S., has always focused primarily on the authority of the land trustee to convey good title to third parties if the prior deed to the land trustee granted to the trustee certain powers to deal with and dispose of the property, commonly referred to as "deed powers."[5] Serving primarily as a "purchaser protection" statute, s. 689.071, F.S., because the statute protects third party grantees, mortgagees, and lessees who rely on the statutory authority of the trustee based on those recorded *deed powers*. Those who rely on a trustee are not required to inquire into the identity of the beneficiaries or the terms of the unrecorded trust agreement.[6] All persons dealing with the trustee of a land trust under a recorded instrument take free of claims of beneficiaries.[7] The interests of beneficiaries under a land trust are personal property.[8]

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[1] The Real Property, Probate, and Trust Law Section of the Florida Bar, *White Paper: Amendments to Land Trust Act* (2013) (on file with the Senate Committee on Judiciary). By codifying the land trust practices, it will facilitate and encourage the use of land trusts in Florida real property transactions. *Id.*
[2] 3A HORNER PROBATE PRAC. & ESTATES s.68:46 (2013); *In re Marriage of Gross*, 756 N.E.2d 312, 315 (1st Dist. 2001).
[3] *In re Marriage of Gross*, 756 N.E.2d at 315.
[4] Chapter 63-468, ss. 1-6, Laws of Fla. The statute was enacted to confirm the marketability and insurability of land purchased from a land trustee. Correspondence from the Real Property, Probate, and Trust Law Section of The Florida Bar (on file with the Senate Committee on Judiciary).
[5] The Real Property, Probate, and Trust Law Section of the Florida Bar, *supra* note 1 and *also see* "Deed powers" refer to those that "the recorded instrument confers on the trustee the power and authority to protect, to conserve, to sell, to lease, to encumber, or otherwise to manage and dispose of the real property described in the recorded instrument." Section 689.071(3), F.S.
[6] Real Property, Probate, and Trust Law Section of The Florida Bar, *supra* note 1; s. 689.071(4), F.S.
[7] Section 689.071(5), F.S.
[8] Section 689.071(6), F.S.

In Florida, the aspects of the land trust under s. 689.071, F.S., which confer legal title to the trustee, also apply to any recorded instrument that grants deed powers to a trustee.[9] In order to obtain the *purchaser protection* aspects of the statute,[10] it became common practice in Florida for conveyances to trustees to include s. 689.071, F.S., deed powers although the trust was not intended to be a land trust.

The primary purpose of this bill is to provide greater clarity in the manner that the Florida Land Trust Act and the Florida Trust Code[11] are intended to relate to each other by specifying a comprehensive statutory definition of land trust.[12]

III. Effect of Proposed Changes:

General overview

The bill clarifies the distinction between a land trust governed by s. 689.071, F.S. and other express trusts governed by the Florida Trust Code,[13] but preserves the "title protection" benefits of the existing statute for any conveyance to trustee containing deed powers. To do so, the bill:

- Defines land trusts based on the functional scope of the land trustee's duties, although deed powers remain an essential element of a Florida land trust.
- Relocates all the *purchaser protection* provisions of s. 689.071, F.S., to a newly-created section, s. 689.073, F.S., which will remain equally applicable to any conveyance containing deed powers to a trustee of any trust.
- Codifies a number of land trust practices and principles commonly used in Florida and Illinois which are derived from judicial precedents or treatises on land trusts.[14]

Purchaser Protection Provision transferred to Section 689.073, F.S.

The bill transfers and amends the purchaser protection provisions in ss. 689.071(3), (4), and (5), F.S., to newly-created s. 689.073, F.S.

The existing ss. 689.071(3), (4), and (5), F.S., are that are transferred to s. 689.073, F.S., are intended to have exactly the same legal effect: the provisions protect a purchaser who buys or leases land from a trustee if the trustee acquired the land by a recorded deed or other instrument that granted certain powers "deed powers" to the trustee. If those deed powers are recorded, then the statute protects the purchaser by confirming that:

- The trustee is vested with title to the property and is fully able to transfer the title to the purchaser;
- The purchaser is protected from title assaults by the beneficiaries of the trust;

[9] Real Property, Probate, and Trust Law Section of The Florida Bar, *supra* note 1.
[10] Section 689.071, F.S.
[11] Chapter 736, F.S.
[12] Real Property, Probate, and Trust Law Section of The Florida Bar, *supra* note 1.
[13] Chapter 736, F.S.
[14] Real Property, Probate, and Trust Law Section of The Florida Bar, *supra* note 1. By codifying the land trust practices, it will facilitate and encourage the use of land trusts in Florida real property transactions. *Id.*

- The beneficiaries need not be disclosed;
- The trust document need not be disclosed; and
- The purchaser may safely deal with the trustee without inquiring whether the trustee has authority to deal with the land.[15]

The new statute deletes language that vests both legal and equitable title in the trustee; removes a reference to real property "in this state" in the current law, thereby confirming that out-of-state lands may be held in Florida land trusts.[16] Additionally, the new statute requires that the statute apply without regard to whether any reference is made in the recorded instrument to the beneficiaries of such trust or to any separate collateral unrecorded declarations or agreements, without regard to the provisions of any unrecorded trust agreement or declaration of trust, and without regard to whether the trust is governed by the Florida Land Trust Act or the Florida Trust Code. This statute applies both to recorded instruments that are recorded after the effective date of this bill and to recorded instruments that were previously recorded and governed by similar provisions contained in s. 689.071(3), F.S. (2012). The statute validates all previous conveyances as vesting the trustee with the requisite deed powers.

Definition of Land Trust under s. 689.071(2), F.S.

The bill revises the remaining provisions of s. 689.071, F.S., which were not moved to the newly-created s. 689.073, F.S. The revised definition of land trust in s. 689.071(2)(c), F.S., still requires a conveyance to a trustee by a recorded instrument containing deed powers, but beginning with the effective date of the bill, this definition focuses on the key functional distinction between land trust and other express trusts. Under a land trust, a land trustee functions almost entirely as the agent of the beneficiaries or the person holding the power of directions under the trust agreement. Whereas, a trustee who is subject to the Florida Trust Code in ch. 736, F.S., has more extensive fiduciary duties and responsibilities to the trust beneficiaries, along with more extensive potential liability if the trustee fails to perform the trustee's discretionary duties prudently.[17]

A land trustee has a fiduciary relationship to the land trust beneficiaries and the person holding the power of direction over the actions of the land trustee, just as any agent is bound a fiduciary to the principal for whom the agent acts.[18] In practice, land trustees are rarely delegated discretionary duties under a land trust agreement, beyond ministerial and administrative matters.[19] This lack of duties is a logical parallel to the exemption that land trustees enjoy from ch. 736, F.S., responsibilities and liabilities.[20] The bill makes clear this practical distinction in the revised definition of a land trust in s. 689.071(2)(c), F.S., by stating that the trustee has limited duties as specified in the statute.[21]

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[15] Correspondence from the Real Property, Probate, and Trust Law Section of The Florida Bar (on file with the Senate Committee on Judiciary).
[16] Real Property, Probate and Trust Law Section of The Florida Bar, *supra* note 1.
[17] *Id.*
[18] *Id. See also*, *Raborn v. Menotte*, 974 So. 2d 328 (Fla. 2008).
[19] *Id. See also*, "The trustee is a mere vessel of title." *Brigham v. Brigham*, 11 So. 3d 374, 385 (Fla. 3d DCA 2009).
[20] Real Property, Probate and Trust Law Section of The Florida Bar, *supra* note 1.
[21] *Id.*

For trust created on or after the effective date of the bill, the revised definition limits the duties of a trustee of a land trust to:

- The duty to exercise the trustee's deed powers as directed by the beneficiary or by the holder of the power of direction (the agent's fiduciary duty to follow the principal's directions);
- The duty to dispose of the trust property at the termination of the trust;
- The duty to perform ministerial and administrative functions delegated to the trustee; and
- The duties required of certain timeshare trustees by ch. 721, F.S.[22]

If the trustee's duties exceed the foregoing limited duties and the trust is created after the effective date of the bill, then the trust will not be treated as a land trust and will not be excluded from the operation of the Florida Trust Code.[23] Because the purchaser protection provisions of the statute operate on any conveyance containing deed powers, the classification of the trust as a land trust will have no effect on the title to any real property held by the trustee.[24]

Other Definitions

The bill revises the definition for "holder of the power of direction" to "power of direction". The phrase, "person or entity" is shortened to "person."

The bill creates new definitions for some basic trust concepts, such as "trust agreement," "trust property," and "recorded instrument." "Trustee" is redefined to mean the trustee of a land trust or the trustee of another trust. Numerous references to "trustee" in s. 689.071, F.S., are revised in the bill to specifically refer to "trustee of a land trust" where appropriate.

Vesting of Legal and Equitable Title Revisions to s. 689.071(3), F.S.

The bill continues the existing statutory statement that a land trustee is vested with both legal and equitable title to the trust property. This concept does not appear in the transferred purchaser protection provisions in s. 689.073, created in the bill because it universally applies to any type of trust with deed powers.[25]

The bill makes technical revisions to s. 689.071(3), F.S., to maintain a consistent use of defined terms such as "land trust," trust agreement," and "trust property."

Statute of Uses and Doctrine of Merger – Revisions to ss. 689.071(4) and (5), F.S.

When s. 689.071, F.S., was first enacted for the purpose of validating the use of Illinois land trusts in Florida, one commonly assumed result was that land trusts would not be executed as "passive trusts" or "dry trusts" by the statute of uses, which is codified in Florida in s. 689.09,

[22] *Id.* Section 721.08, F.S., provides that time-share accommodations may be placed into a trust.
[23] *Id.*
[24] *Id.*
[25] *Id.*

F.S.[26] The bill makes that result explicit with respect to a land trust, overriding not only s. 689.09, F.S., but also the common-law statute of uses.[27]

New subsection 689.071(5), F.S., overrides the doctrine of merger with respect to a land trust, so that a land trust will not be extinguished if the trustee is the sole beneficiary.[28]

Personal Property Option

Currently s. 689.071, F.S., provides that the recorded instrument may define and declare the interests of land trust beneficiaries as personal property under Florida law. The bill clarifies that this designation of personal property must be made in the recorded instrument or the trust agreement, or it will be considered real property. Subsection 689.071(6), F.S., is modified to allow the optional personal property declaration to be made in the recorded instrument or in the trust agreement.

Beneficiary Provisions

Currently, customary provisions in land trusts are based upon treatises by Illinois land trust authorities. The bill revises s. 689.071(8), F.S., in a number of respects to codify these land trust practices.[29]

The bill adds s. 689.071(8)(b), F.S., as a statutory endorsement of flexible beneficial ownership techniques described in the *Kenoe* treatise.[30] The purpose of including these provisions directly in the Florida Land Trust Act is to increase public awareness that such techniques are available without making reference to the treatise, thereby promoting the usage of land trusts in Florida generally.[31]

The bill revises s. 689.071(8)(c), F.S., to reconcile the Florida Land Trust Act with the Uniform Commercial Code Article 9 exclusion of interests in real property.[32] Caselaw[33] holds that a beneficial interest in a land trust is a general intangible within the scope of the Florida Uniform Commercial Code, and this result is codified in the present version of s. 689.071(8)(c), F.S., which provides that Uniform Commercial Code Article 9 governs the perfection of a security interest in a beneficial interest in a land trust. However, if the beneficial interest is defined as real property under s. 689.071(6), F.S., then there is a possible contradiction between the Florida Land Trust Act (which says Article 9 applies to beneficial interests) and the Uniform Commercial Code (which says Article 9 excludes real property interests).

The Florida Vacation Plan and Timeshare Act[34] authorizes the creation and marketing of timeshare estates through trusts.[35] Because timeshare estates are defined as real property,[36] the

[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.* Henry W. Kenoe wrote a number of treatises on land trusts. *Id.*
[31] *Id.*
[32] These provisions are found in s. 679.1091(4)(k), F.S.
[33] *In re Cowsert*, 14 B.R. 335 (Bankr.S.D.Fla. 1981).
[34] Chapter 721, F.S.

purchasers of Florida timeshare estates typically finance their purchase with a mortgage recorded against the timeshare estate. However, if the timeshare estate is created as a beneficial interest in a timeshare trust a land trust is created. As a result, two different statutes prescribe two different methods of perfection, causing possible confusion in the mechanics of perfecting the lien.[37]

The bill revises s. 689.071(8)(c), F.S., to resolve this apparent contradiction by clarifying that the Uniform Commercial Code governs perfection if the beneficial interest in a land trust is declared to be personal property (as was the case in *Cowsert*), but that a mortgage instrument recorded in the real estate records is the proper method of perfection if the beneficial interest in a land trust is declared to be real property. If real property is involved, the proper county for recording the mortgage may be specified in the recorded instrument or in a declaration of trust or memorandum that is recorded in the same county as the recorded instrument; otherwise the location of the trust property determines the proper county for recording the mortgage. The bill provides a transition rule to provide for the continuation of perfection for any Uniform Commercial Code financing statement that may have been filed before the effective date of this clarification.[38] It is an abbreviated version of the transition rules that were included in Revised Uniform Commercial Code Article 9 in 2001.[39]

The bill revises s. 689.071(8)(c), F.S., to state more clearly that a lien or security interest perfected against a beneficial interest in a land trust does not affect in any way the legal or equitable title of the land trustee to the trust property. Section 689.071(8)(d), F.S., is amended to make explicit a concept that is inherent in a beneficiary's ability to encumber a beneficial interest as described in existing s. 689.071(8)(c), F.S. The trustee's legal and equitable title to the trust property is separate and distinct from the beneficiary's beneficial interest in the land trust and the trust property. A lien, judgment, mortgage, security interest or other encumbrance against one interest does not automatically attach to the other interest. Section 689.071(8)(e), F.S., is also revised to clarify this same point. Documents recorded by a beneficiary to transfer or encumber a beneficial interest do not affect the legal and equitable title of the trustee or the deed powers granted to the trustee in the recorded instrument.

The bill adds s. 689.071(8)(i), F.S., which is intended to end the reported occasional practice by some judges of appointing a guardian ad litem to represent the interests of land trust beneficiaries in a foreclosure or other litigation affecting title to the trust property.[40] Because a land trustee is vested with both legal and equitable title to the trust property, joinder of the land trustee in the action is sufficient without a party incurring the additional expense of a guardian ad litem.[41]

Successor Trustee Provisions – Revisions to s. 689.071(9), F.S.

The use of "each and every successor trustee" is substituted in s. 689.071(9), F.S., for the shorter expression: "each successor trustee."

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[35] *See* s. 721.08(2)(c)4, F.S.
[36] *See* s. 721.05(34), F.S.,
[37] The conflict exists between the Uniform Commercial Code Article 9 and the Florida Land Trust Act.
[38] Real Property, Probate and Trust Law Section of The Florida Bar, *supra* note 1.
[39] *Id.*
[40] *Id.*
[41] *Id.*

The bill redesignates the existing paragraph 689.071(9)(f), F.S., as paragraph 689.071(9)(e), F.S., to provide that a trust agreement may authorize, in addition to beneficiaries, the person holding the power of direction, to direct the land trustee to convey the trust property to another trustee.

Trustee as a Creditor

The bill amends s. 689.071(10)(a), F.S., to include a reference to a mortgage and a security interest against a beneficial interest in a land trust to conform to other changes in the bill.

Notice to Trustee Provisions – Revisions to s. 689.071(11), F.S.

The bill adds a new s. 689.071(11), F.S., to assure that the right parties receive any third-party notices concerning property held in a land trust by requiring that notice to a land trustee include certain identifying information if it appears in the recorded instrument.

Transition Rule Provision; Timeshare Trusts- Revisions to s. 689.071(12), F.S.

The revised definition of "land trust" in the bill contains a cross-reference to a transition rule that appears in s. 689.071(12), F.S. This transition rule exempts existing land trusts from the new duties-based test in s. 689.071(2)(c), F.S; rather, an existing trust is a land trust (or not) based on the intentions expressed in (or discernible from) the existing trust agreement.[42] As a practical matter, the overwhelming majority of existing land trusts sharply curtail the discretionary duties of the land trustee, such that those existing trusts would meet the new duties-based "land trust" definition even if it were applied to them retroactively.[43] But, because there are some land trust agreements that vest the land trustee with greater discretion, the transition rule provision does not apply the duties-based test to any existing land trust agreement that says the trust is a "land trust" or clearly was intended to be a land trust.[44] In this way, existing obvious land trusts are "grandfathered" into the land trust statute.[45]

There are two necessary exceptions to the transition rule provision: (1) if it is not obvious from reading the existing trust agreement that the parties intended to create a land trust, then the duties-based test applies; and (2) if an existing land trust agreement is amended to add or expand duties of the trustee, then the duties-based test is applied only to the added or expanded duties that were not found in the trust agreement before the effective date of the amended act. In either case, if the trustee has or adds too many duties beyond those in the land trust definition, the result is that the trustee becomes subject to the tougher trustee standards of ch. 736, F.S., but there is no effect on the title to the trust property.

As noted above in the discussion of timeshare interests, current statutes[46] authorize the use of trusts for the creation and marketing of timeshare estates and specify similar requirements for

[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] *Id.*
[46] Chapter 721, F.S.

using trusts for multi-site vacation clubs.[47] These statutes specify that certain provisions of the Florida Trust Code govern the liability of the trustees of such qualifying trusts,[48] and these provisions are usually recited in the ch. 721, F.S., trust agreements. If such an existing timeshare trust were created as a land trust, however, then the trust agreement would contain provisions stating that the trust is a land trust (making it a land trust)[49] and would also refer to governance by ch. 736, F.S.

Florida Trust Code – Revisions to s. 736.0102, F.S.

The bill includes a conforming amendment to s. 736.0102, F.S., of the Florida Trust Code. The bill divides this section into two subsections, and a third subsection is added to address the exclusion of land trusts from the Florida Trust Code. The newly-created s. 736.0102(3), F.S., provides that the Trust Code does not apply to land trusts under s. 689.071, F.S., except to the extent provided in s. 689.071(7), F.S., of the Land Trust Act and in the two provisions of ch. 721, F.S., that apply parts of ch. 736, F.S., to timeshare trusts.

Effective date

The bill directs the Division of Law Revision and Information to replace the phrase "effective date of the act" wherever it occurs in this bill with such date.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[47] Section 721.53(1)(e), F.S.
[48] *See* specifically, ss. 736.08125, 736.08163, 736.1013, and 736.1015, F.S.
[49] *See* s. 689.071(14)(b)1, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on March 12, 2013:
The committee substitute clarifies that certain statutory cross-references are to the Florida Statutes 2012.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Judiciary; and Senator Simmons

A bill to be entitled

An act relating to land trusts; creating s. 689.073, F.S., and transferring, renumbering, and amending s. 689.071(4) and (5), F.S.; providing requirements relating to vesting of ownership in a trustee; providing exclusion and applicability; amending s. 689.071, F.S.; revising and providing definitions; revising provisions relating to land trust transfers of real property and vesting of ownership in a trustee; prohibiting the operation of the statute of uses to execute a land trust or to vest the trust property under certain conditions; prohibiting the operation of the doctrine of merger to execute a land trust or to vest the trust property under certain conditions; providing conditions under which a beneficial interest is deemed real property; revising and providing rights, liabilities, and duties of land trust beneficiaries; authorizing certain beneficial ownership methods; providing for the perfection of security documents; providing that a trustee's legal and equitable title to the trust property is separate and distinct from the beneficiary's beneficial interest in the land trust and the trust property; prohibiting a lien, judgment, mortgage, security interest, or other encumbrance against one interest from automatically attaching to another interest; providing that the appointment of a guardian ad litem is not necessary in certain foreclosure litigation affecting the title to trust property of a land trust;

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conforming provisions to changes made by the act; deleting provisions relating to the applicability of certain successor trustee provisions; providing notice requirements; providing for the determination of applicable law for certain trusts; providing for applicability relating to Uniform Commercial Code financing statements; providing requirements for recording effectiveness; amending s. 736.0102, F.S.; revising and providing scope of the Florida Trust Code; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. Section 689.073, Florida Statutes, is created, and present subsections (4) and (5) of section 689.071, Florida Statutes, are transferred and renumbered as subsections (2) and (3), respectively, of section 689.073, Florida Statutes, and amended, to read:

689.073 Powers conferred on trustee in recorded instrument.—

(1) OWNERSHIP VESTS IN TRUSTEE.—Every conveyance, deed, mortgage, lease assignment, or other instrument heretofore or hereafter made, hereinafter referred to as the "recorded instrument," transferring any interest in real property, including, but not limited to, a leasehold or mortgagee interest, to any person or any corporation, bank, trust company, or other entity duly formed under the laws of its state of qualification, which recorded instrument designates the person,

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59 corporation, bank, trust company, or other entity "trustee" or
60 "as trustee" and confers on the trustee the power and authority
61 to protect, to conserve, to sell, to lease, to encumber, or
62 otherwise to manage and dispose of the real property described
63 in the recorded instrument, is effective to vest, and is
64 declared to have vested, in such trustee full power and
65 authority as granted and provided in the recorded instrument to
66 deal in and with such property, or interest therein or any part
67 thereof, held in trust under the recorded instrument.
68 (2) ~~(4)~~ NO DUTY TO INQUIRE.—Any grantee, mortgagee, lessee,
69 transferee, assignee, or person obtaining satisfactions or
70 releases or otherwise in any way dealing with the trustee with
71 respect to the real property or any interest in such property
72 held in trust under the recorded instrument, as hereinabove
73 provided for, is not obligated to inquire into the
74 identification or status of any named or unnamed beneficiaries,
75 or their heirs or assigns to whom a trustee may be accountable
76 under the terms of the recorded instrument, or under any
77 unrecorded separate declarations or agreements collateral to the
78 recorded instrument, whether or not such declarations or
79 agreements are referred to therein; or to inquire into or
80 ascertain the authority of such trustee to act within and
81 exercise the powers granted under the recorded instrument; or to
82 inquire into the adequacy or disposition of any consideration,
83 if any is paid or delivered to such trustee in connection with
84 any interest so acquired from such trustee; or to inquire into
85 any of the provisions of any such unrecorded declarations or
86 agreements.
87 (3) ~~(5)~~ BENEFICIARY CLAIMS.—All persons dealing with the

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88 trustee under the recorded instrument as hereinabove provided
89 take any interest transferred by the trustee thereunder, within
90 the power and authority as granted and provided therein, free
91 and clear of the claims of all the named or unnamed
92 beneficiaries of such trust, and of any unrecorded declarations
93 or agreements collateral thereto whether referred to in the
94 recorded instrument or not, and of anyone claiming by, through,
95 or under such beneficiaries. However, this section does not
96 prevent a beneficiary of any such unrecorded collateral
97 declarations or agreements from enforcing the terms thereof
98 against the trustee.
99 (4) EXCLUSION.—This section does not apply to any deed,
100 mortgage, or other instrument to which s. 689.07 applies.
101 (5) APPLICABILITY.—The section applies without regard to
102 whether any reference is made in the recorded instrument to the
103 beneficiaries of such trust or to any separate collateral
104 unrecorded declarations or agreements, without regard to the
105 provisions of any unrecorded trust agreement or declaration of
106 trust, and without regard to whether the trust is governed by s.
107 689.071 or chapter 736. This section applies both to recorded
108 instruments that are recorded after the effective date of this
109 act and to recorded instruments that were previously recorded
110 and governed by similar provisions contained in s. 689.071(3),
111 Florida Statutes 2012, and any such recorded instrument
112 purporting to confer power and authority on a trustee under such
113 provisions of s. 689.071(3), Florida Statutes 2012, is valid and
114 has the effect of vesting full power and authority in such
115 trustee as provided in this section.
116 Section 2. Section 689.071, Florida Statutes, as amended by

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117 this act, is amended to read:
118 689.071 Florida Land Trust Act.—
119 (1) SHORT TITLE.—This section may be cited as the "Florida
120 Land Trust Act."
121 (2) DEFINITIONS.—As used in this section, the term:
122 (a) "Beneficial interest" means any interest, vested or
123 contingent and regardless of how small or minimal such interest
124 may be, in a land trust which is held by a beneficiary.
125 (b) "Beneficiary" means any person or entity having a
126 beneficial interest in a land trust. A trustee may be a
127 beneficiary of the land trust for which such trustee serves as
128 trustee.
129 ~~(c) "Holder of the power of direction" means any person or~~
130 ~~entity having the authority to direct the trustee to convey~~
131 ~~property or interests, execute a mortgage, distribute proceeds~~
132 ~~of a sale or financing, and execute documents incidental to the~~
133 ~~administration of a land trust.~~
134 (c) ~~(d)~~ "Land trust" means any express written agreement or
135 arrangement by which a use, confidence, or trust is declared of
136 any land, or of any charge upon land, under which the title to
137 real property, including, but not limited to, a leasehold or
138 mortgagee interest, ~~both legal and equitable,~~ is vested in a
139 trustee by a recorded instrument that confers on the trustee the
140 power and authority prescribed in s. 689.073(1) and under which
141 the trustee has no duties other than the following:
142 1. The duty to convey, sell, lease, mortgage, or deal with
143 the trust property, or to exercise such other powers concerning
144 the trust property as may be provided in the recorded
145 instrument, in each case as directed by the beneficiaries or by

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146 the holder of the power of direction;
147 2. The duty to sell or dispose of the trust property at the
148 termination of the trust;
149 3. The duty to perform ministerial and administrative
150 functions delegated to the trustee in the trust agreement or by
151 the beneficiaries or the holder of the power of direction; or
152 4. The duties required of a trustee under chapter 721, if
153 the trust is a timeshare estate trust complying with s.
154 721.08(2)(c)4. or a vacation club trust complying with s.
155 721.53(1)(e);
156
157 however, the duties of the trustee of a land trust created
158 before the effective date of this act may exceed the limited
159 duties listed in this paragraph to the extent authorized in
160 subsection (12) ~~subsection (3). The recorded instrument does not~~
161 ~~itself create an entity, regardless of whether the relationship~~
162 ~~among the beneficiaries and the trustee is deemed to be an~~
163 ~~entity under other applicable law~~.
164 (d) "Power of direction" means the authority of a person,
165 as provided in the trust agreement, to direct the trustee of a
166 land trust to convey property or interests, execute a lease or
167 mortgage, distribute proceeds of a sale or financing, and
168 execute documents incidental to the administration of a land
169 trust.
170 (e) "Recorded instrument" has the same meaning as provided
171 in s. 689.073(1).
172 (f) "Trust agreement" means the written agreement governing
173 a land trust or other trust, including any amendments.
174 (g) "Trust property" means any interest in real property,

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175 including, but not limited to, a leasehold or mortgagee
176 interest, conveyed by a recorded instrument to a trustee of a
177 land trust or other trust.
178 (h) ~~(c)~~ "Trustee" means the person ~~or entity~~ designated in a
179 recorded instrument or trust agreement ~~trust instrument~~ to hold
180 ~~legal and equitable~~ title to the trust property of a land trust
181 or other trust.
182 (3) OWNERSHIP VESTS IN TRUSTEE.—Every recorded instrument
183 ~~conveyance, deed, mortgage, lease assignment, or other~~
184 ~~instrument heretofore or hereafter made, hereinafter referred to~~
185 ~~as the "recorded instrument,"~~ transferring any interest in real
186 property to the trustee of a land trust and conferring upon the
187 trustee the power and authority prescribed in s. 689.073(1), ~~in~~
188 ~~this state, including, but not limited to, a leasehold or~~
189 ~~mortgagee interest, to any person or any corporation, bank,~~
190 ~~trust company, or other entity duly formed under the laws of its~~
191 ~~state of qualification, in which recorded instrument the person,~~
192 ~~corporation, bank, trust company, or other entity is designated~~
193 ~~"trustee" or "as trustee,"~~ whether or not reference is made in
194 the recorded instrument to the beneficiaries of such land trust
195 or to the trust agreement or any separate collateral unrecorded
196 declarations or agreements, is effective to vest, and is hereby
197 declared to have vested, in such trustee both legal and
198 equitable title, and full rights of ownership, over the trust
199 ~~real~~ property or interest therein, with full power and authority
200 as granted and provided in the recorded instrument to deal in
201 and with the trust property or interest therein or any part
202 thereof. The recorded instrument does not itself create an
203 entity, regardless of whether the relationship among the

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204 beneficiaries and the trustee is deemed to be an entity under
205 other applicable law~~; provided, the recorded instrument confers~~
206 ~~on the trustee the power and authority to protect, to conserve,~~
207 ~~to sell, to lease, to encumber, or otherwise to manage and~~
208 ~~dispose of the real property described in the recorded~~
209 ~~instrument~~.
210 (4) STATUTE OF USES INAPPLICABLE.—Section 689.09 and the
211 statute of uses do not execute a land trust or vest the trust
212 property in the beneficiary or beneficiaries of the land trust,
213 notwithstanding any lack of duties on the part of the trustee or
214 the otherwise passive nature of the land trust.
215 (5) DOCTRINE OF MERGER INAPPLICABLE.—The doctrine of merger
216 does not extinguish a land trust or vest the trust property in
217 the beneficiary or beneficiaries of the land trust, regardless
218 of whether the trustee is the sole beneficiary of the land
219 trust.
220 (6) PERSONAL PROPERTY.—In all cases in which the recorded
221 instrument or the trust agreement, as hereinabove provided,
222 contains a provision defining and declaring the interests of
223 beneficiaries of a land trust ~~thereunder~~ to be personal property
224 only, such provision is ~~shall be~~ controlling for all purposes
225 when such determination becomes an issue under the laws or in
226 the courts of this state. If no such personal property
227 designation appears in the recorded instrument or in the trust
228 agreement, the interests of the land trust beneficiaries are
229 real property.
230 (7) TRUSTEE LIABILITY.—In addition to any other limitation
231 on personal liability existing pursuant to statute or otherwise,
232 the provisions of ss. 736.08125 and 736.1013 apply to the

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233 trustee of a land trust created pursuant to this section.
234 (8) LAND TRUST BENEFICIARIES.—
235 (a) Except as provided in this section, the beneficiaries
236 of a land trust are not liable, solely by being beneficiaries,
237 under a judgment, decree, or order of court or in any other
238 manner for a debt, obligation, or liability of the land trust.
239 ~~(b)~~ Any beneficiary acting under the trust agreement of a
240 land trust is not liable to the land trust's trustee or to any
241 other beneficiary for the beneficiary's good faith reliance on
242 the provisions of the trust agreement. A beneficiary's duties
243 and liabilities under a land trust may be expanded or restricted
244 in a trust agreement or beneficiary agreement.
245 (b)1. If provided in the recorded instrument, in the trust
246 agreement, or in a beneficiary agreement:
247 a. A particular beneficiary may own the beneficial interest
248 in a particular portion or parcel of the trust property of a
249 land trust;
250 b. A particular person may be the holder of the power of
251 direction with respect to the trustee's actions concerning a
252 particular portion or parcel of the trust property of a land
253 trust; and
254 c. The beneficiaries may own specified proportions or
255 percentages of the beneficial interest in the trust property or
256 in particular portions or parcels of the trust property of a
257 land trust.
258 2. Multiple beneficiaries may own a beneficial interest in
259 a land trust as tenants in common, joint tenants with right of
260 survivorship, or tenants by the entireties.
261 (c) If a beneficial interest in a land trust is determined

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262 to be personal property as provided in subsection (6), chapter
263 679 applies to the perfection of any security interest in that ~~a~~
264 beneficial interest ~~in a land trust~~. If a beneficial interest in
265 a land trust is determined to be real property as provided in
266 subsection (6), then to perfect a lien or security interest
267 against that beneficial interest, the mortgage, deed of trust,
268 security agreement, or other similar security document must be
269 recorded in the public records of the county that is specified
270 for such security documents in the recorded instrument or in a
271 declaration of trust or memorandum of such declaration of trust
272 recorded in the public records of the same county as the
273 recorded instrument. If no county is so specified for recording
274 such security documents, the proper county for recording such a
275 security document against a beneficiary's interest in any trust
276 property is the county where the trust property is located. The
277 perfection of a lien or security interest in a beneficial
278 interest in a land trust does not affect, attach to, or encumber
279 the legal or equitable title of the trustee in the trust
280 property and does not impair or diminish the authority of the
281 trustee under the recorded instrument, and parties dealing with
282 the trustee are not required to inquire into the terms of the
283 unrecorded trust agreement or any lien or security interest
284 against a beneficial interest in the land trust.
285 (d) The trustee's legal and equitable title to the trust
286 property of a land trust is separate and distinct from the
287 beneficial interest of a beneficiary in the land trust and in
288 the trust property. A lien, judgment, mortgage, security
289 interest, or other encumbrance attaching to the trustee's legal
290 and equitable title to the trust property of a land trust does

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291 not attach to the beneficial interest of any beneficiary; and
292 any lien, judgment, mortgage, security interest, or other
293 encumbrance against a beneficiary or beneficial interest does
294 not attach to the legal or equitable title of the trustee to the
295 trust property held under a land trust, unless the lien,
296 judgment, mortgage, security interest, or other encumbrance by
297 its terms or by operation of other law attaches to both the
298 interest of the trustee and the interest of such beneficiary. ~~A~~
299 ~~beneficiary's duties and liabilities may be expanded or~~
300 ~~restricted in a trust agreement or beneficiary agreement.~~
301 (e) Any subsequent document appearing of record in which a
302 beneficiary of a land trust transfers or encumbers any ~~the~~
303 beneficial interest in the land trust does not transfer or
304 encumber the legal or equitable title of the trustee to the
305 trust property and does not diminish or impair the authority of
306 the trustee under the terms of the recorded instrument. Parties
307 dealing with the trustee of a land trust are not required to
308 inquire into the terms of the unrecorded trust agreement.
309 (f) The ~~An unrecorded~~ trust agreement ~~giving rise to a~~
310 ~~recorded instrument~~ for a land trust may provide that one or
311 more persons ~~or entities~~ have the power to direct the trustee to
312 convey property or interests, execute a mortgage, distribute
313 proceeds of a sale or financing, and execute documents
314 incidental to administration of the land trust. The power of
315 direction, unless provided otherwise in the ~~land~~ trust agreement
316 of the land trust, is conferred upon the holders of the power
317 for the use and benefit of all holders of any beneficial
318 interest in the land trust. In the absence of a provision in the
319 ~~land~~ trust agreement of a land trust to the contrary, the power

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320 of direction shall be in accordance with the percentage of
321 individual ownership. In exercising the power of direction, the
322 holders of the power of direction are presumed to act in a
323 fiduciary capacity for the benefit of all holders of any
324 beneficial interest in the land trust, unless otherwise provided
325 in the ~~land~~ trust agreement. A beneficial interest in a land
326 trust is indefeasible, and the power of direction may not be
327 exercised so as to alter, amend, revoke, terminate, defeat, or
328 otherwise affect or change the enjoyment of any beneficial
329 interest in a land trust.
330 (g) A land trust ~~relating to real estate~~ does not fail, and
331 any use relating to the trust property ~~real estate~~ may not be
332 defeated, because beneficiaries are not specified by name in the
333 recorded instrument ~~deed of conveyance~~ to the trustee or because
334 duties are not imposed upon the trustee. The power conferred by
335 any recorded instrument ~~deed of conveyance~~ on a trustee of a
336 land trust to sell, lease, encumber, or otherwise dispose of
337 property described in the recorded instrument ~~deed~~ is effective,
338 and a person dealing with the trustee of a land trust is not
339 required to inquire any further into the right of the trustee to
340 act or the disposition of any proceeds.
341 (h) The principal residence of a beneficiary shall be
342 entitled to the homestead tax exemption even if the homestead is
343 held by a trustee in a land trust, provided the beneficiary
344 qualifies for the homestead exemption under chapter 196.
345 (i) In a foreclosure against trust property or other
346 litigation affecting the title to trust property of a land
347 trust, the appointment of a guardian ad litem is not necessary
348 to represent the interest of any beneficiary.

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(9) SUCCESSOR TRUSTEE.—

~~(a) The provisions of s. 736.0705 relating to the resignation of a trustee do not apply to the appointment of a successor trustee under this section.~~

(a)~~(b)~~ If the recorded instrument and the unrecorded ~~land~~ trust agreement are silent as to the appointment of a successor trustee of a land trust in the event of the death, incapacity, resignation, or termination due to dissolution of a ~~land~~ trustee or if a ~~land~~ trustee is unable to serve as trustee of a land trust, one or more persons ~~or entities~~ having the power of direction ~~of the land trust agreement~~ may appoint a successor trustee or trustees of the land trust by filing a declaration of appointment of a successor trustee or trustees in the public records of ~~office of the recorder of deeds in~~ the county in which the trust property is located. The declaration must be signed by a beneficiary or beneficiaries of the land trust and by the ~~each~~ successor trustee or trustees, must be acknowledged in the manner provided for acknowledgment of deeds, and must contain:

1. The legal description of the trust property.

2. The name and address of the former trustee.

3. The name and address of the ~~each~~ successor trustee or trustees.

4. A statement that ~~each successor trustee has been appointed by~~ one or more persons ~~or entities~~ having the power of direction of the land trust appointed the successor trustee or trustees, together with an acceptance of appointment by the ~~each~~ successor trustee or trustees.

(b)~~(c)~~ If the recorded instrument is silent as to the

appointment of a successor trustee or trustees of a land trust but an unrecorded ~~land~~ trust agreement provides for the appointment of a successor trustee or trustees in the event of the death, incapacity, resignation, or termination due to dissolution of the ~~land~~ trustee~~,~~ of a land trust, then upon the appointment of any successor trustee pursuant to the terms of the unrecorded ~~land~~ trust agreement, the ~~each~~ successor trustee or trustees shall file a declaration of appointment of a successor trustee in the public records of ~~office of the recorder of deeds in~~ the county in which the trust property is located. The declaration must be signed by both the former trustee and the ~~each~~ successor trustee or trustees, must be acknowledged in the manner provided for acknowledgment of deeds, and must contain:

1. The legal description of the trust property.

2. The name and address of the former trustee.

3. The name and address of the successor trustee or trustees.

4. A statement of resignation by the former trustee and a statement of acceptance of appointment by the ~~each~~ successor trustee or trustees.

5. A statement that the ~~each~~ successor trustee or trustees were ~~was~~ duly appointed under the terms of the unrecorded ~~land~~ trust agreement.

If the appointment of any successor trustee of a land trust is due to the death or incapacity of the former trustee, the declaration need not be signed by the former trustee and a copy of the death certificate or a statement that the former trustee

is incapacitated or unable to serve must be attached to or included in the declaration, as applicable.

(c) ~~(d)~~ If the recorded instrument provides for the appointment of any successor trustee of a land trust and any successor trustee is appointed in accordance with the recorded instrument, no additional declarations of appointment of any successor trustee are required under this section.

(d) ~~(e)~~ Each successor ~~land~~ trustee appointed with respect to a land trust is fully vested with all the estate, properties, rights, powers, trusts, duties, and obligations of the predecessor ~~land~~ trustee, except that any successor ~~land~~ trustee of a land trust is not under any duty to inquire into the acts or omissions of a predecessor trustee and is not liable for any act or failure to act of a predecessor trustee. A person dealing with any successor trustee of a land trust pursuant to a declaration filed under this section is not obligated to inquire into or ascertain the authority of the successor trustee to act within or exercise the powers granted under the recorded instruments or any unrecorded trust agreement ~~declarations or agreements~~.

(e) ~~(f)~~ A ~~land~~ trust agreement may provide that the trustee of a land trust, when directed to do so by the holder of the power of direction or by the beneficiaries of the land trust or legal representatives of the beneficiaries, may convey the trust property directly to another trustee on behalf of the beneficiaries or to another representative named in such directive ~~others named by the beneficiaries~~.

(10) TRUSTEE AS CREDITOR.—

(a) If a debt is secured by a security interest or mortgage

against ~~in~~ a beneficial interest in a land trust or by a mortgage on ~~land~~ trust property of a land trust, the validity or enforceability of the debt, security interest, or mortgage and the rights, remedies, powers, and duties of the creditor with respect to the debt or the security are not affected by the fact that the creditor and the trustee are the same person ~~or entity~~, and the creditor may extend credit, obtain any necessary security interest or mortgage, and acquire and deal with the property comprising the security as though the creditor were not the trustee.

(b) A trustee of a land trust does not breach a fiduciary duty to the beneficiaries, and it is not evidence of a breach of any fiduciary duty owed by the trustee to the beneficiaries for a trustee to be or become a secured or unsecured creditor of the land trust, the beneficiary of the land trust, or a third party whose debt to such creditor is guaranteed by a beneficiary of the land trust.

(11) NOTICES TO TRUSTEE.—Any notice required to be given to a trustee of a land trust regarding trust property by a person who is not a party to the trust agreement must identify the trust property to which the notice pertains or include the name and date of the land trust to which the notice pertains, if such information is shown on the recorded instrument for such trust property.

(12) DETERMINATION OF APPLICABLE LAW.—Except as otherwise provided in this section, chapter 736 does not apply to a land trust governed by this section.

(a) A trust is not a land trust governed by this section if there is no recorded instrument that confers on the trustee the

465 power and authority prescribed in s. 689.073(1).
466 (b) For a trust created before the effective date of this
467 act:
468 1. The trust is a land trust governed by this section if a
469 recorded instrument confers on the trustee the power and
470 authority described in s. 689.073(1) and if:
471 a. The recorded instrument or the trust agreement expressly
472 provides that the trust is a land trust; or
473 b. The intent of the parties that the trust be a land trust
474 is discerned from the trust agreement or the recorded
475 instrument;
476
477 without regard to whether the trustee's duties under the trust
478 agreement are greater than those limited duties described in s.
479 689.071(2)(c).
480 2. The trust is not a land trust governed by this section
481 if:
482 a. The recorded instrument or the trust agreement expressly
483 provides that the trust is to be governed by chapter 736, or by
484 any predecessor trust code or other trust law other than this
485 section; or
486 b. The intent of the parties that the trust be governed by
487 chapter 736, or by any predecessor trust code or other trust law
488 other than this section, is discerned from the trust agreement
489 or the recorded instrument;
490
491 without regard to whether the trustee's duties under the trust
492 agreement are greater than those limited duties listed in s.
493 689.071(2)(c), and without consideration of any references in

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494 the trust agreement to provisions of chapter 736 made applicable
495 to the trust by chapter 721, if the trust is a timeshare estate
496 trust complying with s. 721.08(2)(c)4. or a vacation club trust
497 complying with s. 721.53(1)(e).
498 3. Solely for the purpose of determining the law governing
499 a trust under subparagraph 1. or subparagraph 2., the
500 determination shall be made without consideration of any
501 amendment to the trust agreement made on or after the effective
502 date of this act, except as provided in paragraph (d).
503 4. If the determination of whether a trust is a land trust
504 governed by this section cannot be made under either
505 subparagraph 1. or subparagraph 2., the determination shall be
506 made under paragraph (c) as if the trust was created on or after
507 the effective date of this act.
508 (c) If a recorded instrument confers on the trustee the
509 power and authority described in s. 689.073(1) and the trust was
510 created on or after the effective date of this act, the trust
511 shall be determined to be a land trust governed by this section
512 only if the trustee's duties under the trust agreement,
513 including any amendment made on or after such date, are greater
514 than those limited duties described in s. 689.071(2)(c).
515 (d) If the trust agreement for a land trust created before
516 the effective date of this act is amended on or after such date
517 to add to or increase the duties of the trustee beyond the
518 duties provided in the trust agreement as of the effective date
519 of this act, the trust shall remain a land trust governed by
520 this section only if the additional or increased duties of the
521 trustee implemented by the amendment are greater than those
522 limited duties described in s. 689.071(2)(c).

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523 (13) UNIFORM COMMERCIAL CODE TRANSITION RULE.—This section
524 does not render ineffective any effective Uniform Commercial
525 Code financing statement filed before July 1, 2014, to perfect a
526 security interest in a beneficial interest in a land trust that
527 is determined to be real property as provided in subsection (6),
528 but such a financing statement ceases to be effective at the
529 earlier of July 1, 2019, or the time the financing statement
530 would have ceased to be effective under the law of the
531 jurisdiction in which it is filed, and the filing of a Uniform
532 Commercial Code continuation statement after July 1, 2014, does
533 not continue the effectiveness of such a financing statement.
534 The recording of a mortgage, deed of trust, security agreement,
535 or other similar security document against such a beneficial
536 interest that is real property in the public records specified
537 in paragraph (8)(c) continues the effectiveness and priority of
538 a financing statement filed against such a beneficial interest
539 before July 1, 2014, if:
540 (a) The recording of the security document in that county
541 is effective to perfect a lien on such beneficial interest under
542 paragraph (8)(c);
543 (b) The recorded security document identifies a financing
544 statement filed before July 1, 2014, by indicating the office in
545 which the financing statement was filed and providing the dates
546 of filing and the file numbers, if any, of the financing
547 statement and of the most recent continuation statement filed
548 with respect to the financing statement; and
549 (c) The recorded security document indicates that such
550 financing statement filed before July 1, 2014, remains
551 effective.

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552
553 If no original security document bearing the debtor's signature
554 is readily available for recording in the public records, a
555 secured party may proceed under this subsection with such
556 financing statement filed before July 1, 2014, by recording a
557 copy of a security document verified by the secured party as
558 being a true and correct copy of an original authenticated by
559 the debtor. This subsection does not apply to the perfection of
560 a security interest in any beneficial interest in a land trust
561 that is determined to be personal property under subsection (6).
562 (14) ~~(11)~~ REMEDIAL ACT.—This act is remedial in nature and
563 shall be given a liberal interpretation to effectuate the intent
564 and purposes hereinabove expressed.
565 (15) ~~(12)~~ EXCLUSION.—This act does not apply to any deed,
566 mortgage, or other instrument to which s. 689.07 applies.
567 Section 3. Section 736.0102, Florida Statutes, is amended
568 to read:
569 736.0102 Scope.—
570 (1) Except as otherwise provided in this section, this code
571 applies to express trusts, charitable or noncharitable, and
572 trusts created pursuant to a law, judgment, or decree that
573 requires the trust to be administered in the manner of an
574 express trust.
575 (2) This code does not apply to constructive or resulting
576 trusts; conservatorships; custodial arrangements pursuant to the
577 Florida Uniform Transfers to Minors Act; business trusts
578 providing for certificates to be issued to beneficiaries; common
579 trust funds; ~~land trusts under s. 689.071, except to the extent~~
580 ~~provided in s. 689.071(7),~~ trusts created by the form of the

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581 account or by the deposit agreement at a financial institution;
582 voting trusts; security arrangements; liquidation trusts; trusts
583 for the primary purpose of paying debts, dividends, interest,
584 salaries, wages, profits, pensions, or employee benefits of any
585 kind; and any arrangement under which a person is nominee or
586 escrowee for another.
587 (3) This code does not apply to any land trust under s.
588 689.071, except to the extent provided in s. 689.071(7), s.
589 721.08(2)(c)4. or s. 721.53(1)(e). A trust governed at its
590 creation by chapter 736, former chapter 737, or any prior trust
591 statute superseded or replaced by any provision of former
592 chapter 737, is not a land trust regardless of any amendment or
593 modification of the trust, any change in the assets held in the
594 trust, or any continuing trust resulting from the distribution
595 or retention in further trust of assets from the trust.
596 Section 4. The Division of Law Revision and Information is
597 directed to replace the phrase "the effective date of this act"
598 wherever it occurs in this act with such date.
599 Section 5. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Support the Land Trust bill

Bill Number: SB 1172 *(if applicable)*

Name: Martha Edenfield

Amendment Barcode: *(if applicable)*

Job Title: Attorney

Address: PO Box 10095
Street

Tallahassee, FL 32302
City, State, Zip

Phone: 850-222-3533

E-mail: martha@penningtonlaw.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: The Real Property, Probate and Trust Law Section of the Florida Bar

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1612

INTRODUCER: Senator Clemens

SUBJECT: Citizens Property Insurance Corporation

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Pre-meeting**
2.			CA	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1612 repeals current law which limits the amount a public adjuster may charge, agree to, or accept as compensation with respect to a claim filed by a policyholder of Citizens Property Insurance Corporation.[1]

This bill substantially amends the following section of the Florida Statutes: 627.351.

II. Present Situation:

Citizens Property Insurance Corporation (Citizens)

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[2] Citizens is not a private insurance company.[3] Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight-member Board of Governors that administers its Plan of Operations, which is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoints two members to the board.

[1] s. 627.351(6)(a)6., F.S.
[2] Admitted market means insurance companies licensed to transact insurance in Florida.
[3] Section 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the Office of Insurance Regulation.

Citizens Accounts

Citizens offers three types of property and casualty insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.[4] Assets may not be commingled or used to fund losses in another account.[5] The three Citizens accounts are:

Personal Lines Account (PLA): Statewide account offering multiperil policies covering homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

- Policies in Force: 838,143
- In Force Premium: $1,379,410,864
- Total Exposure: $175,864,284,312

Coastal Account (COASTAL): Coastal area account offering personal residential wind-only policies, commercial residential wind-only policies and commercial nonresidential wind-only policies issued in limited eligible coastal areas. In addition, in August of 2007, Citizens began offering personal and commercial residential multiperil policies in the Coastal account.

- Policies in Force: 438,642
- In Force Premium: $1,144,655,922
- Total Exposure: $191,101,715,209

Commercial Lines Account (CLA): Statewide account offering multiperil policies covering commercial residential-condominium associations, apartment buildings and homeowners associations; and commercial non-residential policies.

- Policies in Force: 8,016
- In Force Premium: $200,296,331
- Total Exposure: $38,748,152,744

Total All Accounts Combined**:** [6]

- Policies in Force: 1,284,801
- In Force Premium: $2,724,363,117
- Total Exposure: $405,714,152,265

Citizens Financial Resources

"Citizens' financial resources include insurance premiums, investment income, operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private

[4] The Personal Lines Account and the Commercial Lines account are combined for credit and Florida Hurricane Catastrophe Fund coverage.
[5] Section 627.351(6)(b)2b., F.S.
[6] Citizens' weekly report as of 3/1/2013 on file with committee staff.

reinsurance, policyholder surcharges, and regular and emergency assessments. As of December 13, 2013, Citizens will have an accumulated surplus of approximately $6.34 billion. For the 2013 hurricane season Citizens will have purchased $1.75 billion in private reinsurance coverage along with the $5.73 billion in mandatory layer reinsurance from the FHCF. For the 2013 hurricane season Citizens' probable maximum loss (PML) from a 1-in-100 year event is $20.42 billion."

If a deficit occurs in a Citizens account, Citizens is authorized to levy assessments on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.[7] The assessments Citizens may impose and their sequence is as follows:

Citizens Surcharge: Requires up to 15 percent of premium surcharge for 12 months on all Citizens' policies, collected upon issuance or renewal. This 15 percent assessment can be levied on each of the three Citizens' accounts with a maximum assessment of 45 percent of premium.

Regular Assessment: If the Citizens' surcharge is insufficient to cure the deficit for the coastal account, Citizens can require an assessment against all other insurers (except medical malpractice and workers compensation). The assessment may be recouped from policyholders through a rate filing process of up to 2 percent of premium or 2 percent of the deficit, whichever is greater. This assessment is not levied against Citizens' policyholders.

Emergency Assessment: Requires any remaining deficit for either of Citizens three accounts be funded by multi-year emergency assessments on all insurance policyholders (except medical malpractice and workers comp), but including Citizens' policyholders. This assessment is levied up to 10 percent of premium or 10 percent of the deficit per account, whichever is greater. The maximum emergency assessment that can be levied against Florida's varicose insurance policyholders is 30 percent per policy.

Citizens Rates

Citizens' rates for coverage are required to be actuarially sound and are subject to the rate standards for property and casualty insurance in s. 627.062, F.S., except as otherwise provided.[8] From 2007 until 2010, Citizens rates were frozen by statute[9] at the level that had been established in 2006. In 2010, the Legislature established a "glide path" to impose annual rate increases up to a level that is actuarially sound.[10] Citizens must implement an annual rate increase which does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges. The implementation of this increase ceases when Citizens has achieved actuarially sound rates. In addition to the overall glide path rate increase, Citizens can increase its rates to recover the additional reimbursement premium

[7] Accident and health insurance and policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are.
[8] Section 627.351(6)(n)1., F.S.
[9] Section 627.351(6)(n)4., F.S.
[10] Ch. 2009-87; s.10, L.O.F.

that it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the FHCF coverage, pursuant to s. 215.555(5)(b), F.S.

Eligibility

If a policyholder seeking coverage from Citizens is offered coverage from an admitted carrier at the admitted carrier's current rate approved by the OIR and such offer of coverage is within 15 percent of Citizens' rate, that policyholder is not eligible for coverage with Citizens.[11] Policyholders who have coverage with Citizens remain eligible for such coverage regardless of any offer made by an admitted carrier.[12]

Public Adjusters

Chapter 626, F.S., regulates insurance field representatives and operations. Part VI of the chapter governs insurance adjusters. The law recognizes various types of adjusters, including public adjusters, independent adjusters, company employee adjusters, and catastrophe or emergency adjusters. Adjusters can be further classified as resident or nonresident. Resident adjusters are those who reside in Florida and are licensed in Florida, whereas, nonresident adjusters reside outside of Florida and are licensed by their home state.

The Department of Financial Services (DFS) regulates all types of adjusters. The DFS reports Florida currently licenses almost 33,000 resident adjusters and approximately 51,500 non-resident adjusters.[13] Of these, 1,095 are resident public adjusters and 336 are non-resident public adjusters. The rest are resident and nonresident independent adjusters and company employee adjusters.[14]

A public adjuster is hired and paid by the policyholder to act on his or her behalf in a claim the policyholder files against an insurance company. Public adjusters can represent a policyholder in any type of insurance claim, not just property insurance claims. Public adjusters, unlike company employee adjusters, operate independently and are not affiliated with any insurance company. Independent and company employee adjusters work for insurance companies.

Current law provides numerous restrictions and parameters on activities of public adjusters.[15] Administrative rules also address public adjuster activities.[16] Public adjuster activities addressed by current law include: advertisement and solicitation, referrals, referral fees, loans to clients or prospective clients, notice of property loss claims, and allowing access to damaged property by other parties involved in the claim.

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[11] Section 627.351(6)(c)5.a., F.S.
[12] Id.
[13] Information obtained from the DFS dated March 20, 2013, on file with committee staff.
[14] According to DFS, there are 15,035 licensed resident independent adjusters (16,214 non-resident independent adjusters); 16,015 licensed resident company employee adjusters (35,014) non-resident company employee adjusters).
[15] Laws enacted in 2008 (Ch. 2008-220, L.O.F.), in 2009 (Ch. 2009-87, L.O.F.), and 2011 (Ch. 2011-39, L.O.F.) provided significant changes relating to public adjusters.
[16] Rule 69B-220.201(4) and (5), F.A.C.

Public adjusters are licensed by the DFS if they meet the statutory qualifications for licensure found in s. 626.865, F.S. Qualifications include age, residency, testing, experience, and trustworthiness.[17] Public adjusters must also present a $50,000 bond to DFS in order to be licensed.[18] No bond is required of company employee or independent adjusters.

Report by the Office of Program Policy Analysis and Government Accountability (OPPAGA) on Public Adjusters

In January 2010, the OPPAGA, at the request of the Legislature,[19] issued Report Number 10-06 on public adjuster representation in Citizens' claims.[20] The report examined data related to public adjuster representation in general and data related to public adjuster representation in Citizens' claims. The report found Citizens' claims filed in 2008 and 2009 with public adjuster involvement took longer to reach a settlement and had higher claims payments than those without public adjuster involvement.[21]

Public Adjuster Fees[22]

Generally, public adjusters are typically paid a percentage of the claim payment, meaning the policyholder's claim payment amount is reduced by the public adjuster's fee. Independent and company employee adjusters do not charge policyholders a fee for adjusting the claim. The public adjuster fee percentage is usually negotiated between the public adjuster and the policyholder, except in residential property and condominium unit owner property claims. For these claims, public adjuster fees are limited by law to a specified percentage of the claim amount which varies depending on whether the claim is hurricane or non-hurricane related and if the claim is hurricane-related, depending on how soon after the hurricane the claim is filed. In addition with supplemental or reopened claims for residential property or condominium unit owners, the public adjuster fee cannot be based on the amount paid to the policyholder on the previous claim. Claims filed against Citizens apply a different public adjuster fee.

The Legislature first restricted fees charged by public adjusters in property insurance claims in 2008. The Legislature made further changes in 2011. Currently, the maximum fee for a public adjuster is different depending on if the claim is an initial claim, a reopened or supplemental claim, or a claim against Citizens. The fees are as follows:

Initial Claims: For initial residential and condominium unit owner property insurance claims, public adjusters are paid a maximum of 10 percent of the insurance claim payment for claims resulting from a declaration of a state of emergency (i.e., claims from a hurricane) if the initial

[17] Similar qualifications apply to independent and company adjusters.
[18] s. 626.865(2), F.S.
[19] Ch. 2009-87, L.O.F. The legislation directed the OPPAGA report to address specific questions about public adjuster regulation in Florida, public adjuster regulation in Florida compared to other states, and the frequency and outcome on claims processing and payments resulting from public adjuster representation of Citizens' policyholders.
[20] Report available at http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-06 (last viewed March 28, 2013).
[21] The OPPAGA report found claims processing took between 132 and 296 days longer than claims without public adjuster representation and found the typical claim payment for a claim related to the 2004 hurricanes against Citizens involving a public adjuster was $22,266 for claims filed in 2008 and 2009 whereas the typical claim payment for a claim related to the 2004 hurricanes against Citizens not involving a public adjuster during the same time period was $18,659. For claims related to the 2005 hurricanes, the difference in claim payment was larger, with claims involving public adjusters resulting in claim payments that were 747% higher.
[22] Public adjuster fee restrictions are found in s. 626.854(11), F.S.

claim is made in the year after the declaration. For claims made after this time, public adjusters are paid a maximum of 20 percent of the claim payment.

Public adjusters are paid a maximum of 20 percent of a claim payment for initial residential and condominium unit owner property insurance claims not resulting from hurricanes.

Reopened or Supplemental Claims: The public adjuster fee for reopened or supplemental claims on residential and condominium unit owner property insurance policies cannot exceed 20 percent of the claim payment obtained on the reopened or supplemental claim. Unlike initial claims, there is no difference in the fee restriction for reopened or supplemental claims based on whether or not the claim resulted from a hurricane.

Claims Filed Against Citizens Property Insurance Corporation: For all claims against Citizens, a public adjuster representing a Citizens' policyholder is paid a maximum fee of 10 percent of the additional claim amount paid over the amount originally offered by Citizens. This fee restriction applies to initial claims resulting from hurricanes, initial claims not resulting from hurricanes, and reopened or supplemental claims.

III. Effect of Proposed Changes:

The bill repeals current law which limits the amount a public adjuster may charge, agree to, or accept as compensation with respect to a claim filed by a policy holder of Citizens Property Insurance Corporation.[23] Under current law a public adjuster representing a policy holder of Citizens Property Insurance Corporation can be paid no more than 10 percent of the additional claim amount paid over the amount originally offered by Citizens. By removing this cap a public adjuster would be able to charge 10 percent of the amount paid for a Citizens' claim resulting from a declaration of a state of emergency and 20 percent of the amount paid for any initial, reopened or supplemental Citizens' claims.

According to data provided by Citizens[24], the average claim in 2012 among all policy types was $5,100.00 without a public adjuster and $11,150.00 with. Based on this data, Citizens' claims settled with the work of a public adjuster resulted in an average amount that was 118 percent greater than claims settled without the use of a public adjuster.

Example of the Changes:

Assuming the average amount settled without a public adjuster was an original offer by Citizens, on an initial, non emergency claim, and the average amount settled with a public adjuster was the final settlement amount negotiated with a public adjuster, then based on the changes in this bill when compared to current law, the differences in the fee paid to the public adjuster would result in a 268 percent increase, and the differences in the additional amount paid to the policyholder would result in a 30 percent decrease.

[23] s. 627.351(6)(a)6, F.S.
[24] Citizens report "2012 Public Adjuster Representation by Cause of Loss" on file with committee staff.

Current Law *(Adjuster Fee: 10% of the difference)*	**Proposed Change** *(Adjuster Fee: 20% of the amount settled)*
Initial Offer: $5,100.00 Settled Amount: $11,150.00 Adjuster Fee: ($6,050.00[25] x 10%) = $605.00 Additional to Policyholder: $5,445.00[26]	Initial Offer: $5,100.00 Settled Amount: $11,150.00 Adjuster Fee: ($11,150.00 x 20%) = $2,230.00 Additional to Policyholder: $3,820.00[27]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public adjusters will be able to receive the same fee for representing Citizens' policyholders as they currently receive when representing non-Citizens' policyholders.

Because a public adjuster fee is taken out of a claim payment or settlement, a higher public adjuster fee for a Citizens' claim than is allowed under current law could reduce the amount of the claim payment or settlement allocated to the Citizens' policyholder.

C. Government Sector Impact:

None.

[25] Subtract the initial offer from the settled amount to get the difference: ($11,150.00 - $5,100.00) = $6,050.00
[26] Subtract the fee from the difference to get the additional amount to the policyholder: ($6,050.00 - $605.00) = $5,445.00
[27] Subtract the fee from the difference to get the additional amount to the policyholder: ($6,050.00 - $2,230.00) = $3,820.00

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Clemens

27-01264-13 20131612__

A bill to be entitled

An act relating to Citizens Property Insurance Corporation; amending s. 627.351, F.S.; deleting a provision that limits the amount that a public adjuster may charge, agree to, or accept as compensation with respect to a claim filed under a policy of the corporation; providing an effective date.

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

Section 1. Paragraph (a) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a) The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents and businesses of this state.

1. The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27-01264-13 20131612__

resulting to the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends, therefore, that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, and that is not a private insurance company. To that end, the corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the corporation continue to be an integral part of the state and that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are entitled, but, in good faith, are unable

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 to procure insurance through the voluntary market. The
60 corporation shall operate pursuant to a plan of operation
61 approved by order of the Financial Services Commission. The plan
62 is subject to continuous review by the commission. The
63 commission may, by order, withdraw approval of all or part of a
64 plan if the commission determines that conditions have changed
65 since approval was granted and that the purposes of the plan
66 require changes in the plan. For the purposes of this
67 subsection, residential coverage includes both personal lines
68 residential coverage, which consists of the type of coverage
69 provided by homeowner's, mobile home owner's, dwelling,
70 tenant's, condominium unit owner's, and similar policies; and
71 commercial lines residential coverage, which consists of the
72 type of coverage provided by condominium association, apartment
73 building, and similar policies.
74 3. Effective January 1, 2009, a personal lines residential
75 structure that has a dwelling replacement cost of $2 million or
76 more, or a single condominium unit that has a combined dwelling
77 and contents replacement cost of $2 million or more is not
78 eligible for coverage by the corporation. Such dwellings insured
79 by the corporation on December 31, 2008, may continue to be
80 covered by the corporation until the end of the policy term.
81 However, such dwellings may reapply and obtain coverage if the
82 property owner provides the corporation with a sworn affidavit
83 from one or more insurance agents, on a form provided by the
84 corporation, stating that the agents have made their best
85 efforts to obtain coverage and that the property has been
86 rejected for coverage by at least one authorized insurer and at
87 least three surplus lines insurers. If such conditions are met,

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88 the dwelling may be insured by the corporation for up to 3
89 years, after which time the dwelling is ineligible for coverage.
90 The office shall approve the method used by the corporation for
91 valuing the dwelling replacement cost for the purposes of this
92 subparagraph. If a policyholder is insured by the corporation
93 prior to being determined to be ineligible pursuant to this
94 subparagraph and such policyholder files a lawsuit challenging
95 the determination, the policyholder may remain insured by the
96 corporation until the conclusion of the litigation.
97 4. It is the intent of the Legislature that policyholders,
98 applicants, and agents of the corporation receive service and
99 treatment of the highest possible level but never less than that
100 generally provided in the voluntary market. It is also intended
101 that the corporation be held to service standards no less than
102 those applied to insurers in the voluntary market by the office
103 with respect to responsiveness, timeliness, customer courtesy,
104 and overall dealings with policyholders, applicants, or agents
105 of the corporation.
106 5. Effective January 1, 2009, a personal lines residential
107 structure that is located in the "wind-borne debris region," as
108 defined in s. 1609.2, International Building Code (2006), and
109 that has an insured value on the structure of $750,000 or more
110 is not eligible for coverage by the corporation unless the
111 structure has opening protections as required under the Florida
112 Building Code for a newly constructed residential structure in
113 that area. A residential structure shall be deemed to comply
114 with this subparagraph if it has shutters or opening protections
115 on all openings and if such opening protections complied with
116 the Florida Building Code at the time they were installed.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 ~~6. For any claim filed under any policy of the corporation,~~
118 ~~a public adjuster may not charge, agree to, or accept any~~
119 ~~compensation, payment, commission, fee, or other thing of value~~
120 ~~greater than 10 percent of the additional amount actually paid~~
121 ~~over the amount that was originally offered by the corporation~~
122 ~~for any one claim.~~
123 Section 2. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: CPIC

Bill Number: 1612 *(if applicable)*

Name: Jay Neal

Amendment Barcode: *(if applicable)*

Job Title: Exec Dir.

Address: 7950 S Military Tr
Street

Lake Worth FL 33462
City *State* *Zip*

Phone: 888 745 5557

E-mail: jneal@floridainsurancereform.org

Speaking: [X] For [ ] Against [ ] Information

Representing: FAIR

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Public Adjusters

Bill Number: SB 1612 *(if applicable)*

Name: Carolyn Johnson

Amendment Barcode: *(if applicable)*

Job Title: Policy Director

Address: 216 S Bronough St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone: 850-521-1235

E-mail: cjohnson@flchamber.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 242

INTRODUCER: Senator Hukill

SUBJECT: Interstate Insurance Product Regulation Compact

DATE: March 16, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Pre-meeting**
2.			GO	
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

SB 242 enacts the Interstate Insurance Product Regulation Compact (Compact). The Compact is intended to help states join together to regulate designated insurance products, specifically, the following asset-based insurance products:

- Life insurance;
- Annuities;
- Disability income insurance; and
- Long-term care insurance, though the state is prospectively opting out of all uniform standards for Long-term care insurance in the Compact.

Upon joining the Compact, Florida will become a member of the Interstate Insurance Product Regulation Commission (Commission). The Commission primary duties are to:

- Develop uniform standards for product lines;
- Receive and promptly review products; and
- Approve product filings that satisfy applicable uniform standards.

The bill has an effective date of October 1, 2013.

This bill creates undesignated sections of the Florida Statutes.

II. Present Situation:

The Interstate Insurance Product Regulation Compact

The Interstate Insurance Product Regulation Compact (Compact) is an agreement among the compacting states to uniform standards for the regulation of four insurance product lines:

- Life insurance,
- Annuities,
- Disability income, and
- Long-term care insurance.

The Compact is implemented through the Interstate Insurance Product Regulation Commission (Commission).[1] Each compacting state is represented by one member, who is that state's representative to the Commission. All Compact members[2] receive one vote under the Compact. The adoption of a uniform standard requires a two-thirds vote of Commission members. Bylaws require a majority vote of members. The Commission is governed by a 14-member management committee. The Management Committee members currently include the seven largest Compacting States according to premium volume,[3] four mid-sized states with at least 2 percent of the national premium volume[4] and one additional state from each of four regional zones[5]

The primary duties of the Commission are to:

- Develop uniform standards for product lines;
- Receive and promptly review products;
- Approve product filings that satisfy applicable uniform standards.

If Florida joins the Compact, any product whose product line is governed by the Compact and is submitted to the Commission, if approved, will be approved to be offered for sale in Florida[6] if it complies with the requirements of the Compact. The model laws and regulations of the Compact will govern and generally preempt the application of conflicting Florida law governing the product.[7] A state may opt out of a uniform standard via legislation or rule either at the time the

[1] The Commission is a multi-state joint public entity that came into existence in March 2004 upon the legislative enactment of two states, Colorado and Utah, respectively. The Commission did not become operational for purposes of adopting uniform product standards until it May 2006, when it met the requirement set by the terms of the Compact. The Commission has 41 Member States representing approximately two-thirds of the premium volume nationwide.
[2] The other Compact members are Alabama, Alaska, Colorado, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, Tennessee, Utah, Vermont, West Virginia and Wyoming
[3] Illinois, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania and Texas.
[4] Maryland, Missouri, Virginia, and Wisconsin
[5] Kansas, Mississippi, New Hampshire and Washington
[6] If the insurer is authorized to transact business in Florida.
[7] All lawful actions of the Commission, including all uniform standards, rules, and operating procedures, are binding on compacting states. The Compact prevents the enforcement of any other law of a compacting state, except that the Commission may not abrogate or restrict the access to state courts; remedies related to breach of contract, tort, or other laws not specifically directed to the content of the product; state law relating to the construction of insurance contracts; or the authority of the state Attorney General.

state enacts the Compact or prior to the enactment of a new standard or rule approved by the Commission. Florida will opt out of Commission standards for long-term care insurance and join the Compact for life insurance, annuities, and disability income insurance under SB 242.

The Florida Legislature has in the past enacted laws containing greater consumer protections than are generally available in other states. For instance, in Florida, the suitability of an annuity—the appropriateness of a particular annuity product relative to the consumer's age, investment objectives, and current and future financial needs—has been a primary concern with regard to transactions involving consumers, particularly senior consumers. In 2004, the Florida Legislature enacted a model law on annuities, the Annuity Transactions Model Regulation of the National Association of Insurance Commissioners in s. 627.4554, F.S.[8] The 2008 Legislature, however, subsequently passed the John and Patricia Seibel Act, which strengthened Florida's annuity standards and procedures.[9] Those standards were further strengthened by the 2010 Legislature.[10]

To date, the Commission has adopted uniform standards for the following individual product lines: term and whole life insurance, variable and non-variable adjustable life insurance, variable and non-variable annuities, long-term care insurance, and disability income insurance. The Commission has also promulgated standards relating to the applications for the various individual lines of insurance, the benefit features of individual life policies, the benefit features of individual annuities, and for changes to mortality tables used for individual life insurance. Standards for group term life insurance have also been adopted. The Commission is in the process of developing uniform standards for group annuities and standards for specific benefits offered in group term life insurance policies.

Life Insurance

Life insurance is insurance of human lives.[11] Life insurance provides survivor benefits for designated beneficiaries upon the death of the insured. The three most common types of life insurance are whole life, term life, and universal life. Whole life insurance provides a fixed amount of life insurance coverage while building cash value. The premium remains the same until the maturity date (usually age 100). Benefits are payable upon the death of the insured or on the maturity date. The cash value of the policy increases as premiums are paid and allow loans to be made on the policy for up to the amount of the cash value. Term life insurance is purchased for a specific time period and pays a death benefit only if the insured dies during the specified time period. Term insurance does not build cash value. Term life insurance policies may contain provisions allowing the insured to renew the policy after expiration of the term or convert the policy to a whole life policy. Universal life insurance is a combination of a term life policy and the ability to accumulate cash value.

[8] Section 146, ch. 2004-390, L.O.F.
[9] Section 9, ch. 2008-237, L.O.F.
[10] Section 52, ch. 2010-175, L.O.F.
[11] Section 624.602, F.S.

Annuities

An annuity is a form of life insurance transaction involving a contract between a customer and an insurer wherein the customer makes a lump sum payment or series of payments to an insurer that in return agrees to make periodic payments back to the annuitant at a future date, either for the annuitant's life or a specified period. Annuities can be obtained in either immediate or deferred form. In an immediate annuity the annuity company is typically given a lump sum payment in exchange for immediate and regular periodic payments, which may be for as long as the contract owner lives. For a deferred annuity, premiums are usually either paid in a lump sum or by a series of payments, and the annuity is subject to an *accumulation phase*, when those payments experience tax-deferred growth, followed by the *annuitization* or *payout phase*, when the annuity provides a regular stream of periodic payments to the consumer. Annuities are often used for retirement planning because they provide a guaranteed source of income for future years.

Disability Income Insurance

Disability income insurance pays a weekly or monthly income for a specific period if the insured suffers a disability and cannot continue working or obtain work. The disability may involve sickness, injury or a combination of the two. Disability policies include often contain an elimination period, which is a specified time period after the date of disability that must pass before the insured may receive benefits. Most disability insurance plans coordinate benefits with Social Security benefits and workers' compensation to eliminate duplication of coverage.

Long-Term Care Insurance

Long-term care insurance policies provide benefits for a broad range of supportive medical, personal and social services needed by people who are unable to meet their basic living needs for an extended period of time for services not covered by a regular health insurance, Medicare or Medicare supplement insurance policy. The need for long-term care insurance may be caused by accident, illness or frailty. Such conditions include the inability to move about, dress, bathe, eat, use a toilet, medicate and avoid incontinence. Also, care may be needed to help the disabled with household cleaning, preparing meals, shopping, paying bills, visiting the doctor, answering the phone and taking medications. Additional long-term care disabilities are due to cognitive impairment from stroke, depression, dementia, Alzheimer's disease, Parkinson's disease and other medical conditions that affect the brain.

Florida law establishes requirements for long-term care policies in the Long-Term Care Insurance Act.[12] The act specifies filing requirements, disclosure, advertising, and performance standards for such policies, minimum standards for home health care benefits, mandatory offers, cancellation requirements, and standards for benefit triggers for receiving benefits under the policy. The act also provides consumers grace periods for late payment and notice of cancellation.[13]

[12] Part XVIII of chapter 627, F.S.
[13] Section 627.94073, F.S.

III. Effect of Proposed Changes:

SB 242 enacts the Interstate Insurance Product Regulation Compact. The Compact is intended to help states join together to regulate designated insurance products, specifically, the following asset-based insurance products:

- Life insurance;
- Annuities;
- Disability income insurance; and
- Long-term care insurance, though the state is prospectively opting out of all uniform standards for Long-term care insurance in the Compact.

Legislative Findings and Declaration of Intent

Section 1 Creates an undesignated section of statute stating that Florida intends to join the Interstate Insurance Product Regulation Compact (Compact) and become a member of the Interstate Insurance Product Regulation Commission (Commission). The Legislature finds that the Compact will, through a single source for filing new products and a uniform set of product standards that provide a high level of consumer protection, address the increased mobility of the populace and significant changes in the financial services marketplace that have resulted in asset-based insurance products competing directly with other retirement and estate planning instruments sold by banks and securities firms. The Legislature also declares that it is adopting the compact under the understanding that no uniform standards long-term care insurance rate increase filings will be developed.

Enactment of the Compact and Membership in the Commission

Section 2 Makes the state a compacting state under the Compact and a member of the Commission, whose purposes are to protect consumer interests, develop uniform standards for insurance products, establish a clearinghouse to promptly review insurance products and related advertisements, give regulatory approval to product filings and advertisements that satisfy the applicable uniform standard, coordinate regulatory resources among states, create the Commission, and perform these and other related functions.

Definitions

Defines terms used in the compact, including, but not limited to:

- Product – A product is the policy form or contract and includes any application, endorsement, or related form that is attached to and part of the policy or contract. The term also includes any evidence of coverage or certificate for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.
- Rule – A Commission statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or that prescribes law or policy or describes the requirements of the Commission which has the force and effect of law in compacting states. Rules include such statements adopted as of March 1, 2013, and

subsequent amendments if the methodology of the amendment remains substantially consistent. Commission uniform standards are rules.

- Uniform Standard – A commission standard for a product line and includes the aggregated product requirements. It includes all standards adopted as of March 1, 2013, and subsequent amendments if the methodology remains substantially consistent. A uniform standard must be construed to prohibit the use of inconsistent, misleading, or ambiguous provisions in a product. The uniform standard must also ensure that the form of any product made available to the public is not unfair, inequitable, or against public policy as determined by the Commission.

Powers of the Commission

The bill establishes the Interstate Insurance Product Regulation Commission. The Commission may:

- Develop uniform standards for product lines;
- Receive and promptly review products;
- Approve product filings that satisfy applicable uniform standards.

The Commission has the power to adopt rules that have the force and effect of law and are binding in the compacting states. Such rules include uniform standards for product and related advertisements that are filed with the Commission. Any uniform standards for long-term care insurance products must provide the same protections specified in the NAIC Long-Term Care Insurance Model Act and the Long-Term Care Insurance Model Regulation adopted as of 2001.

The Commission also has authority to receive and review products filed with the Commission and rate filings for disability income and long-term care insurance products. Products and rates that satisfy the appropriate uniform standard may be approved. Commission approval has the force and effect of law and is binding on compacting states.

The Commission may designate certain products and advertisements that may self-certify compliance with uniform standards and commission rules and are not required to obtain prior approval from the Commission. The Commission may issue subpoenas requiring the testimony of witnesses and production of evidence and may also bring and prosecute legal proceedings if the standing of any state insurance department to sue or be sued is not affected.

Commission Membership, Voting, and Bylaws

Each compacting state has one member of the Commission, who is entitled to one vote. The Commission is governed by a management committee of up to 14 members consisting of:

- One member each from the four compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products.
- One member from the four compacting states with at least 2 percent of the market described above selected on a rotating basis, other than from the six states with the largest premium volume.

- One member from four compacting states with less than 2 percent of the market described above, with one selecting from each of the four zone regions of the NAIC.

The Commission annually elects officers from the management committee and is authorized to select an executive director who serves as secretary to the Commission but may not be a Commission member.

The Compact requires the establishment of legislative and advisory committees. The legislative committee consists of state legislators and monitors and makes recommendations to the Commission. The management committee must consult with the legislative committee prior to adopting any uniform standard, change in Commission bylaws, annual budget or other significant matter. Two advisory committees must be established, one comprising independent consumer representatives and another composed of insurance industry representatives. Additional advisory committees may be established.

The adoption of a uniform standard requires a two-thirds vote of Commission members. Bylaws require a majority vote of members.

Rulemaking by the Commission and State Opt-Out Procedure

The rulemaking process must conform to the Model State Administrative Procedure Act of 1981, as amended. Prior to adopting a uniform standard, the Commission must give written notice to the relevant state legislative committees in each compacting state. In adopting a uniform standard, the Commission must consider all submitted materials and issue a concise explanation of its decision. Uniform standards are effective 90 days after their adoption by the Commission.

Judicial review of Commission rules (including uniform standards) or operating procedures is available but limited by the Compact. Any person may petition for judicial review, but the petition does not stay or prevent the rule or operating procedure from becoming effective unless the court finds the petitioner has a substantial likelihood of success. The court may not find a Commission rule or operating procedure unlawful if it represents a reasonable exercise of the Commission's authority

A state may opt out of a uniform standard via legislation or rule. Florida is prospectively opting out of all uniform standards involving long-term care insurance products, as allowed by the terms of the Compact. Opting out of a uniform standard via rule requires the state to give the Commission written notice within 10 business days after the uniform standard is adopted and find that the uniform standard does not provide reasonable protections to the consumers of that state. The OIR Commissioner must make specific findings of fact and conclusions of law detailing the facts that warrant departure of the uniform standards and that those facts outweigh the Legislature's intent to join the compact and a presumption that the uniform standard provides reasonable consumer protections.

Commission Records

The Commission must adopt rules creating conditions and procedures for the public inspection and copying of information and official records, except for records involving the privacy of

individuals and insurers' trade secrets. The Commission may also adopt additional rules allowing it make available otherwise exempt records and information to federal and state agencies, including law enforcement.

Compliance Enforcement

The Commission monitors compacting states for compliance with Commission bylaws, rules, uniform standards, and operation procedures, and provides written notice to a state that is in noncompliance.

The state insurance commissioner retains authority to oversee the market regulation of the activities of insurers in that state. An insurance product or advertisement that has been approved or certified by the Commission, however, does not violate the provisions, standards, or requirements of the Compact unless the Commission holds a hearing and issues a final order finding a violation. If an advertisement has not been approved or certified to the Commission, the state insurance commissioner may only bring an action for violating a standard of the Compact if the Commission first authorizes the action.

Product Filing and Approval

To obtain approval of a product, the insurer must file the Product with the Commission and pay applicable fees. Any product approved by the Commission may be sold or otherwise issued in any compacting state in which the insurer is authorized to do business. An insurer may alternatively file its product with a state insurance department, and such filing will be subject to the laws of that state.

Review of Commission Decisions Regarding Filings

A disapproved product or advertisement may be appealed to a review panel appointed by the Commission within 30 days of the Commission's determination. An allegation that the Commission disapproved a product or advertisement arbitrarily, capriciously, abused its discretion, or otherwise acted not accordance with law is subject to judicial review. Judicial proceedings must be brought in a court where the principal office of the Commission is located (Washington, DC).

Commission Funding and Expenses

The Commission covers the cost of its operations and activities through the collection of filing fees. The annual budget may not be approved until it has been subject to the required notice and comment period. The Commission is exempt from all taxation by compacting states. The Commission may not pledge the credit of any compacting state except with the legal authorization of the compacting state. Complete and accurate accounts of Commission financial records must be kept and shall be audited annually by an independent certified public accountant. At least every 3 years, the audit must include a management and performance audit of the Commission.

Amendments to the Compact

Amendments to the Compact may be proposed by the Commission for enactment by the compacting states. An amendment is adopted only if unanimously enacted into law by all of the compacting states.

Withdrawing From or Dissolving the Compact; State Default, Suspension and Termination

A state may withdraw from the Compact by repealing the law that enacted the Compact. Withdrawal from the Compact does not affect product filings approved or self certified, or approved advertisements, except by mutual agreement of the Commission and the withdrawing state, unless the state formally rescinds approval in the same manner as provided by the laws of that state for disapproving products or advertisements previously approved under state law. The compact is dissolved once there is only one compact member.

The Commission may suspend a state that is determined to have defaulted in the performance of its obligations or duties under the Compact or the bylaws, rules, or operating procedures of the Compact. The Commission must notify a defaulting state in writing and provide a time period within which the state may cure the default. The state will be terminated from the Compact if the default is not timely cured. Products and advertisements approved by the Commission, or self-certified, remain in force in the same manner as though the state had withdrawn voluntarily. Reinstatement following termination requires reenacting the Compact.

Severability Clause

The Compact provisions are severable from provisions that are deemed unenforceable.

Actions of Commission are Binding on States; Conflict of Laws; Advisory Opinions

All lawful actions of the Commission, including all rules and operating procedures, are binding on compacting states. Agreements between the Commission and compacting states are binding in accordance with their terms. The Compact prevents the enforcement of any other law of a compacting state, except that the Commission may not abrogate or restrict the access to state courts; remedies related to breach of contract, tort, or other laws not specifically directed to the content of the product; state law relating to the construction of insurance contracts; or the authority of the state Attorney General. A Compact provision is ineffective as to a state, however, if it exceeds the constitutional limits imposed on the Legislature of a state. If an insurance product is filed with an individual state, it is subject to the law of that state.

If requested by a party to a conflict over the meaning or interpretation of Commission actions and approved by a majority vote of the compacting states, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

State Opt-Out of All Uniform Standards for Long-Term Care Insurance Products

Section 3. Opts the state out of all uniform standards contained in the Compact involving long-term care insurance products. Each state may, at the time the Compact is enacted by that state, opt-out of all uniform standards involving long-term care insurance products.

Rulemaking Authority Grant to OIR to Implement the Compact

Section 4. Grants rulemaking authority to the Office of Insurance Regulation to implement the compact. Rulemaking may also be used to opt out of new uniform standards until they are approved by the Legislature.

Effective Date

Section 5. The effective date of the act is October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

Non-Delegation Doctrine

Statutory authorization to compact or enter reciprocal agreements with other states potentially implicates the “nondelegation doctrine.” Article III, Section 1 of the Florida Constitution states that "[t]he legislative power of the state shall be vested in a legislature of the State of Florida.” The Florida Supreme Court has held that this constitutional provision requires application of a "strict separation of powers doctrine...which encompasses two fundamental prohibitions'."[14] No branch of Government may delegate its constitutionally assigned powers to another branch.[15]

The Legislature may constitutionally transfer subordinate functions to "permit administration of legislative policy by an agency with the expertise and flexibility to deal with complex and fluid conditions."[16] However, the Legislature "may not delegate the

[14] *Fla. Dep't of State, Div. of Elections v. Martin,* 916 So.2d 763, 769 (Fla. 2005) (quoting *State v. Cotton,* 769 So.2d 345, 353 (Fla. 2000), and *Chiles,* 589 So.2d at 264).
[15] *Chiles,* 589 So.2d at 264.
[16] *Microtel v. Fla. Pub. Serv. Comm'n,* 464 So.2d 1189, 1191 (Fla.1985) (citing *State, Dep't of Citrus v. Griffin,* 239 So.2d 577 (Fla.1970)).

power to enact a law or the right to exercise unrestricted discretion in applying the law."[17] Further, the nondelegation doctrine precludes the legislature from delegating its powers "absent ascertainable minimal standards and guidelines."[18] When the Legislature delegates power to another body, it "must clearly announce adequate standards to guide ... in the execution of the powers delegated."[19]

Inspection and Copying of Public Records

Section VIII of the Compact requires the Commission to adopt rules establishing conditions and procedures for the inspection of its information and official records. This implicates Florida's constitutional and statutory laws which provide a broad grant of authority to the public to inspect or copy any public record.

Article I, s. 24 of the State Constitution, provides that "[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution."

In addition to the State Constitution, the Public Records Act, which pre-dates the public records provision of the State Constitution, specifies conditions under which public access must be provided to records of an agency. Section 119.07(1)(a), F.S., states that, "[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record." Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean, "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

Only the Legislature is authorized to create exemptions to open government requirements. Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.

[17] *Sims v. State,* 754 So.2d 657, 668 (Fla. 2000).
[18] *Dep't of Bus. Reg., Div. of Alcoholic Beverages & Tobacco v. Jones,* 474 So.2d 359, 361 (Fla. 1st DCA 1985).
[19] *Martin, 916 So.2d at 770.*

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Representatives from the Florida Department of Revenue state that, "[e]ven though Article XII of the Compact exempts the Commission from all taxation, if the Commission employs persons who work in Florida, it will be subject to the labor laws of Florida in ch. 443, F.S. Federal law (26 U.S.C. 3309) requires states to make nonprofit entities and governmental entities liable for reemployment tax. Certain employers are allowed to elect to reimburse Florida for reemployment benefits (not a tax) paid to any of its employees instead of paying the Florida reemployment tax. The Commission, as a non-profit entity, would be permitted to elect to be a reimbursing employer in Florida. If the Commission does not make such election for any Florida employees, the Commission would be required to pay the reemployment tax."

B. Private Sector Impact:

Representatives from the Office of Insurance Regulation indicate that the state's membership in the Compact could potentially reduce the cost of filing and obtaining approval of asset-based insurance products.

C. Government Sector Impact:

If Florida becomes a member of the Compact, the Office of Insurance Regulation may experience a reduction in its workload for those functions now performed by the Commission. That reduction in workload could result in decreased appropriation needs for the Office. Representatives from the OIR indicate that the office will not incur a fiscal impact if Florida adopts the Compact.

VI. Technical Deficiencies:

Section 4 of the bill grants rulemaking authority to the Office of Insurance Regulation. The Florida Statutes do not authorize the OIR with rulemaking authority under s. 624.308, F.S. The Financial Services Commission, not the OIR, should be granted rulemaking authority to implement the Compact.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

263352

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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	.	
	.	

The Committee on Banking and Insurance (Benacquisto) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Legislative findings; intent.—
6 (1) The Legislature finds that the financial services
7 marketplace has changed significantly in recent years and that
8 asset-based insurance products, which include life insurance,
9 annuities, disability income insurance, and long-term care
10 insurance, now compete directly with other retirement and estate
11 planning instruments that are sold by banks and securities
12 firms.

263352

13 (2) The Legislature further finds that the increased
14 mobility of the population and the risks borne by these asset-
15 based products are not local in nature.
16 (3) The Legislature further finds that the Interstate
17 Insurance Product Regulation Compact Model adopted by the
18 National Association of Insurance Commissioners and endorsed by
19 the National Conference of Insurance Legislators and the
20 National Conference of State Legislatures is designed to address
21 these market changes by providing a uniform set of product
22 standards and a single source for filing of new products.
23 (4) The Legislature further finds that the product
24 standards that have been developed provide a high level of
25 consumer protection. Further, it is noted that the Interstate
26 Insurance Product Regulation Compact Model includes a mechanism
27 for opting out of any product standard that the state determines
28 would not reasonably protect its citizens. With respect to long-
29 term care insurance, the Legislature understands that the
30 compact does not intend to develop a uniform standard for rate
31 increase filings, thereby leaving the authority over long-term
32 care rate increases with the state. The state relies on that
33 understanding in adopting this legislation. The state, pursuant
34 to the terms and conditions of this act, seeks to join with
35 other states and establish the Interstate Insurance Product
36 Regulation Compact, and thus become a member of the Interstate
37 Insurance Product Regulation Commission. The Commissioner of
38 Insurance Regulation is hereby designated to serve as the
39 representative of this state on the commission. The commissioner
40 may designate a person to represent this state on the
41 commission, as is necessary, in order to fulfill the duties of

263352

42 being a member of the commission.
43 Section 2. Interstate Insurance Product Regulation
44 Compact.—The Interstate Insurance Product Regulation Compact is
45 hereby enacted into law and entered into by this state with all
46 states legally joining therein in the form substantially as
47 follows:
48
49 Interstate Insurance Product Regulation Compact
50
51 Preamble
52
53 This compact is intended to help states join together to
54 establish an interstate compact to regulate designated insurance
55 products. Pursuant to the terms and conditions of this compact,
56 this state seeks to join with other states and establish the
57 Interstate Insurance Product Regulation Compact and thus become
58 a member of the Interstate Insurance Product Regulation
59 Commission.
60
61 Article I
62
63 PURPOSES.—The purposes of this compact are, through means
64 of joint and cooperative action among the compacting states, to:
65 (1) Promote and protect the interest of consumers of
66 individual and group annuity, life insurance, disability income,
67 and long-term care insurance products.
68 (2) Develop uniform standards for insurance products
69 covered under the compact.
70 (3) Establish a central clearinghouse to receive and

263352

71 provide prompt review of insurance products covered under the
72 compact and, in certain cases, advertisements related thereto,
73 submitted by insurers authorized to do business in one or more
74 compacting states.
75 (4) Give appropriate regulatory approval to those product
76 filings and advertisements satisfying the applicable uniform
77 standard.
78 (5) Improve coordination of regulatory resources and
79 expertise between state insurance departments regarding the
80 setting of uniform standards and review of insurance products
81 covered under the compact.
82 (6) Create the Interstate Insurance Product Regulation
83 Commission.
84 (7) Perform these and such other related functions as may
85 be consistent with the state regulation of the business of
86 insurance.
87
88 Article II
89
90 DEFINITIONS.—For purposes of this compact, the term:
91 (1) "Advertisement" means any material designed to create
92 public interest in a product, or induce the public to purchase,
93 increase, modify, reinstate, borrow on, surrender, replace, or
94 retain a policy, as more specifically defined in the rules and
95 operating procedures of the commission adopted as of March 1,
96 2013, and subsequent amendments thereto if the methodology
97 remains substantially consistent.
98 (2) "Bylaws" means those bylaws adopted by the commission
99 as of March 1, 2013, for its governance or for directing or

263352

100 controlling the commission's actions or conduct.
101 (3) "Compacting state" means any state which has enacted
102 this compact legislation and has not withdrawn pursuant to
103 subsection (1) of Article XIV of this compact or been terminated
104 pursuant to subsection (2) of Article XIV of this compact.
105 (4) "Commission" means the "Interstate Insurance Product
106 Regulation Commission" established by this compact.
107 (5) "Commissioner" means the chief insurance regulatory
108 official of a state, including, but not limited to, the
109 commissioner, superintendent, director, or administrator. For
110 purposes of this compact, the Commissioner of Insurance
111 Regulation is the chief insurance regulatory official of this
112 state.
113 (6) "Domiciliary state" means the state in which an insurer
114 is incorporated or organized or, in the case of an alien
115 insurer, its state of entry.
116 (7) "Insurer" means any entity licensed by a state to issue
117 contracts of insurance for any of the lines of insurance covered
118 by this compact.
119 (8) "Member" means the person chosen by a compacting state
120 as its representative to the commission, or his or her designee.
121 (9) "Noncompacting state" means any state which is not at
122 the time a compacting state.
123 (10) "Office" means the Office of Insurance Regulation of
124 the Financial Services Commission.
125 (11) "Operating procedures" means procedures adopted by the
126 commission as of March 1, 2013, and subsequent amendments
127 thereto if the methodology remains substantially consistent,
128 implementing a rule, uniform standard, or provision of this

263352

129 compact.
130 (12) "Product" means the form of a policy or contract,
131 including any application, endorsement, or related form which is
132 attached to and made a part of the policy or contract, and any
133 evidence of coverage or certificate, for an individual or group
134 annuity, life insurance, disability income, or long-term care
135 insurance product that an insurer is authorized to issue.
136 (13) "Rule" means a statement of general or particular
137 applicability and future effect adopted by the commission as of
138 March 1, 2013, and subsequent amendments thereto if the
139 methodology remains substantially consistent, including a
140 uniform standard developed pursuant to Article VII of this
141 compact, designed to implement, interpret, or prescribe law or
142 policy or describe the organization, procedure, or practice
143 requirements of the commission, which shall have the force and
144 effect of law in the compacting states.
145 (14) "State" means any state, district, or territory of the
146 United States.
147 (15) "Third-party filer" means an entity that submits a
148 product filing to the commission on behalf of an insurer.
149 (16) "Uniform standard" means a standard adopted by the
150 commission as of March 1, 2013, and subsequent amendments
151 thereto if the methodology remains substantially consistent, for
152 a product line pursuant to Article VII of this compact and shall
153 include all of the product requirements in aggregate; provided,
154 each uniform standard shall be construed, whether express or
155 implied, to prohibit the use of any inconsistent, misleading, or
156 ambiguous provisions in a product and the form of the product
157 made available to the public shall not be unfair, inequitable,

263352

158 or against public policy as determined by the commission.
159
160 Article III
161
162 COMMISSION; ESTABLISHMENT; VENUE.—
163 (1) The compacting states hereby create and establish a
164 joint public agency known as the Interstate Insurance Product
165 Regulation Commission. Pursuant to Article IV of this compact,
166 the commission has the power to develop uniform standards for
167 product lines, receive and provide prompt review of products
168 filed with the commission, and give approval to those product
169 filings satisfying applicable uniform standards; provided, it is
170 not intended for the commission to be the exclusive entity for
171 receipt and review of insurance product filings. Nothing in this
172 article shall prohibit any insurer from filing its product in
173 any state in which the insurer is licensed to conduct the
174 business of insurance and any such filing shall be subject to
175 the laws of the state where filed.
176 (2) The commission is a body corporate and politic and an
177 instrumentality of the compacting states.
178 (3) The commission is solely responsible for its
179 liabilities, except as otherwise specifically provided in this
180 compact.
181 (4) Venue is proper and judicial proceedings by or against
182 the commission shall be brought solely and exclusively in a
183 court of competent jurisdiction where the principal office of
184 the commission is located.
185 (5) The commission is a not-for-profit entity, separate and
186 distinct from the individual compacting states.

263352

187
188 Article IV
189
190 POWERS.—The commission shall have the following powers to:
191 (1) Adopt rules, pursuant to Article VII, which shall have
192 the force and effect of law and shall be binding in the
193 compacting states to the extent and in the manner provided in
194 this compact.
195 (2) Exercise its rulemaking authority and establish
196 reasonable uniform standards for products covered under the
197 compact, and advertisement related thereto, which shall have the
198 force and effect of law and shall be binding in the compacting
199 states, but only for those products filed with the commission;
200 provided a compacting state shall have the right to opt out of
201 such uniform standard pursuant to Article VII to the extent and
202 in the manner provided in this compact and any uniform standard
203 established by the commission for long-term care insurance
204 products may provide the same or greater protections for
205 consumers as, but shall provide at least, those protections set
206 forth in the National Association of Insurance Commissioners'
207 Long-Term Care Insurance Model Act and Long-Term Care Insurance
208 Model Regulation, respectively, adopted as of 2001. The
209 commission shall consider whether any subsequent amendments to
210 the National Association of Insurance Commissioners' Long-Term
211 Care Insurance Model Act or Long-Term Care Insurance Model
212 Regulation adopted by the National Association of Insurance
213 Commissioners require amending of the uniform standards
214 established by the commission for long-term care insurance
215 products.

263352

216 (3) Receive and review in an expeditious manner products
217 filed with the commission and rate filings for disability income
218 and long-term care insurance products and give approval of those
219 products and rate filings that satisfy the applicable uniform
220 standard, and such approval shall have the force and effect of
221 law and be binding on the compacting states to the extent and in
222 the manner provided in the compact.
223 (4) Receive and review in an expeditious manner
224 advertisement relating to long-term care insurance products for
225 which uniform standards have been adopted by the commission, and
226 give approval to all advertisement that satisfies the applicable
227 uniform standard. For any product covered under this compact,
228 other than long-term care insurance products, the commission
229 shall have the authority to require an insurer to submit all or
230 any part of its advertisement with respect to that product for
231 review or approval prior to use, if the commission determines
232 that the nature of the product is such that an advertisement of
233 the product could have the capacity or tendency to mislead the
234 public. The actions of the commission as provided in this
235 subsection shall have the force and effect of law and shall be
236 binding in the compacting states to the extent and in the manner
237 provided in the compact.
238 (5) Exercise its rulemaking authority and designate
239 products and advertisement that may be subject to a self-
240 certification process without the need for prior approval by the
241 commission.
242 (6) Adopt operating procedures, pursuant to Article VII,
243 which shall be binding in the compacting states to the extent
244 and in the manner provided in this compact.

263352

245 (7) Bring and prosecute legal proceedings or actions in its
246 name as the commission; provided the standing of any state
247 insurance department to sue or be sued under applicable law
248 shall not be affected.
249 (8) Issue subpoenas requiring the attendance and testimony
250 of witnesses and the production of evidence.
251 (9) Establish and maintain offices.
252 (10) Purchase and maintain insurance and bonds.
253 (11) Borrow, accept, or contract for services of personnel,
254 including, but not limited to, employees of a compacting state.
255 Any action under this subsection concerning employees of this
256 state may only be taken upon the express written consent of the
257 state.
258 (12) Hire employees, professionals, or specialists; elect
259 or appoint officers and fix their compensation, define their
260 duties, give them appropriate authority to carry out the
261 purposes of the compact, and determine their qualifications; and
262 establish the commission's personnel policies and programs
263 relating to, among other things, conflicts of interest, rates of
264 compensation, and qualifications of personnel.
265 (13) Accept any and all appropriate donations and grants of
266 money, equipment, supplies, materials, and services and to
267 receive, use, and dispose of the same; provided at all times the
268 commission shall avoid any appearance of impropriety.
269 (14) Lease, purchase, and accept appropriate gifts or
270 donations of, or otherwise to own, hold, improve, or use, any
271 property, real, personal, or mixed; provided at all times the
272 commission shall avoid any appearance of impropriety.
273 (15) Sell, convey, mortgage, pledge, lease, exchange,

263352

274 abandon, or otherwise dispose of any property, real, personal,
275 or mixed.
276 (16) Remit filing fees to compacting states as may be set
277 forth in the bylaws, rules, or operating procedures.
278 (17) Enforce compliance by compacting states with rules,
279 uniform standards, operating procedures, and bylaws.
280 (18) Provide for dispute resolution among compacting
281 states.
282 (19) Advise compacting states on issues relating to
283 insurers domiciled or doing business in noncompacting
284 jurisdictions, consistent with the purposes of this compact.
285 (20) Provide advice and training to those personnel in
286 state insurance departments responsible for product review and
287 to be a resource for state insurance departments.
288 (21) Establish a budget and make expenditures.
289 (22) Borrow money, provided that this power does not, in
290 any manner, obligate the financial resources of the State of
291 Florida.
292 (23) Appoint committees, including advisory committees,
293 comprising members, state insurance regulators, state
294 legislators or their representatives, insurance industry and
295 consumer representatives, and such other interested persons as
296 may be designated in the bylaws.
297 (24) Provide and receive information from and to cooperate
298 with law enforcement agencies.
299 (25) Adopt and use a corporate seal.
300 (26) Perform such other functions as may be necessary or
301 appropriate to achieve the purposes of this compact consistent
302 with the state regulation of the business of insurance.

263352

303
304 Article V
305
306 ORGANIZATION.—
307 (1) Membership; voting; bylaws.—
308 (a)1. Each compacting state shall have and be limited to
309 one member. Each member shall be qualified to serve in that
310 capacity pursuant to applicable law of the compacting state. Any
311 member may be removed or suspended from office as provided by
312 the law of the state from which he or she is appointed. Any
313 vacancy occurring in the commission shall be filled in
314 accordance with the laws of the compacting state in which the
315 vacancy exists. Nothing in this article shall be construed to
316 affect the manner in which a compacting state determines the
317 election or appointment and qualification of its own
318 commissioner. However, the commissioner may designate a person
319 to represent this state on the commission, as is necessary, in
320 order to fulfill the duties of being a member of the commission.
321 2. The Commissioner of Insurance Regulation is hereby
322 designated to serve as the representative of this state on the
323 commission. However, the commissioner may designate a person to
324 represent this state on the commission, as is necessary, in
325 order to fulfill the duties of being a member of the commission.
326 (b) Each member shall be entitled to one vote and shall
327 have an opportunity to participate in the governance of the
328 commission in accordance with the bylaws. Notwithstanding any
329 other provision of this article, no action of the commission
330 with respect to the adoption of a uniform standard shall be
331 effective unless two-thirds of the members vote in favor of such

263352

332 action.
333 (c) The commission shall, by a majority of the members,
334 prescribe bylaws to govern its conduct as may be necessary or
335 appropriate to carry out the purposes and exercise the powers of
336 the compact, including, but not limited to:
337 1. Establishing the fiscal year of the commission.
338 2. Providing reasonable procedures for appointing and
339 electing members, as well as holding meetings, of the management
340 committee.
341 3. Providing reasonable standards and procedures:
342 a. For the establishment and meetings of other committees.
343 b. Governing any general or specific delegation of any
344 authority or function of the commission.
345 4. Providing reasonable procedures for calling and
346 conducting meetings of the commission that consist of a majority
347 of commission members, ensuring reasonable advance notice of
348 each such meeting, and providing for the right of citizens to
349 attend each such meeting with enumerated exceptions designed to
350 protect the public's interest, the privacy of individuals, and
351 insurers' proprietary information, including, but not limited
352 to, trade secrets. The commission may meet in camera only after
353 a majority of the entire membership votes to close a meeting in
354 total or in part. The commissioner of this state, or the
355 commissioner's designee, may attend, or otherwise participate
356 in, a meeting or executive session that is closed in total or
357 part to the extent such attendance or participation is
358 consistent with Florida law. As soon as practicable, the
359 commission must make public a copy of the vote to close the
360 meeting revealing the vote of each member with no proxy votes

263352

361 allowed, and votes taken during such meeting. All notices of
362 commission meetings, including instructions for public
363 participation, provided to the office, the commissioner, or the
364 commissioner's designee shall be published in the Florida
365 Administrative Register.
366 5. Establishing the titles, duties, and authority and
367 reasonable procedures for the election of the officers of the
368 commission.
369 6. Providing reasonable standards and procedures for the
370 establishment of the personnel policies and programs of the
371 commission. Notwithstanding any civil service or other similar
372 laws of any compacting state, the bylaws shall exclusively
373 govern the personnel policies and programs of the commission.
374 7. Adopting a code of ethics to address permissible and
375 prohibited activities of commission members and employees. This
376 code does not supersede or otherwise limit the obligations and
377 duties of this state's commissioner or the commissioner's
378 designee under ethics laws or rules of the State of Florida. To
379 the extent there is any inconsistency between the standards
380 imposed by this code and the standards imposed under this
381 state's ethics laws or rules, the commissioner or the
382 commissioner's designee must adhere to the stricter standard of
383 conduct.
384 8. Providing a mechanism for winding up the operations of
385 the commission and the equitable disposition of any surplus
386 funds that may exist after the termination of the compact after
387 the payment or reserving of all debts and obligations of the
388 commission.
389 (d) The commission shall publish its bylaws in a convenient

263352

390 form and file a copy of such bylaws and a copy of any amendment
391 to such bylaws, with the appropriate agency or officer in each
392 of the compacting states.
393 (2) Management committee, officers, and personnel.—
394 (a) A management committee comprising no more than 14
395 members shall be established as follows:
396 1. One member from each of the six compacting states with
397 the largest premium volume for individual and group annuities,
398 life, disability income, and long-term care insurance products,
399 determined from the records of the National Association of
400 Insurance Commissioners for the prior year.
401 2. Four members from those compacting states with at least
402 2 percent of the market based on the premium volume described
403 above, other than the six compacting states with the largest
404 premium volume, selected on a rotating basis as provided in the
405 bylaws.
406 3. Four members from those compacting states with less than
407 2 percent of the market, based on the premium volume described
408 above, with one selected from each of the four zone regions of
409 the National Association of Insurance Commissioners as provided
410 in the bylaws.
411 (b) The management committee shall have such authority and
412 duties as may be set forth in the bylaws, including, but not
413 limited to:
414 1. Managing the affairs of the commission in a manner
415 consistent with the bylaws and purposes of the commission.
416 2. Establishing and overseeing an organizational structure
417 within, and appropriate procedures for, the commission to
418 provide for the creation of uniform standards and other rules,

263352

419 receipt and review of product filings, administrative and
420 technical support functions, review of decisions regarding the
421 disapproval of a product filing, and the review of elections
422 made by a compacting state to opt out of a uniform standard;
423 provided a uniform standard shall not be submitted to the
424 compacting states for adoption unless approved by two-thirds of
425 the members of the management committee.
426 3. Overseeing the offices of the commission.
427 4. Planning, implementing, and coordinating communications
428 and activities with other state, federal, and local government
429 organizations in order to advance the goals of the commission.
430 (c) The commission shall elect annually officers from the
431 management committee, with each having such authority and duties
432 as may be specified in the bylaws.
433 (d) The management committee may, subject to the approval
434 of the commission, appoint or retain an executive director for
435 such period, upon such terms and conditions, and for such
436 compensation as the commission may deem appropriate. The
437 executive director shall serve as secretary to the commission
438 but shall not be a member of the commission. The executive
439 director shall hire and supervise such other staff as may be
440 authorized by the commission.
441 (3) Legislative and advisory committees.—
442 (a) A legislative committee comprised of state legislators
443 or their designees shall be established to monitor the
444 operations of and make recommendations to the commission,
445 including the management committee; provided the manner of
446 selection and term of any legislative committee member shall be
447 as set forth in the bylaws. Prior to the adoption by the

263352

448 commission of any uniform standard, revision to the bylaws,
449 annual budget, or other significant matter as may be provided in
450 the bylaws, the management committee shall consult with and
451 report to the legislative committee.
452 (b) The commission shall establish two advisory committees,
453 one comprising consumer representatives independent of the
454 insurance industry and the other comprising insurance industry
455 representatives.
456 (c) The commission may establish additional advisory
457 committees as the bylaws may provide for the carrying out of
458 commission functions.
459 (4) Corporate records of the commission.—The commission
460 shall maintain its corporate books and records in accordance
461 with the bylaws.
462 (5) Qualified immunity, defense and indemnification.—
463 (a) The members, officers, executive director, employees,
464 and representatives of the commission shall be immune from suit
465 and liability, either personally or in their official capacity,
466 for any claim for damage to or loss of property or personal
467 injury or other civil liability caused by or arising out of any
468 actual or alleged act, error, or omission that occurred, or that
469 the person against whom the claim is made had a reasonable basis
470 for believing occurred within the scope of commission
471 employment, duties, or responsibilities; provided nothing in
472 this paragraph shall be construed to protect any such person
473 from suit or liability for any damage, loss, injury, or
474 liability caused by the intentional or willful and wanton
475 misconduct of that person.
476 (b) The commission shall defend any member, officer,

263352

477 executive director, employee, or representative of the
478 commission in any civil action seeking to impose liability
479 arising out of any actual or alleged act, error, or omission
480 that occurred within the scope of commission employment, duties,
481 or responsibilities, or that the person against whom the claim
482 is made had a reasonable basis for believing occurred within the
483 scope of commission employment, duties, or responsibilities;
484 provided nothing in this article shall be construed to prohibit
485 that person from retaining his or her own counsel and the actual
486 or alleged act, error, or omission did not result from that
487 person's intentional or willful and wanton misconduct.
488 (c) The commission shall indemnify and hold harmless any
489 member, officer, executive director, employee, or representative
490 of the commission for the amount of any settlement or judgment
491 obtained against that person arising out of any actual or
492 alleged act, error, or omission that occurred within the scope
493 of commission employment, duties, or responsibilities, or that
494 such person had a reasonable basis for believing occurred within
495 the scope of commission employment, duties, or responsibilities;
496 provided the actual or alleged act, error, or omission did not
497 result from the intentional or willful and wanton misconduct of
498 that person.
499
500 Article VI
501
502 MEETINGS; ACTS.—
503 (1) The commission shall meet and take such actions as are
504 consistent with the provisions of this compact and the bylaws.
505 (2) Each member of the commission shall have the right and

263352

506 power to cast a vote to which that compacting state is entitled
507 and to participate in the business and affairs of the
508 commission. A member shall vote in person or by such other means
509 as provided in the bylaws. The bylaws may provide for members'
510 participation in meetings by telephone or other means of
511 communication.
512 (3) The commission shall meet at least once during each
513 calendar year. Additional meetings shall be held as set forth in
514 the bylaws.
515
516 Article VII
517
518 RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE
519 COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—
520 (1) Rulemaking authority.—The commission shall adopt
521 reasonable rules, including uniform standards, and operating
522 procedures in order to effectively and efficiently achieve the
523 purposes of this compact. Notwithstanding such requirement, if
524 the commission exercises its rulemaking authority in a manner
525 that is beyond the scope of the purposes of this compact or the
526 powers granted under this compact, such action by the commission
527 shall be invalid and have no force and effect.
528 (2) Rulemaking procedure.—Rules and operating procedures
529 shall be made pursuant to a rulemaking process that conforms to
530 the Model State Administrative Procedure Act of 1981, as
531 amended, as may be appropriate to the operations of the
532 commission. Before the commission adopts a uniform standard, the
533 commission shall give written notice to the relevant state
534 legislative committees in each compacting state responsible for

263352

535 insurance issues of its intention to adopt the uniform standard.
536 The commission in adopting a uniform standard shall consider
537 fully all submitted materials and issue a concise explanation of
538 its decision.
539 (3) Effective date and opt out of a uniform standard.—A
540 uniform standard shall become effective 90 days after its
541 adoption by the commission or such later date as the commission
542 may determine; provided a compacting state may opt out of a
543 uniform standard as provided in this act. The term "opt out"
544 means any action by a compacting state to decline to adopt or
545 participate in an adopted uniform standard. All other rules and
546 operating procedures, and amendments thereto, shall become
547 effective as of the date specified in each rule, operating
548 procedure, or amendment.
549 (4) Opt out procedure.—
550 (a) A compacting state may opt out of a uniform standard by
551 legislation or regulation adopted by the compacting state under
552 such state's Administrative Procedure Act. If a compacting state
553 elects to opt out of a uniform standard by regulation, such
554 state must:
555 1. Give written notice to the commission no later than 10
556 business days after the uniform standard is adopted, or at the
557 time the state becomes a compacting state.
558 2. Find that the uniform standard does not provide
559 reasonable protections to the citizens of the state, given the
560 conditions in the state.
561 (b) The commissioner of a compacting state other than this
562 state shall make specific findings of fact and conclusions of
563 law, based on a preponderance of the evidence, detailing the

263352

564 conditions in the state which warrant a departure from the
565 uniform standard and determining that the uniform standard would
566 not reasonably protect the citizens of the state. The
567 commissioner must consider and balance the following factors and
568 find that the conditions in the state and needs of the citizens
569 of the state outweigh:
570 1. The intent of the Legislature to participate in, and the
571 benefits of, an interstate agreement to establish national
572 uniform consumer protections for the products subject to this
573 compact.
574 2. The presumption that a uniform standard adopted by the
575 commission provides reasonable protections to consumers of the
576 relevant product.
577
578 Notwithstanding this subsection, a compacting state may, at the
579 time of its enactment of this compact, prospectively opt out of
580 all uniform standards involving long-term care insurance
581 products by expressly providing for such opt out in the enacted
582 compact, and such an opt out shall not be treated as a material
583 variance in the offer or acceptance of any state to participate
584 in this compact. Such an opt out shall be effective at the time
585 of enactment of this compact by the compacting state and shall
586 apply to all existing uniform standards involving long-term care
587 insurance products and those subsequently adopted.
588 (5) Effect of opting out.—If a compacting state elects to
589 opt out of a uniform standard, the uniform standard shall remain
590 applicable in the compacting state electing to opt out until
591 such time as the opt out legislation is enacted into law or the
592 regulation opting out becomes effective. Once the opt out of a

263352

593 uniform standard by a compacting state becomes effective as
594 provided under the laws of that state, the uniform standard
595 shall have no further force and effect in that state unless and
596 until the legislation or regulation implementing the opt out is
597 repealed or otherwise becomes ineffective under the laws of the
598 state. If a compacting state opts out of a uniform standard
599 after the uniform standard has been made effective in that
600 state, the opt out shall have the same prospective effect as
601 provided under Article XIV for withdrawals.
602 (6) Stay of uniform standard.—If a compacting state has
603 formally initiated the process of opting out of a uniform
604 standard by regulation, and while the regulatory opt out is
605 pending, the compacting state may petition the commission, at
606 least 15 days before the effective date of the uniform standard,
607 to stay the effectiveness of the uniform standard in that state.
608 The commission may grant a stay if the commission determines the
609 regulatory opt out is being pursued in a reasonable manner and
610 there is a likelihood of success. If a stay is granted or
611 extended by the commission, the stay or extension thereof may
612 postpone the effective date by up to 90 days, unless
613 affirmatively extended by the commission; provided a stay may
614 not be permitted to remain in effect for more than 1 year unless
615 the compacting state can show extraordinary circumstances which
616 warrant a continuance of the stay, including, but not limited
617 to, the existence of a legal challenge which prevents the
618 compacting state from opting out. A stay may be terminated by
619 the commission upon notice that the rulemaking process has been
620 terminated.
621 (7) Judicial review.—Within 30 days after a rule or

263352

622 operating procedure is adopted, any person may file a petition
623 for judicial review of the rule or operating procedure; provided
624 the filing of such a petition shall not stay or otherwise
625 prevent the rule or operating procedure from becoming effective
626 unless the court finds that the petitioner has a substantial
627 likelihood of success. The court shall give deference to the
628 actions of the commission consistent with applicable law and
629 shall not find the rule or operating procedure to be unlawful if
630 the rule or operating procedure represents a reasonable exercise
631 of the commission's authority.
632
633 Article VIII
634
635 COMMISSION RECORDS AND ENFORCEMENT.—
636 (1) The commission shall adopt rules establishing
637 conditions and procedures for public inspection and copying of
638 its information and official records, except such information
639 and records involving the privacy of individuals and insurers'
640 trade secrets. The commission may adopt additional rules under
641 which the commission may make available to federal and state
642 agencies, including law enforcement agencies, records and
643 information otherwise exempt from disclosure and may enter into
644 agreements with such agencies to receive or exchange information
645 or records subject to nondisclosure and confidentiality
646 provisions.
647 (2) Except as to privileged records, data, and information,
648 the laws of any compacting state pertaining to confidentiality
649 or nondisclosure shall not relieve any compacting state
650 commissioner of the duty to disclose any relevant records, data,

263352

651 or information to the commission; provided disclosure to the
652 commission shall not be deemed to waive or otherwise affect any
653 confidentiality requirement; and further provided, except as
654 otherwise expressly provided in this compact, the commission
655 shall not be subject to the compacting state's laws pertaining
656 to confidentiality and nondisclosure with respect to records,
657 data, and information in its possession. Confidential
658 information of the commission shall remain confidential after
659 such information is provided to any commissioner; however, all
660 requests from the public to inspect or copy records, data, or
661 information of the commission, wherever received, by and in the
662 possession of the office, commissioner, or the commissioner's
663 designee shall be subject to chapter 119, Florida Statutes.
664 (3) The commission shall monitor compacting states for
665 compliance with duly adopted bylaws, rules, uniform standards,
666 and operating procedures. The commission shall notify any
667 noncomplying compacting state in writing of its noncompliance
668 with commission bylaws, rules, or operating procedures. If a
669 noncomplying compacting state fails to remedy its noncompliance
670 within the time specified in the notice of noncompliance, the
671 compacting state shall be deemed to be in default as set forth
672 in Article XIV of this compact.
673 (4) The commissioner of any state in which an insurer is
674 authorized to do business or is conducting the business of
675 insurance shall continue to exercise his or her authority to
676 oversee the market regulation of the activities of the insurer
677 in accordance with the provisions of the state's law. The
678 commissioner's enforcement of compliance with the compact is
679 governed by the following provisions:

263352

680 (a) With respect to the commissioner's market regulation of
681 a product or advertisement that is approved or certified to the
682 commission, the content of the product or advertisement shall
683 not constitute a violation of the provisions, standards, or
684 requirements of the compact except upon a final order of the
685 commission, issued at the request of a commissioner after prior
686 notice to the insurer and an opportunity for hearing before the
687 commission.
688 (b) Before a commissioner may bring an action for violation
689 of any provision, standard, or requirement of the compact
690 relating to the content of an advertisement not approved or
691 certified to the commission, the commission, or an authorized
692 commission officer or employee, must authorize the action.
693 However, authorization pursuant to this paragraph does not
694 require notice to the insurer, opportunity for hearing, or
695 disclosure of requests for authorization or records of the
696 commission's action on such requests.
697
698 Article IX
699
700 DISPUTE RESOLUTION.—The commission shall attempt, upon the
701 request of a member, to resolve any disputes or other issues
702 that are subject to this compact and which may arise between two
703 or more compacting states, or between compacting states and
704 noncompacting states, and the commission shall adopt an
705 operating procedure providing for resolution of such disputes.
706
707 Article X
708

263352

709 PRODUCT FILING AND APPROVAL.—
710 (1) Insurers and third-party filers seeking to have a
711 product approved by the commission shall file the product with
712 and pay applicable filing fees to the commission. Nothing in
713 this compact shall be construed to restrict or otherwise prevent
714 an insurer from filing its product with the insurance department
715 in any state in which the insurer is licensed to conduct the
716 business of insurance and such filing shall be subject to the
717 laws of the states where filed.
718 (2) The commission shall establish appropriate filing and
719 review processes and procedures pursuant to commission rules and
720 operating procedures. Notwithstanding any provision of this
721 article, the commission shall adopt rules to establish
722 conditions and procedures under which the commission will
723 provide public access to product filing information. In
724 establishing such rules, the commission shall consider the
725 interests of the public in having access to such information, as
726 well as protection of personal medical and financial information
727 and trade secrets, that may be contained in a product filing or
728 supporting information.
729 (3) Any product approved by the commission may be sold or
730 otherwise issued in those compacting states for which the
731 insurer is legally authorized to do business.
732
733 Article XI
734
735 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—
736 (1) Within 30 days after the commission has given notice of
737 a disapproved product or advertisement filed with the

263352

738 commission, the insurer or third-party filer whose filing was
739 disapproved may appeal the determination to a review panel
740 appointed by the commission. The commission shall adopt rules to
741 establish procedures for appointing such review panels and
742 provide for notice and hearing. An allegation that the
743 commission, in disapproving a product or advertisement filed
744 with the commission, acted arbitrarily, capriciously, or in a
745 manner that is an abuse of discretion or otherwise not in
746 accordance with the law, is subject to judicial review in
747 accordance with subsection (4) of Article III.
748 (2) The commission shall have authority to monitor, review,
749 and reconsider products and advertisement subsequent to their
750 filing or approval upon a finding that the product does not meet
751 the relevant uniform standard. Where appropriate, the commission
752 may withdraw or modify its approval after proper notice and
753 hearing, subject to the appeal process in subsection (1).
754
755 Article XII
756
757 FINANCE.—
758 (1) The commission shall pay or provide for the payment of
759 the reasonable expenses of the commission's establishment and
760 organization. To fund the cost of the commission's initial
761 operations, the commission may accept contributions and other
762 forms of funding from the National Association of Insurance
763 Commissioners, compacting states, and other sources.
764 Contributions and other forms of funding from other sources
765 shall be of such a nature that the independence of the
766 commission concerning the performance of commission duties shall

263352

767 not be compromised.
768 (2) The commission shall collect a filing fee from each
769 insurer and third-party filer filing a product with the
770 commission to cover the cost of the operations and activities of
771 the commission and its staff in a total amount sufficient to
772 cover the commission's annual budget.
773 (3) The commission's budget for a fiscal year shall not be
774 approved until the budget has been subject to notice and comment
775 as set forth in Article VII.
776 (4) The commission shall be exempt from all taxation in and
777 by the compacting states.
778 (5) The commission shall not pledge the credit of any
779 compacting state, except by and with the appropriate legal
780 authority of that compacting state.
781 (6) The commission shall keep complete and accurate
782 accounts of all its internal receipts, including grants and
783 donations, and disbursements of all funds under its control. The
784 internal financial accounts of the commission shall be subject
785 to the accounting procedures established under its bylaws. The
786 financial accounts and reports including the system of internal
787 controls and procedures of the commission shall be audited
788 annually by an independent certified public accountant. Upon the
789 determination of the commission, but no less frequently than
790 every 3 years, the review of the independent auditor shall
791 include a management and performance audit of the commission.
792 The commission shall make an annual report to the Governor and
793 the presiding officers of the Legislature of the compacting
794 states, which shall include a report of the independent audit.
795 The commission's internal accounts shall not be confidential and

263352

796 such materials may be shared with the commissioner of any
797 compacting state upon request; provided any work papers related
798 to any internal or independent audit and any information
799 regarding the privacy of individuals and insurers' proprietary
800 information, including trade secrets, shall remain confidential.
801 (7) No compacting state shall have any claim to or
802 ownership of any property held by or vested in the commission or
803 to any commission funds held pursuant to the provisions of this
804 compact.
805
806 Article XIII
807
808 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—
809 (1) Any state is eligible to become a compacting state.
810 (2) The compact shall become effective and binding upon
811 legislative enactment of the compact into law by two compacting
812 states; provided the commission shall become effective for
813 purposes of adopting uniform standards for, reviewing, and
814 giving approval or disapproval of, products filed with the
815 commission that satisfy applicable uniform standards only after
816 26 states are compacting states or, alternatively, by states
817 representing greater than 40 percent of the premium volume for
818 life insurance, annuity, disability income, and long-term care
819 insurance products, based on records of the National Association
820 of Insurance Commissioners for the prior year. Thereafter, the
821 compact shall become effective and binding as to any other
822 compacting state upon enactment of the compact into law by that
823 state.
824 (3) Amendments to the compact may be proposed by the

263352

825 commission for enactment by the compacting states. No amendment
826 shall become effective and binding upon the commission and the
827 compacting states unless and until all compacting states enact
828 the amendment into law.
829
830 Article XIV
831
832 WITHDRAWAL; DEFAULT; DISSOLUTION.—
833 (1) Withdrawal.—
834 (a) Once effective, the compact shall continue in force and
835 remain binding upon each and every compacting state; provided a
836 compacting state may withdraw from the compact by enacting a law
837 specifically repealing the law which enacted the compact into
838 law.
839 (b) The effective date of withdrawal is the effective date
840 of the repealing law. However, the withdrawal shall not apply to
841 any product filings approved or self-certified, or any
842 advertisement of such products, on the date the repealing law
843 becomes effective, except by mutual agreement of the commission
844 and the withdrawing state unless the approval is rescinded by
845 the withdrawing state as provided in paragraph (e).
846 (c) The commissioner of the withdrawing state shall
847 immediately notify the management committee in writing upon the
848 introduction of legislation repealing this compact in the
849 withdrawing state.
850 (d) The commission shall notify the other compacting states
851 of the introduction of such legislation within 10 days after the
852 commission’s receipt of notice of such legislation.
853 (e) The withdrawing state is responsible for all

263352

854 obligations, duties, and liabilities incurred through the
855 effective date of withdrawal, including any obligations, the
856 performance of which extend beyond the effective date of
857 withdrawal, except to the extent those obligations may have been
858 released or relinquished by mutual agreement of the commission
859 and the withdrawing state. The commission's approval of products
860 and advertisement prior to the effective date of withdrawal
861 shall continue to be effective and be given full force and
862 effect in the withdrawing state unless formally rescinded by the
863 withdrawing state in the same manner as provided by the laws of
864 the withdrawing state for the prospective disapproval of
865 products or advertisement previously approved under state law.
866 (f) Reinstatement following withdrawal of any compacting
867 state shall occur upon the effective date of the withdrawing
868 state reenacting the compact.
869 (2) Default.—
870 (a) If the commission determines that any compacting state
871 has at any time defaulted in the performance of any of its
872 obligations or responsibilities under this compact, the bylaws,
873 or duly adopted rules or operating procedures, after notice and
874 hearing as set forth in the bylaws, all rights, privileges, and
875 benefits conferred by this compact on the defaulting state shall
876 be suspended from the effective date of default as fixed by the
877 commission. The grounds for default include, but are not limited
878 to, failure of a compacting state to perform its obligations or
879 responsibilities, and any other grounds designated in commission
880 rules. The commission shall immediately notify the defaulting
881 state in writing of the defaulting state's suspension pending a
882 cure of the default. The commission shall stipulate the

263352

883 conditions and the time period within which the defaulting state
884 must cure its default. If the defaulting state fails to cure the
885 default within the time period specified by the commission, the
886 defaulting state shall be terminated from the compact and all
887 rights, privileges, and benefits conferred by this compact shall
888 be terminated from the effective date of termination.
889 (b) Product approvals by the commission or product self-
890 certifications, or any advertisement in connection with such
891 product that are in force on the effective date of termination
892 shall remain in force in the defaulting state in the same manner
893 as if the defaulting state had withdrawn voluntarily pursuant to
894 subsection (1).
895 (c) Reinstatement following termination of any compacting
896 state requires a reenactment of the compact.
897 (3) Dissolution of compact.—
898 (a) The compact dissolves effective upon the date of the
899 withdrawal or default of the compacting state which reduces
900 membership in the compact to a single compacting state.
901 (b) Upon the dissolution of this compact, the compact
902 becomes null and void and shall be of no further force or effect
903 and the business and affairs of the commission shall be
904 concluded and any surplus funds shall be distributed in
905 accordance with the bylaws.
906
907 Article XV
908
909 SEVERABILITY; CONSTRUCTION.—
910 (1) The provisions of this compact are severable and if any
911 phrase, clause, sentence, or provision is deemed unenforceable,

263352

912 the remaining provisions of the compact shall be enforceable.
913 (2) The provisions of this compact shall be liberally
914 construed to effectuate its purposes.
915
916 Article XVI
917
918 BINDING EFFECT OF COMPACT AND OTHER LAWS.—
919 (1) Binding effect of this compact.—
920 (a) All lawful actions of the commission, including all
921 rules and operating procedures adopted by the commission, are
922 binding upon the compacting states.
923 (b) All agreements between the commission and the
924 compacting states are binding in accordance with their terms.
925 (c) Upon the request of a party to a conflict over the
926 meaning or interpretation of commission actions, and upon a
927 majority vote of the compacting states, the commission may issue
928 advisory opinions regarding the meaning or interpretation in
929 dispute.
930 (d) If any provision of this compact exceeds the
931 constitutional limits imposed on the Legislature of any
932 compacting state, the obligations, duties, powers, or
933 jurisdiction sought to be conferred by that provision upon the
934 commission shall be ineffective as to that compacting state and
935 those obligations, duties, powers, or jurisdiction shall remain
936 in the compacting state and shall be exercised by the agency of
937 such state to which those obligations, duties, powers, or
938 jurisdiction are delegated by law in effect at the time this
939 compact becomes effective.
940 (2) Other laws.—

263352

941 (a) Nothing in this compact prevents the enforcement of any
942 other law of a compacting state, except as provided in paragraph
943 (b).
944 (b) For any product approved or certified to the
945 commission, the rules, uniform standards, and any other
946 requirements of the commission shall constitute the exclusive
947 provisions applicable to the content, approval, and
948 certification of such products. For advertisement that is
949 subject to the commission's authority, any rule, uniform
950 standard, or other requirement of the commission which governs
951 the content of the advertisement shall constitute the exclusive
952 provision that a commissioner may apply to the content of the
953 advertisement. Notwithstanding this paragraph, no action taken
954 by the commission shall abrogate or restrict:
955 1. The access of any person to state courts;
956 2. Remedies available under state law related to breach of
957 contract, tort, or other laws not specifically directed to the
958 content of the product;
959 3. State law relating to the construction of insurance
960 contracts; or
961 4. The authority of the attorney general of the state,
962 including, but not limited to, maintaining any actions or
963 proceedings, as authorized by law.
964 (c) All insurance products filed with individual states
965 shall be subject to the laws of those states.
966 Section 3. Election to opt out of all uniform standards
967 adopted by the commission involving long-term care insurance
968 products; adoption of existing uniform standards of the
969 commission; procedure for adoption of new or amended uniform

263352

970 standards; notification of new or amended uniform standards:
971 (1) Pursuant to Article VII of the compact, authorized in
972 this act, the State of Florida prospectively opts out of all
973 uniform standards adopted by the commission involving long-term
974 care insurance products, and such opt out shall not be treated
975 as a material variance in the offer or acceptance of this state
976 to participate in the compact.
977 (2) Except as provided in subsection (1), all uniform
978 standards adopted by the commission as of March 1, 2013 are
979 adopted by this state.
980 (3) Notwithstanding subsections (3), (4), (5), and (6) of
981 Article VII, as a participant in this compact, it is the policy
982 of the State of Florida to opt out, and the office shall opt
983 out, of any new uniform standard adopted by the commission after
984 March 1, 2013 or amendments to existing uniform standards
985 adopted by the commission after March 1, 2013 where such
986 amendments substantially alter or add to existing uniform
987 standards adopted by this state in subsection (2) until such
988 time as this state enacts legislation to adopt or opt out of new
989 uniform standards or such amendments to uniform standards
990 adopted by the commission after March 1, 2013.
991 (4) The Financial Services Commission may adopt rules to
992 implement this act. It is the policy of the State of Florida
993 that this state's participation in new uniform standards or
994 amendments to uniform standards adopted after March 1, 2013 as
995 set out in subsection (3) that have not been legislatively
996 approved by this state may not reasonably protect the citizens
997 of this state based on Article XVI(1)(d) of this act. The
998 Financial Services Commission shall use the rulemaking authority

263352

999 granted in this subsection to opt out of any new uniform
1000 standards or amendments to existing uniform standards where such
1001 amendments substantially alter or add to existing uniform
1002 standards adopted by the State of Florida in subsection (2)
1003 until such uniform standards are legislatively approved by this
1004 state.
1005 (5) After enactment of this section, if the commission
1006 adopts any new uniform standard or amendment to uniform
1007 standards as set out in subsection (3), the office shall
1008 immediately notify the legislature of such new uniform standard
1009 or amendment to existing uniform standard. If the office or a
1010 court of competent jurisdiction finds that the procedure set out
1011 in subsection(3) has not been followed, notice shall be given to
1012 the legislature, and reasonable and prompt measures shall be
1013 taken to opt out of a uniform standard that has not been
1014 legislatively approved by the State of Florida.
1015 Section 4. Notwithstanding subsection (4) of Article XII,
1016 the commission is subject to:
1017 (1) State unemployment or reemployment taxes imposed
1018 pursuant to chapter 443, Florida Statutes, in compliance with
1019 the Federal Unemployment Tax Act, for any persons employed by
1020 the commission who perform services for it within this state.
1021 (2) Taxation for any commission business or activity
1022 conducted or performed in the State of Florida.
1023 Section 5. Notwithstanding subsections (1) and (2) of
1024 Article VIII, subsection (2) of Article X, and subsection (6) of
1025 Article XII of this act, a request by a resident of this state
1026 for public inspection and copying of information, data, or
1027 official records that includes:

263352

1028 (1) Insurer's trade secrets shall be referred to the
1029 commissioner who shall respond to the request, with the
1030 cooperation and assistance of the commission, in accordance with
1031 section 624.4213, Florida Statutes; or
1032 (2) Matters of privacy of individuals shall be referred to
1033 the commissioner who shall respond to the request, with the
1034 cooperation and assistance of the commission, in accordance with
1035 section 119.071, Florida Statutes.
1036 (3) Nothing in this act abrogates a person's right to
1037 access information consistent with the Constitution and laws of
1038 the State of Florida.
1039 Section 6. The Financial Services Commission may adopt
1040 rules to implement this act. The Financial Services Commission
1041 may use the rulemaking authority granted in this section to opt
1042 out of any new uniform standards adopted after October 1, 2013,
1043 pursuant to Article VII, until such standards are approved by
1044 the Legislature.
1045 Section 7. This act shall take effect October 1, 2013.
1046
1047 ========== T I T L E A M E N D M E N T ==========
1048 And the title is amended as follows:
1049 Delete everything before the enacting clause
1050 and insert:
1051 A bill to be entitled
1052 An act relating to the Interstate Insurance Product
1053 Regulation Compact; providing legislative findings and
1054 intent; providing purposes; providing definitions;
1055 providing for the establishment of an Interstate
1056 Insurance Product Regulation Commission; providing

263352

1057 responsibilities of the commission; specifying the
1058 commission as an instrumentality of the compacting
1059 states; providing for venue; specifying the commission
1060 as a separate, not-for-profit entity; providing powers
1061 of the commission; providing for organization of the
1062 commission; providing for membership, voting, and
1063 bylaws; designating the Commissioner of Insurance
1064 Regulation as the representative of the state on the
1065 commission; allowing the Commissioner of Insurance to
1066 designate a person to represent the state on the
1067 commission, as is necessary, to fulfill the duties of
1068 being a member of the commission; providing for a
1069 management committee, officers, and personnel of the
1070 commission; providing authority of the management
1071 committee; providing for legislative and advisory
1072 committees; providing for qualified immunity, defense,
1073 and indemnification of members, officers, employees,
1074 and representatives of the commission; providing for
1075 meetings and acts of the commission; providing rules
1076 and operating procedures; providing rulemaking
1077 functions of the commission; providing for opting out
1078 of uniform standards; providing procedures and
1079 requirements; providing for commission records and
1080 enforcement; authorizing the commission to adopt
1081 rules; providing for disclosure of certain
1082 information; specifying that certain records, data, or
1083 information of the commission, wherever received, by
1084 and in possession of the Office of Insurance
1085 Regulation is subject to ch. 119, F.S.; requiring the

263352

1086 commission to monitor for compliance; providing for
1087 dispute resolution; providing for product filing and
1088 approval; requiring the commission to establish filing
1089 and review processes and procedures; providing for
1090 review of commission decisions regarding filings;
1091 providing for finance of commission activities;
1092 providing for payment of expenses; authorizing the
1093 commission to collect filing fees for certain
1094 purposes; providing for approval of a commission
1095 budget; exempting the commission from all taxation,
1096 except as otherwise provided; prohibiting the
1097 commission from pledging the credit of any compacting
1098 states without authority; requiring the commission to
1099 keep complete accurate accounts, provide for audits,
1100 and make annual reports to the Governors and
1101 Legislatures of compacting states; providing for
1102 amendment of the compact; providing for withdrawal
1103 from the compact, default by compacting states, and
1104 dissolution of the compact; providing severability and
1105 construction; providing for binding effect of this
1106 compact and other laws; prospectively opting out of
1107 all uniform standards adopted by the commission
1108 involving long-term care insurance products; adopting
1109 all other existing uniform standards that have been
1110 adopted by the commission; providing a procedure for
1111 adoption of any new uniform standards or amendments to
1112 existing uniform standards of the commission;
1113 requiring the office to notify the Legislature of any
1114 new uniform standards or amendments to existing

263352

1115 uniform standards of the commission; providing that
1116 any new uniform standards or amendments to existing
1117 uniform standards of the commission may only be
1118 adopted via legislation; authorizing the Financial
1119 Services Commission to adopt rules to implement this
1120 act and opt out of certain uniform standards;
1121 providing an effective date.

270236

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Richter) recommended the following:

1 **Senate Amendment to Amendment (263352)**
2
3 Delete lines 476 - 488
4 and insert:
5 (b) The liability of the members, officers, executive
6 director, employees, and representatives of the commission
7 acting within the scope of such persons' employment or duties,
8 for acts, errors, or omissions occurring within this state, may
9 not exceed the limits of liability set forth under the
10 constitution and laws of this state for state officials,
11 employees, and agents. The commission is an instrumentality of
12 the state for the purposes of any such action. This subsection

270236

13 does not protect such persons from suit or liability for damage,
14 loss, injury, or liability caused by a criminal act or the
15 intentional or willful and wanton misconduct of such person.
16 (c) The commission shall defend any member, officer,
17 executive director, employee, or representative of the
18 commission in any civil action seeking to impose liability
19 arising out of any actual or alleged act, error, or omission
20 that occurred within the scope of commission employment, duties,
21 or responsibilities, or where the person against whom the claim
22 is made has a reasonable basis for believing occurred within the
23 scope of commission employment, duties, or responsibilities if
24 the actual or alleged act, error, or omission did not result
25 from that person's intentional or willful and wanton misconduct.
26 This article does not prohibit that person from retaining his or
27 her own counsel.
28 (d) The commission shall indemnify and hold harmless any

By Senator Hukill

8-00392-13 2013242__

A bill to be entitled

An act relating to the Interstate Insurance Product Regulation Compact; providing legislative findings and intent; providing purposes; providing definitions; providing for establishment of an Interstate Insurance Product Regulation Commission; providing responsibilities of the commission; specifying the commission as an instrumentality of the compacting states; providing for venue; specifying the commission as a separate, not-for-profit entity; providing powers of the commission; providing for organization of the commission; providing for membership, voting, and bylaws; designating the Commissioner of Insurance Regulation as the representative of this state on the commission; providing for a management committee, officers, and personnel of the commission; providing authority of the management committee; providing for legislative and advisory committees; providing for qualified immunity, defense, and indemnification of members, officers, employees, and representatives of the commission; providing for meetings and acts of the commission; providing rules and operating procedures; providing rulemaking functions of the commission; providing for opting out of uniform standards; providing procedures and requirements; providing for commission records and enforcement; authorizing the commission to adopt rules; providing for disclosure of certain information; specifying that certain records, data, or information of the commission in possession

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of the Office of Insurance Regulation is subject to ch. 119, F.S.; requiring the commission to monitor for compliance; providing for dispute resolution; providing for product filing and approval; requiring the commission to establish filing and review processes and procedures; providing for review of commission decisions regarding filings; providing for finance of commission activities; providing for payment of expenses; authorizing the commission to collect filing fees for certain purposes; providing for approval of a commission budget; exempting the commission from all taxation; prohibiting the commission from pledging the credit of any compacting states without authority; requiring the commission to keep complete accurate accounts, provide for audits, and make annual reports to the Governors and Legislatures of compacting states; providing for effective date and amendment of the compact; providing for withdrawal from the compact, default by compacting states, and dissolution of the compact; providing severability and construction; providing for binding effect of compact and other laws; authorizing the office to exercise the state's right to prospectively opt out of all uniform standards in the compact involving long-term care insurance products; providing an effective date.

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

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59 Section 1. Legislative findings; intent.—
60 (1) The Legislature finds that:
61 (a) The financial services marketplace has changed
62 significantly in recent years and that asset-based insurance
63 products, which include life insurance, annuities, disability
64 income insurance, and long-term care insurance, now compete
65 directly with other retirement and estate planning instruments
66 that are sold by banks and securities firms.
67 (b) The increased mobility of the population and the risks
68 borne by these asset-based products are not local in nature.
69 (c) The Interstate Insurance Product Regulation Compact
70 Model adopted by the National Association of Insurance
71 Commissioners and endorsed by the National Conference of
72 Insurance Legislators and the National Conference of State
73 Legislatures is designed to address these market changes by
74 providing a uniform set of product standards and a single source
75 for filing new products.
76 (d) The product standards that have been developed provide
77 a high level of consumer protection. It is noted that the
78 Interstate Insurance Product Regulation Compact Model includes a
79 mechanism for opting out of any product standard that the state
80 determines would not reasonably protect its residents. With
81 respect to long-term care insurance, the Legislature understands
82 that the compact does not intend to develop a uniform standard
83 for rate increase filings, thereby leaving the authority over
84 long-term care rate increases with the state. The state relies
85 on that understanding in adopting this legislation.
86 (2) Therefore, the state, pursuant to the terms and
87 conditions of this act, seeks to join with other states and

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88 establish the Interstate Insurance Product Regulation Compact,
89 and thus become a member of the Interstate Insurance Product
90 Regulation Commission.
91 Section 2. Interstate Insurance Product Regulation
92 Compact.—The Interstate Insurance Product Regulation Compact is
93 hereby enacted into law and entered into by this state together
94 with all other states legally joining in substantially the
95 following form:
96
97 Interstate Insurance Product Regulation Compact
98
99 Preamble
100
101 This compact is intended to help states join together to
102 establish an interstate compact to regulate designated insurance
103 products. Pursuant to the terms and conditions of this compact,
104 this state seeks to join with other states and establish the
105 Interstate Insurance Product Regulation Compact and thus become
106 a member of the Interstate Insurance Product Regulation
107 Commission.
108
109 Article I
110
111 PURPOSES.—Through joint and cooperative action among
112 compacting states, the purposes of this compact are to:
113 (1) Promote and protect the interest of consumers of
114 individual and group annuity, life insurance, disability income,
115 and long-term care insurance products.
116 (2) Develop uniform standards for insurance products

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117 covered under the compact.
118 (3) Establish a central clearinghouse to receive and
119 provide prompt review of insurance products covered under the
120 compact and, in certain cases, related advertisements, submitted
121 by insurers authorized to do business in one or more compacting
122 states.
123 (4) Give appropriate regulatory approval to those product
124 filings and advertisements satisfying the applicable uniform
125 standard.
126 (5) Improve coordination of regulatory resources and
127 expertise between state insurance departments regarding the
128 setting of uniform standards and review of insurance products
129 covered under the compact.
130 (6) Create the Interstate Insurance Product Regulation
131 Commission.
132 (7) Perform these and such other related functions
133 consistent with the state regulation of the business of
134 insurance.
135
136 Article II
137
138 DEFINITIONS.—For purposes of this compact:
139 (1) "Advertisement" means any material designed to create
140 public interest in a product, or induce the public to purchase,
141 increase, modify, reinstate, borrow on, surrender, replace, or
142 retain a policy, as more specifically defined in the rules and
143 operating procedures of the commission adopted as of December
144 31, 2011, and subsequent amendments if the methodology remains
145 substantially consistent.

146 (2) "Bylaws" means those bylaws adopted by the commission
147 as of March 1, 2013, and subsequent amendments if the
148 methodology remains substantially consistent, for its governance
149 or for directing or controlling the commission's actions or
150 conduct.
151 (3) "Commission" means the "Interstate Insurance Product
152 Regulation Commission" established by this compact.
153 (4) "Commissioner" means the chief insurance regulatory
154 official of a state, including, but not limited to,
155 commissioner, superintendent, director, or administrator. For
156 purposes of this compact, the Commissioner of Insurance
157 Regulation is the chief insurance regulatory official of this
158 state.
159 (5) "Compacting state" means any state that has enacted
160 this compact legislation and has not withdrawn pursuant to
161 section (1) of Article XIV or been terminated pursuant to
162 section (2) of Article XIV.
163 (6) "Domiciliary state" means the state in which an insurer
164 is incorporated or organized or, in the case of an alien
165 insurer, its state of entry.
166 (7) "Insurer" means any entity licensed by a state to issue
167 contracts of insurance for any of the lines of insurance covered
168 by this compact.
169 (8) "Member" means the person chosen by a compacting state
170 as its representative to the commission, or his or her designee.
171 (9) "Noncompacting state" means any state that is not a
172 compacting state at this time.
173 (10) "Office" means the Office of Insurance Regulation of
174 the Department of Financial Services.

175 (11) "Operating procedures" means procedures adopted by the
176 commission as of December 31, 2011, and subsequent amendments if
177 the methodology remains substantially consistent, implementing a
178 rule, uniform standard, or provision of this compact.
179 (12) "Product" means the form of a policy or contract,
180 including any application, endorsement, or related form, which
181 is attached to and made a part of the policy or contract, and
182 any evidence of coverage or certificate, for an individual or
183 group annuity, life insurance, disability income, or long-term
184 care insurance product that an insurer is authorized to issue.
185 (13) "Rule" means a statement of general or particular
186 applicability and future effect adopted by the commission as of
187 March 1, 2013, and subsequent amendments if the methodology
188 remains substantially consistent, including a uniform standard
189 developed pursuant to Article VII, designed to implement,
190 interpret, or prescribe law or policy or describing the
191 organization, procedure, or practice requirements of the
192 commission, which have the force and effect of law in the
193 compacting states.
194 (14) "State" means any state, district, or territory of the
195 United States.
196 (15) "Third-party filer" means an entity that submits a
197 product filing to the commission on behalf of an insurer.
198 (16) "Uniform standard" means a standard adopted by the
199 commission as of March 1, 2013, and subsequent amendments if the
200 methodology remains substantially consistent, for a product line
201 pursuant to Article VII and includes all of the product
202 requirements in aggregate; provided, each uniform standard is
203 construed, whether express or implied, to prohibit the use of

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204 any inconsistent, misleading, or ambiguous provisions in a
205 product and the form of the product made available to the public
206 is not unfair, inequitable, or against public policy as
207 determined by the commission.
208
209 Article III
210
211 COMMISSION; ESTABLISHMENT; VENUE.—
212 (1) The compacting states hereby create and establish a
213 joint public agency known as the Interstate Insurance Product
214 Regulation Commission. Pursuant to Article IV, the commission
215 may develop uniform standards for product lines, receive and
216 provide prompt review of products filed with the commission, and
217 give approval to those product filings satisfying applicable
218 uniform standards. However, it is not intended that the
219 commission be the exclusive entity for receipt and review of
220 insurance product filings. This article does not prohibit any
221 insurer from filing its product in any state in which the
222 insurer is licensed to conduct the business of insurance and
223 such filing is subject to the laws of that state.
224 (2) The commission is a body corporate and politic and an
225 instrumentality of the compacting states.
226 (3) The commission is solely responsible for its
227 liabilities, except as otherwise specifically provided in this
228 compact.
229 (4) Venue is proper and judicial proceedings by or against
230 the commission must be brought in a court where the principal
231 office of the commission is located.
232 (5) The commission is a not-for-profit entity, separate and

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233 distinct from the individual compacting states.
234
235 Article IV
236
237 POWERS.—The commission may:
238 (1) Adopt rules, pursuant to Article VII, which have the
239 force and effect of law and are binding in the compacting states
240 to the extent and in the manner provided in this compact.
241 (2) Exercise its rulemaking authority and establish
242 reasonable uniform standards for products covered under the
243 compact, and related advertisements, which have the force and
244 effect of law and are binding in the compacting states, but only
245 for those products filed with the commission. However, a
246 compacting state may opt out of a uniform standard pursuant to
247 Article VII, and any uniform standard established by the
248 commission for long-term care insurance products must provide to
249 consumers, at the minimum, the same protections as those
250 specified in the National Association of Insurance
251 Commissioners' Long-Term Care Insurance Model Act and Long-Term
252 Care Insurance Model Regulation, respectively, adopted as of
253 2001. The commission shall consider whether any subsequent
254 amendments to the model act or model regulation require amending
255 the uniform standards established by the commission for long-
256 term care insurance products.
257 (3) Expeditiously receive and review products filed with
258 the commission and rate filings for disability income and long-
259 term care insurance products and approve those products and rate
260 filings that satisfy the applicable uniform standard, and such
261 approval has the force and effect of law and is binding on the

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262 compacting states to the extent and in the manner provided in
263 the compact.
264 (4) Expeditiously receive and review advertisement relating
265 to long-term care insurance products for which uniform standards
266 have been adopted by the commission, and approve all
267 advertisement that satisfies the applicable uniform standard.
268 For any product covered under this compact, other than long-term
269 care insurance products, the commission may require an insurer
270 to submit all or part of its advertisement with respect to that
271 product for review or approval before use if the commission
272 determines that the nature of the product is such that an
273 advertisement of the product could have the capacity or tendency
274 to mislead the public. The actions of the commission as provided
275 in this section have the force and effect of law and are binding
276 in the compacting states to the extent and in the manner
277 provided in the compact.
278 (5) Exercise its rulemaking authority and designate
279 products and advertisement that may be subject to a self-
280 certification process without the need for prior approval by the
281 commission.
282 (6) Adopt operating procedures, pursuant to Article VII,
283 which are binding in the compacting states to the extent and in
284 the manner provided in this compact.
285 (7) Bring and prosecute legal proceedings or actions in its
286 name as the commission if the standing of any state insurance
287 department to sue or be sued under applicable law is not
288 affected.
289 (8) Issue subpoenas requiring the attendance and testimony
290 of witnesses and the production of evidence.

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291 (9) Establish and maintain offices.
292 (10) Purchase and maintain insurance and bonds.
293 (11) Borrow, accept, or contract for services of personnel,
294 including, but not limited to, employees of a compacting state.
295 (12) Hire employees, professionals, or specialists; elect
296 or appoint officers and fix their compensation, define their
297 duties, give them appropriate authority to carry out the
298 purposes of the compact, and determine their qualifications; and
299 establish the commission's personnel policies and programs
300 relating to, among other things, conflicts of interest, rates of
301 compensation, and qualifications of personnel.
302 (13) Accept all appropriate donations and grants of money,
303 equipment, supplies, materials, and services and receive, use,
304 and dispose of the same. The commission shall strive at all
305 times to avoid any appearance of impropriety.
306 (14) Lease, purchase, and accept appropriate gifts or
307 donations of, or otherwise own, hold, improve, or use, any
308 property, real, personal, or mixed. The commission shall strive
309 at all times to avoid any appearance of impropriety.
310 (15) Sell, convey, mortgage, pledge, lease, exchange,
311 abandon, or otherwise dispose of property, real, personal, or
312 mixed.
313 (16) Remit filing fees to compacting states as may be
314 specified in the bylaws, rules, or operating procedures.
315 (17) Enforce compliance by compacting states with rules,
316 uniform standards, operating procedures, and bylaws.
317 (18) Provide for dispute resolution among compacting
318 states.
319 (19) Advise compacting states on issues relating to

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320 insurers domiciled or doing business in noncompacting
321 jurisdictions, consistent with the purposes of this compact.
322 (20) Provide advice and training to those personnel in
323 state insurance departments responsible for product review and
324 be a resource for state insurance departments.
325 (21) Establish a budget and make expenditures.
326 (22) Borrow money.
327 (23) Appoint committees, including advisory committees,
328 comprising members, state insurance regulators, state
329 legislators or their representatives, insurance industry and
330 consumer representatives, and such other interested persons as
331 may be designated in the bylaws.
332 (24) Provide and receive information from and cooperate
333 with law enforcement agencies.
334 (25) Adopt and use a corporate seal.
335 (26) Perform such other functions as may be necessary or
336 appropriate to achieve the purposes of this compact consistent
337 with the state regulation of the business of insurance.
338
339 Article V
340
341 ORGANIZATION.—
342 (1) Membership; voting; bylaws.—
343 (a) Each compacting state shall have and is limited to one
344 member. Each member is qualified to serve in that capacity
345 pursuant to the applicable law of the compacting state. Any
346 member may be removed or suspended from office as provided by
347 the law of the state from which he or she is appointed. Any
348 vacancy occurring in the commission shall be filled in

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349 accordance with the laws of the compacting state in which the
350 vacancy exists. This article does not affect the manner in which
351 a compacting state determines the election or appointment and
352 qualification of its own commissioner. The Commissioner of
353 Insurance Regulation is hereby designated to serve as the
354 representative of this state on the commission.
355 (b) Each member is entitled to one vote and may participate
356 in the governance of the commission in accordance with the
357 bylaws. Notwithstanding any other provision of this article, an
358 action of the commission with respect to the adoption of a
359 uniform standard is not effective unless two-thirds of the
360 members vote in favor of such action.
361 (c) The commission shall, by a majority of the members,
362 prescribe bylaws to govern its conduct as may be necessary or
363 appropriate to carry out the purposes and exercise the powers of
364 the compact, including, but not limited to:
365 1. Establishing the fiscal year of the commission.
366 2. Providing reasonable procedures for appointing and
367 electing members, as well as holding meetings, of the management
368 committee.
369 3. Providing reasonable standards and procedures:
370 a. For the establishment and meetings of other committees.
371 b. Governing any general or specific delegation of any
372 authority or function of the commission.
373 4. Providing reasonable procedures for calling and
374 conducting commission meetings that consist of a majority of
375 commission members, ensuring reasonable advance notice of each
376 meeting, and providing for the right of citizens to attend each
377 meeting with enumerated exceptions designed to protect the

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378 public's interest, the privacy of individuals, and insurers'
379 proprietary information, including, but not limited to, trade
380 secrets. The commission may meet in camera only after a majority
381 of the entire membership votes to close a meeting in total or in
382 part. As soon as practicable, the commission must make public a
383 copy of the vote to close the meeting revealing the vote of each
384 member with no proxy votes allowed, and votes taken during such
385 meeting. Notice of commission meetings, including instructions
386 for public participation, received by the office must be
387 published in the Florida Administrative Weekly.
388 5. Establishing the titles, duties, and authority and
389 reasonable procedures for the election of the officers of the
390 commission.
391 6. Providing reasonable standards and procedures for the
392 establishment of the personnel policies and programs of the
393 commission. Notwithstanding any civil service or other similar
394 laws of any compacting state, the bylaws exclusively govern the
395 personnel policies and programs of the commission.
396 7. Adopting a code of ethics to address permissible and
397 prohibited activities of commission members and employees.
398 8. Providing a mechanism for winding up the operations of
399 the commission and the equitable disposition of any surplus
400 funds that may exist after the termination of the compact after
401 the payment or reserving of all debts and obligations of the
402 commission.
403 (d) The commission shall publish its bylaws in a convenient
404 form and file a copy of the bylaws and any amendment to such
405 bylaws with the appropriate agency or officer in each compacting
406 state.

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407 (2) Management committee, officers, and personnel.—
408 (a) A management committee comprised of up to 14 members
409 shall be established as follows:
410 1. One member from each of the six compacting states with
411 the largest premium volume for individual and group annuities,
412 life, disability income, and long-term care insurance products,
413 determined from the records of the National Association of
414 Insurance Commissioners for the prior year.
415 2. Four members from those compacting states with at least
416 2 percent of the market based on the premium volume described
417 above, other than the six compacting states with the largest
418 premium volume, selected on a rotating basis as provided in the
419 bylaws.
420 3. Four members from those compacting states with less than
421 2 percent of the market, based on the premium volume described
422 above, with one selected from each of the four zone regions of
423 the National Association of Insurance Commissioners as provided
424 in the bylaws.
425 (b) The management committee shall have such authority and
426 duties as may be specified in the bylaws, including, but not
427 limited to:
428 1. Managing the affairs of the commission in a manner
429 consistent with the bylaws and purposes of the commission.
430 2. Establishing and overseeing an organizational structure
431 within, and appropriate procedures for, the commission to
432 provide for the creation of uniform standards and other rules,
433 receipt and review of product filings, administrative and
434 technical support functions, review of decisions regarding the
435 disapproval of a product filing, and the review of elections

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436 made by a compacting state to opt out of a uniform standard. A
437 uniform standard may not be submitted to the compacting states
438 for adoption unless approved by two-thirds of the members of the
439 management committee.
440 3. Overseeing the offices of the commission.
441 4. Planning, implementing, and coordinating communications
442 and activities with other state, federal, and local government
443 organizations in order to advance the goals of the commission.
444 (c) The commission shall annually elect officers from the
445 management committee, who have such authority and duties as may
446 be specified in the bylaws.
447 (d) Subject to commission approval, the management
448 committee may appoint or retain an executive director for such
449 period, upon such terms and conditions, and for such
450 compensation as the commission deems appropriate. The executive
451 director shall serve as secretary to the commission but may not
452 be a member of the commission. The executive director shall hire
453 and supervise such other staff as may be authorized by the
454 commission.
455 (3) Legislative and advisory committees.—
456 (a) A legislative committee comprised of state legislators
457 or their designees shall be established to monitor the
458 operations of and make recommendations to the commission,
459 including the management committee. The manner of selection and
460 term of any legislative committee member shall be as specified
461 in the bylaws. Before the adoption by the commission of any
462 uniform standard, revision to the bylaws, annual budget, or
463 other significant matter as may be provided in the bylaws, the
464 management committee shall consult with and report to the

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465 legislative committee.
466 (b) The commission shall establish two advisory committees,
467 one comprising consumer representatives independent of the
468 insurance industry and the other comprising insurance industry
469 representatives.
470 (c) The commission may establish additional advisory
471 committees as the bylaws may provide for the carrying out of
472 commission functions.
473 (4) Corporate records of the commission.—The commission
474 shall maintain its corporate books and records in accordance
475 with the bylaws.
476 (5) Qualified immunity; defense; indemnification.—
477 (a) The members, officers, executive director, employees,
478 and representatives of the commission are immune from suit and
479 liability, personally or in their official capacity, for any
480 claim for damage to or loss of property or personal injury or
481 other civil liability caused by or arising out of any actual or
482 alleged act, error, or omission that occurred, or that the
483 person against whom the claim is made had a reasonable basis for
484 believing occurred within the scope of commission employment,
485 duties, or responsibilities. This subsection does not protect
486 any such person from suit or liability for any damage, loss,
487 injury, or liability caused by that person's intentional or
488 willful and wanton misconduct.
489 (b) The commission shall defend any member, officer,
490 executive director, employee, or representative of the
491 commission in any civil action seeking to impose liability
492 arising out of any actual or alleged act, error, or omission
493 that occurred within the scope of commission employment, duties,

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494 or responsibilities, or that the person against whom the claim
495 is made had a reasonable basis for believing occurred within the
496 scope of commission employment, duties, or responsibilities if
497 the actual or alleged act, error, or omission did not result
498 from that person's intentional or willful and wanton misconduct.
499 However, such person is not prohibited from retaining his or her
500 own counsel.
501 (c) The commission shall indemnify and hold harmless any
502 member, officer, executive director, employee, or representative
503 of the commission for the amount of any settlement or judgment
504 obtained against that person arising out of any actual or
505 alleged act, error, or omission that occurred within the scope
506 of commission employment, duties, or responsibilities, or that
507 such person had a reasonable basis for believing occurred within
508 the scope of commission employment, duties, or responsibilities
509 if the actual or alleged act, error, or omission did not result
510 from the person's intentional or willful and wanton misconduct.
511
512 Article VI
513
514 MEETINGS; ACTS.—
515 (1) The commission shall meet and take such actions as are
516 consistent with this compact and the bylaws.
517 (2) Each member of the commission may cast a vote, to which
518 that compacting state is entitled, to participate in the
519 business and affairs of the commission. A member shall vote in
520 person or by such other means as provided in the bylaws. The
521 bylaws may provide for members' participation in meetings by
522 telephone or other means of communication.

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523 (3) The commission shall meet at least once during each
524 calendar year. Additional meetings shall be held as specified in
525 the bylaws.
526
527 Article VII
528
529 RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE
530 COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—
531 (1) Rulemaking authority.—The commission shall adopt
532 reasonable rules, including uniform standards, and operating
533 procedures in order to effectively and efficiently achieve the
534 purposes of this compact. Notwithstanding such requirement, if
535 the commission exercises its rulemaking authority in a manner
536 that is beyond the scope of the purposes of this compact or the
537 powers granted under this compact, such action by the commission
538 is invalid and has no force and effect.
539 (2) Rulemaking procedure.—Rules and operating procedures
540 shall be made pursuant to a rulemaking process that conforms to
541 the Model State Administrative Procedure Act of 1981, as
542 amended, as may be appropriate to the operations of the
543 commission. Before the commission adopts a uniform standard, the
544 commission shall give written notice to the relevant state
545 legislative committees in each compacting state responsible for
546 insurance issues of its intention to adopt the uniform standard.
547 In adopting a uniform standard, the commission shall fully
548 consider all submitted materials and issue a concise explanation
549 of its decision.
550 (3) Effective date and opt out of a uniform standard.—A
551 uniform standard is effective 90 days after its adoption by the

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552 commission, or such later date as the commission may determine.
553 However, a compacting state may opt out of a uniform standard as
554 provided in this article. The term "opt out" means any action by
555 a compacting state to decline to adopt or participate in an
556 adopted uniform standard. All other rules and operating
557 procedures, and amendments, become effective on the date
558 specified in each rule, operating procedure, or amendment.
559 (4) Opt-out procedure.—
560 (a) A compacting state may opt out of a uniform standard by
561 legislation or regulation under such state's Administrative
562 Procedure Act. For purposes of this compact and this state, the
563 Office of Insurance Regulation constitutes this state's agency
564 having jurisdiction for the purposes of this section. If a
565 compacting state elects to opt out of a uniform standard by
566 regulation, such state must:
567 1. Give written notice to the commission within 10 business
568 days after the uniform standard is adopted, or at the time the
569 state becomes a compacting state.
570 2. Find that the uniform standard does not provide
571 reasonable protections to the residents of that state, given the
572 conditions in the state.
573 (b) The commissioner shall make specific findings of fact
574 and conclusions of law, based on a preponderance of the
575 evidence, detailing the conditions in the state which warrant a
576 departure from the uniform standard and determining that the
577 uniform standard would not reasonably protect the residents of
578 that state. The commissioner must consider and balance the
579 following factors and find that the conditions in the state and
580 needs of the residents outweigh:

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581 1. The intent of the Legislature to participate in, and the
582 benefits of, an interstate agreement to establish national
583 uniform consumer protections for the products subject to this
584 compact.
585 2. The presumption that a uniform standard adopted by the
586 commission provides reasonable protections to consumers of the
587 relevant product.
588
589 Notwithstanding this section, a compacting state may, at the
590 time of its enactment of this compact, prospectively opt out of
591 all uniform standards involving long-term care insurance
592 products by expressly providing for such opt out in the enacted
593 compact, and such opt out may not be treated as a material
594 variance in the offer or acceptance of any state to participate
595 in this compact. Such opt out is effective at the time of
596 enactment of this compact by the compacting state and applies to
597 all existing uniform standards involving long-term care
598 insurance products and those subsequently adopted.
599 (5) Effect of opting out.—If a compacting state elects to
600 opt out of a uniform standard, the uniform standard remains
601 applicable in the compacting state electing to opt out until the
602 opt out legislation is enacted into law or the regulation opting
603 out becomes effective. Once the opt out of a uniform standard
604 becomes effective as provided under the laws of that state, the
605 uniform standard has no further force and effect in that state
606 unless the legislation or regulation implementing the opt out is
607 repealed or otherwise becomes ineffective under the laws of the
608 state. If a compacting state opts out of a uniform standard
609 after the uniform standard has been made effective in that

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610 state, the opt out has the same prospective effect as provided
611 under Article XIV for withdrawals.
612 (6) Stay of uniform standard.—If a compacting state has
613 formally initiated the process of opting out of a uniform
614 standard by rule, and while the regulatory opt out is pending,
615 the compacting state may petition the commission, at least 15
616 days before the effective date of the uniform standard, to stay
617 the effectiveness of the uniform standard in that state. The
618 commission may grant a stay if the commission determines the
619 regulatory opt out is being pursued in a reasonable manner and
620 there is a likelihood of success. If a stay is granted or
621 extended by the commission, the stay or extension may postpone
622 the effective date by up to 90 days, unless affirmatively
623 extended by the commission. However, a stay may not remain in
624 effect for more than 1 year unless the compacting state can show
625 extraordinary circumstances that warrant a continuance of the
626 stay, including, but not limited to, the existence of a legal
627 challenge that prevents the compacting state from opting out. A
628 stay may be terminated by the commission upon notice that the
629 rulemaking process has been terminated.
630 (7) Judicial review.—Within 30 days after a rule or
631 operating procedure is adopted, any person may file a petition
632 for judicial review of the rule or operating procedure. However,
633 the filing of such a petition does not stay or otherwise prevent
634 the rule or operating procedure from becoming effective unless
635 the court finds that the petitioner has a substantial likelihood
636 of success. The court shall give deference to the actions of the
637 commission consistent with applicable law and may not find the
638 rule or operating procedure to be unlawful if the rule or

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639 operating procedure represents a reasonable exercise of the
640 commission's authority.
641
642 Article VIII
643
644 COMMISSION RECORDS AND ENFORCEMENT.—
645 (1) The commission shall adopt rules establishing
646 conditions and procedures for public inspection and copying of
647 its information and official records, except for information and
648 records involving the privacy of individuals and insurers' trade
649 secrets. The commission may adopt additional rules under which
650 the commission may make available to federal and state agencies,
651 including law enforcement agencies, records and information
652 otherwise exempt from disclosure and may enter into agreements
653 with such agencies to receive or exchange information or records
654 subject to nondisclosure and confidentiality provisions.
655 (2) Except for privileged records, data, and information,
656 the laws of any compacting state pertaining to confidentiality
657 or nondisclosure do not relieve a compacting state commissioner
658 of the duty to disclose any relevant records, data, or
659 information to the commission if disclosure is not deemed to
660 waive or otherwise affect any confidentiality requirement, and,
661 except as otherwise expressly provided in this compact, the
662 commission is not subject to the compacting state's laws
663 pertaining to confidentiality and nondisclosure with respect to
664 records, data, and information in its possession. Confidential
665 information of the commission remains confidential after such
666 information is provided to any commissioner. However, all
667 requests from the public to inspect or copy records, data, or

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668 information of the commission received by and in the possession
669 of the office are subject to chapter 119, Florida Statutes.
670 (3) The commission shall monitor compacting states for
671 compliance with adopted bylaws, rules, uniform standards, and
672 operating procedures. The commission shall notify any
673 noncomplying compacting state in writing of such noncompliance.
674 If a noncomplying compacting state fails to remedy its
675 noncompliance within the time specified in the notice of
676 noncompliance, the compacting state shall be deemed to be in
677 default as specified in Article XIV.
678 (4) The commissioner of any state in which an insurer is
679 authorized to do business or is conducting the business of
680 insurance shall continue to exercise his or her authority to
681 oversee the market regulation of the activities of the insurer
682 in accordance with the state's law. The commissioner's
683 enforcement of compliance with the compact is governed by the
684 following:
685 (a) With respect to the commissioner's market regulation of
686 a product or advertisement that is approved or certified to the
687 commission, the content of the product or advertisement does not
688 constitute a violation of the provisions, standards, or
689 requirements of the compact except upon a final order of the
690 commission, issued at the request of a commissioner after prior
691 notice to the insurer and an opportunity for hearing before the
692 commission.
693 (b) Before a commissioner may bring an action for violation
694 of any provision, standard, or requirement of the compact
695 relating to the content of an advertisement not approved or
696 certified to the commission, the commission, or an authorized

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697 commission officer or employee, must authorize the action.
698 However, such authorization does not require notice to the
699 insurer, opportunity for hearing, or disclosure of requests for
700 authorization or records of the commission's action on such
701 requests.
702
703 Article IX
704
705 DISPUTE RESOLUTION.—Upon the request of a member, the
706 commission shall attempt to resolve any disputes or other issues
707 that are subject to this compact and that may arise between two
708 or more compacting states, or between compacting states and
709 noncompacting states. The commission shall adopt an operating
710 procedure providing for resolution of such disputes.
711
712 Article X
713
714 PRODUCT FILING AND APPROVAL.—
715 (1) Insurers and third-party filers seeking to have a
716 product approved by the commission shall file the product with
717 and pay applicable filing fees to the commission. This compact
718 does not restrict or otherwise prevent an insurer from filing
719 its product with the insurance department in any state in which
720 the insurer is licensed to conduct the business of insurance,
721 and such filing is subject to the laws of that state.
722 (2) The commission shall establish appropriate filing and
723 review processes and procedures pursuant to commission rules and
724 operating procedures. Notwithstanding any provision of this
725 article, the commission shall adopt rules to establish

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726 conditions and procedures under which the commission provides
727 public access to product filing information. In establishing
728 such rules, the commission shall consider the interests of the
729 public in having access to such information, as well as the
730 protection of personal medical and financial information and
731 trade secrets, which may be contained in a product filing or
732 supporting information.
733 (3) Any product approved by the commission may be sold or
734 otherwise issued in those compacting states for which the
735 insurer is legally authorized to do business.
736
737 Article XI
738
739 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—
740 (1) Within 30 days after the commission has given notice of
741 a disapproved product or advertisement filed with the
742 commission, the insurer or third-party filer whose filing was
743 disapproved may appeal the determination to a review panel
744 appointed by the commission. The commission shall adopt rules to
745 establish procedures for appointing such review panels and
746 provide for notice and hearing. An allegation that the
747 commission, in disapproving a product or advertisement filed
748 with the commission, acted arbitrarily, capriciously, or in a
749 manner that is an abuse of discretion or otherwise not in
750 accordance with the law, is subject to judicial review in
751 accordance with section (4) of Article III.
752 (2) The commission may monitor, review, and reconsider
753 products and advertisement subsequent to their filing or
754 approval upon a finding that the product does not meet the

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755 relevant uniform standard. If appropriate, the commission may
756 withdraw or modify its approval after proper notice and hearing,
757 subject to the appeal process in section (1).
758
759 Article XII
760
761 FINANCE.—
762 (1) The commission shall pay or provide for the payment of
763 the reasonable expenses of the commission's establishment and
764 organization. To fund the cost of the commission's initial
765 operations, the commission may accept contributions and other
766 forms of funding from the National Association of Insurance
767 Commissioners, compacting states, and other sources.
768 Contributions and other forms of funding from other sources must
769 be such that the independence of the commission concerning the
770 performance of commission duties is not compromised.
771 (2) The commission shall collect a filing fee from each
772 insurer and third-party filer filing a product with the
773 commission to cover the cost of the operations and activities of
774 the commission and its staff in a total amount sufficient to
775 cover the commission's annual budget.
776 (3) The commission's budget for a fiscal year may not be
777 approved until the budget has been subject to notice and comment
778 as specified in Article VII.
779 (4) The commission is exempt from all taxation in and by
780 the compacting states.
781 (5) The commission may not pledge the credit of any
782 compacting state, except by and with the appropriate legal
783 authority of the compacting state.

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784 (6) The commission shall keep complete and accurate
785 accounts of all its internal receipts, including grants and
786 donations, and disbursements of all funds under its control. The
787 internal financial accounts of the commission are subject to the
788 accounting procedures established under its bylaws. The
789 financial accounts and reports, including the system of internal
790 controls and procedures of the commission, shall be audited
791 annually by an independent certified public accountant. Upon the
792 determination of the commission, but at least every 3 years, the
793 review of the independent auditor must include a management and
794 performance audit of the commission. The commission shall make
795 an annual report to the Governor and the presiding officers of
796 the Legislature of the compacting states, which includes the
797 report of the independent audit. The commission's internal
798 accounts are not confidential, and such materials may be shared
799 with the commissioner of any compacting state upon request.
800 However, any work papers related to any internal or independent
801 audit and any information regarding the privacy of individuals
802 and insurers' proprietary information, including trade secrets,
803 remain confidential.
804 (7) A compacting state does not have any claim to or
805 ownership of any property held by or vested in the commission or
806 to any commission funds held pursuant to this compact.
807
808 Article XIII
809
810 COMPACTING STATES; EFFECTIVE DATE; AMENDMENT.—
811 (1) Any state is eligible to become a compacting state.
812 (2) The compact becomes effective and binding upon the

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813 legislative enactment of the compact into law by two compacting
814 states. However, the commission becomes effective for purposes
815 of adopting uniform standards for, reviewing, and giving
816 approval or disapproval of, products filed with the commission
817 which satisfy applicable uniform standards only after 26 states
818 are compacting states or, alternatively, by states representing
819 more than 40 percent of the premium volume for life insurance,
820 annuity, disability income, and long-term care insurance
821 products, based on records of the National Association of
822 Insurance Commissioners for the prior year. Thereafter, the
823 compact becomes effective and binding as to any other compacting
824 state upon enactment of the compact into law by that state.
825 (3) Amendments to the compact may be proposed by the
826 commission for enactment by the compacting states. An amendment
827 is not effective and binding upon the commission and the
828 compacting states until all compacting states enact the
829 amendment into law.
830
831 Article XIV
832
833 WITHDRAWAL; DEFAULT; DISSOLUTION.—
834 (1) Withdrawal.—
835 (a) Once effective, the compact continues in force and
836 remains binding upon each compacting state. However, a
837 compacting state may withdraw from the compact by enacting a law
838 specifically repealing the law that enacted the compact into
839 law.
840 (b) The effective date of withdrawal is the effective date
841 of the repealing law. However, the withdrawal does not apply to

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842 any product filings approved or self-certified, or any
843 advertisement of such products, on the date the repealing law
844 becomes effective, except by mutual agreement of the commission
845 and the withdrawing state unless the approval is rescinded by
846 the withdrawing state as provided in subsection (e).
847 (c) The commissioner of the withdrawing state shall
848 immediately notify the management committee in writing upon the
849 introduction of legislation repealing this compact in the
850 withdrawing state.
851 (d) The commission shall notify the other compacting states
852 of the introduction of such legislation within 10 days after the
853 commission's receipt of notice of such legislation.
854 (e) The withdrawing state is responsible for all
855 obligations, duties, and liabilities incurred through the
856 effective date of withdrawal, including any obligations, the
857 performance of which extend beyond the effective date of
858 withdrawal, except to the extent those obligations may have been
859 released or relinquished by mutual agreement of the commission
860 and the withdrawing state. The commission's approval of products
861 and advertisement before the effective date of withdrawal shall
862 continue to be effective and be given full force and effect in
863 the withdrawing state unless formally rescinded by the
864 withdrawing state in the same manner as provided by the laws of
865 the withdrawing state for the prospective disapproval of
866 products or advertisement previously approved under state law.
867 (f) Reinstatement following withdrawal of any compacting
868 state occurs upon the effective date of the withdrawing state
869 reenacting the compact.
870 (2) Default.—

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871 (a) If the commission determines that a compacting state
872 has at any time defaulted in the performance of any of its
873 obligations or responsibilities under this compact, the bylaws,
874 or duly adopted rules or operating procedures, after notice and
875 hearing as specified in the bylaws, all rights, privileges, and
876 benefits conferred by this compact on the defaulting state shall
877 be suspended from the effective date of default as fixed by the
878 commission. The grounds for default include, but are not limited
879 to, failure of a compacting state to perform its obligations or
880 responsibilities, and any other grounds designated in commission
881 rules. The commission shall immediately notify the defaulting
882 state in writing of the defaulting state's suspension pending a
883 cure of the default. The commission shall stipulate the
884 conditions and the time period within which the defaulting state
885 must cure its default. If the defaulting state fails to cure the
886 default within the specified time period, the defaulting state
887 shall be terminated from the compact and all rights, privileges,
888 and benefits conferred by this compact shall be terminated from
889 the effective date of termination.
890 (b) Product approvals by the commission or product self-
891 certifications, or any advertisement in connection with such
892 product which are in force on the effective date of termination
893 remain in force in the defaulting state in the same manner as if
894 the defaulting state had withdrawn voluntarily pursuant to
895 section (1).
896 (c) Reinstatement following termination of any compacting
897 state requires a reenactment of the compact.
898 (3) Dissolution of compact.—
899 (a) The compact dissolves effective upon the date that the

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900 withdrawal or default of a compacting state reduces membership
901 in the compact to a single compacting state.
902 (b) Upon the dissolution of this compact, the compact
903 becomes null and void and is of no further force or effect, and
904 the business and affairs of the commission shall be concluded
905 and any surplus funds distributed in accordance with the bylaws.
906
907 Article XV
908
909 SEVERABILITY; CONSTRUCTION.—
910 (1) The provisions of this compact are severable and if any
911 phrase, clause, sentence, or provision is deemed unenforceable,
912 the remaining provisions of the compact are enforceable.
913 (2) The provisions of this compact shall be liberally
914 construed to carry out its purposes.
915
916 Article XVI
917
918 BINDING EFFECT OF COMPACT AND OTHER LAWS.—
919 (1) Binding effect of this compact.—
920 (a) All lawful actions of the commission, including all
921 rules and operating procedures adopted by the commission, are
922 binding upon the compacting states.
923 (b) All agreements between the commission and the
924 compacting states are binding in accordance with their terms.
925 (c) Upon the request of a party to a conflict over the
926 meaning or interpretation of commission actions, and upon a
927 majority vote of the compacting states, the commission may issue
928 advisory opinions regarding the meaning or interpretation in

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929 dispute.
930 (d) If any provision of this compact exceeds the
931 constitutional limits imposed on the Legislature of any
932 compacting state, the obligations, duties, powers, or
933 jurisdiction sought to be conferred upon the commission is
934 ineffective as to that compacting state, and those obligations,
935 duties, powers, or jurisdiction remains in the compacting state
936 and shall be exercised by the agency of such state to which
937 those obligations, duties, powers, or jurisdiction is delegated
938 by law in effect at the time this compact becomes effective.
939 (2) Other laws.—
940 (a) This compact prevents the enforcement of any other law
941 of a compacting state, except as provided in subsection (b).
942 (b) For any product approved or certified to the
943 commission, the rules, uniform standards, and other requirements
944 of the commission constitute the exclusive provisions applicable
945 to the content, approval, and certification of such products.
946 For advertisement that is subject to the commission's authority,
947 any rule, uniform standard, or other requirement of the
948 commission which governs the content of the advertisement
949 constitutes the exclusive provision that a commissioner may
950 apply to the content of the advertisement. Notwithstanding this
951 subsection, actions taken by the commission may not abrogate or
952 restrict:
953 1. The access of any person to state courts;
954 2. Remedies available under state law related to breach of
955 contract, tort, or other laws not specifically directed to the
956 content of the product;
957 3. State law relating to the construction of insurance

958 contracts; or
959 4. The authority of the attorney general of the state,
960 including, but not limited to, maintaining any actions or
961 proceedings, as authorized by law.
962 (c) All insurance products filed with individual states are
963 subject to the laws of those states.
964 Section 3. Pursuant to Article VII of the compact,
965 authorized under this act, the State of Florida elects to
966 prospectively opt out of all uniform standards contained in the
967 compact involving long-term care insurance products, and such an
968 opt out may not be treated as a material variance in the offer
969 or acceptance of this state to participate in the compact.
970 Section 4. The Office of Insurance Regulation may adopt
971 rules to implement this act. The office may use the rulemaking
972 authority granted in this section to opt out of any new uniform
973 standards adopted after the effective date of this act, pursuant
974 to Article VII, until such standards are approved by the
975 Legislature.
976 Section 5. This act shall take effect October 1, 2013.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 APR
Meeting Date

Topic: INTERSTATE COMPACT

Bill Number: SB 242 *(if applicable)*

Name: PAUL JESS

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 218 S MONROE ST
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone: 224-9403

E-mail: _____

Speaking: ☐ For ☐ Against ☐ Information SUPPORT AMENDMENT

Representing: FLORIDA JUSTICE ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic _____

Bill Number 242 *(if applicable)*

Name Paul Sanford

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 106 S. Monroe St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 222-7200

E-mail _____

Speaking: [X] For [ ] Against [ ] Information

Representing _____

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 262

INTRODUCER: Senator Smith

SUBJECT: Delivery of Insurance Policies

DATE: March 23, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Burgess	BI	**Pre-meeting**
2.			CM	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 262 expands the options for providing insurance policies to policyholders to include electronic transmission. The electronic delivery of an insurance policy would not require the prior consent of the insured. However, a paper copy of the policy would be provided to the policyholder or insured upon his or her request. Currently, s. 627.421, F.S., requires every insurance policy to be mailed or delivered to the insured within 60 days after the insurance takes effect.

This bill amends the following section of the Florida Statutes: 627.421.

II. Present Situation:

Section 627.421, F.S., requires every insurance policy[1] to be mailed or delivered to the insured (policyholder) within 60 days after the insurance takes effect. Insurance policies are typically only delivered when the policy is issued and are not delivered each time the policy is renewed.

[1] Section 627.402, F.S., defines policy to include endorsements, riders, and clauses. Reinsurance, wet marine and transportation insurance, title insurance, and credit life or credit disability insurance policies do not have to be mailed or delivered. (see s. 627.401, F.S., which excludes these types of policies from the application of Part II, ch. 627, F.S.)

Applicability of Federal and State Law Relating to Electronic Transactions

E-SIGN

The Federal Electronic Signatures in Global and National Commerce Act (E-SIGN) applies to electronic transactions involving interstate commerce.[2] Insurance is specifically included in E-SIGN.[3] E-SIGN provides that a signature, contract, or other record will not be denied legal effect solely because it is in electronic format or because electronic signatures or records were used in its formation. E-Sign explicitly specifies that it does not require any person to agree to use or accept electronic records or signatures, other than a governmental entity.[4] E-SIGN provides that information required by law to be in writing can be made available electronically to a consumer only if:[5]

- The consumer has affirmatively consented to receive the information electronically and has not withdrawn that consent;
- The consumer has been provided a "clear and conspicuous statement":
    - Informing the consumer of any right to receive the record in paper format;
    - Informing the consumer of the right to withdraw the consent;
    - Informing the consumer whether the consent applies only to the particular transaction or identified categories of records;
    - Describing the procedures for the consumer to withdraw consent;
    - Informing the consumer of how a paper copy may be obtained; and
    - Informing the consumer whether a fee will be charged for the paper copy.
- The consumer has been provided a statement of the hardware and software needed to access and retain the electronic records;
- The consumer consents electronically, reasonably demonstrating the ability to access the information; and
- If a change in the hardware or software requirements creates a material risk that the consumer will not be able to access or retain records, the provider of the records must:
    - Provide the consumer with a statement of the revised hardware and software that would be needed; and
    - Provide the consumer with a statement of the right to withdraw consent without the imposition of any fees or other consequence that was not specified in the initial disclosures.

While federal law generally preempts state law, by its own terms E-Sign allows states to be exempt from federal preemption by conforming state legislation to one of two options. First, a state may avoid federal preemption by E-Sign if the state enacts the Uniform Electronic Transaction Act (UETA) as approved by the National Conference of Commissioners on Uniform State Laws in 1999.[6] If, however, the state enactment makes any exception to the scope of

[2] Section 101, Electronic Signatures in Global and National Commerce Act, Pub. L. no. 106-229, 114 Stat 464 (2000). Many of the provisions of E-SIGN took effective October 1, 2000.
[3] 15 USC s. 7001(i).
[4] 15 USC s. 7001(b)(2).
[5] 15 USC s. 7001(c)(1).
[6] 15 USC 7002(a)(1).

UETA, it will be preempted to the extent that the exception is inconsistent with E-Sign.[7] Second, a state may avoid federal preemption by E-Sign if the state enacts legislation that specifies alternative procedures for the use and determination of legal validity of electronic transactions that: (1) are consistent with E-Sign; (2) do not give greater legal status to specific types of technologies or security measures; and (3) specifically references E-Sign in the state statute.[8]

FUETA

In 2000, Florida adopted the substantive provisions of UETA, with minor differences.[9] Section 668.50, F.S., is Florida's Uniform Electronic Transaction Act (FUETA). By its stated terms:

- FUETA does not require a record to be sent, communicated, received, or used by electronic means.[10]
- FUETA applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties have agreed to conduct the transaction by electronic means is determined from the context, the surrounding circumstances, and the parties' conduct.[11]

FUETA provides that if parties have agreed to conduct a transaction electronically and a provision of law requires the delivery of information in writing, that requirement is satisfied by an electronic transmission.[12] FUETA provides that if another provision of law requires a record to be sent by a specified manner, FUETA specifies a number of statutory requirements that apply to the transaction.[13]

III. Effect of Proposed Changes:

Section 1 amends. s. 627.421, F.S., to allow an insurer to transmit a policy electronically. The prior consent of the insured would not be required for the electronic delivery of a policy. The section requires that a paper copy of the policy would be provided to the insured or others upon his or her request.

Section 2 provides that the act takes effect upon becoming a law.

---

[7] Id.
[8] 15 USC s. 7002(a)(2).
[9] http://www.uniformlaws.org/Act.aspx?title=Electronic Transactions Act (last viewed March 15, 2013), http://www.ncsl.org/issuesresearch/telecom/uniform-electronic-transactions-acts.aspx (last viewed March 17, 2013), and Final Staff Analysis for CS/CS/SB 1334 prepared by the House of Representatives Committee on Utilities & Communications, available at http://archive.flsenate.gov/session/index.cfm?BI_Mode=ViewBillInfo&Mode=Bills&ElementID=JumpToBox&SubMenu=1&Year=2000&billnum=1334 (last viewed March 17, 2013) indicating on page 10 that "the bill is identical to the act recommended by the National Commissioners for Uniform State Laws except for provisions that were added to conform to Florida law and provisions added to subsection (11) requiring a first time notary to complete certain training requirements." Although Florida's adoption of the UETA has been amended five times since adoption in 2000, none of the amendments were substantive.
[10] S. 668.50(5)(a), F.S.
[11] S. 668.50(5)(b), F.S.
[12] S. 668.50(8)(a), F.S.
[13] S. 668.50(8)(b), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill would provide policyholders with readily available online access to policy information.

The bill will result in an indeterminate reduction in the administrative costs of insurers associated with printing and mailing by allowing the electronic transmission of policies.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill may conflict with the requirements of s. 668.50, F.S., Florida's Uniform Electronic Transaction Act (FUETA), and the federal E-SIGN law. Under E-SIGN, the consumer must affirmatively consent to receive information electronically before that transaction can be recognized as valid. The bill clearly contravenes that requirement, but the provisions of E-SIGN allow states to be exempt from federal preemption by conforming state legislation to the Uniform Electronic Transaction Act (UETA) as approved by the National Conference of Commissioners on Uniform State Laws in 1999. If, however, the state enactment makes any exception to the scope of UETA, the state law will be preempted to the extent that the exception is inconsistent with E-Sign.

Section 668.50, F.S., provides a requirement that information that must be delivered in writing to another person can be satisfied by delivering the information electronically if the parties have agreed to conduct the transaction by electronic means. Whether the bill contravenes that requirement depends on whether the previous communication between the parties is interpreted to be considered an agreement to conduct the transaction by electronic means. Additionally, s. 668.50(8)(b), F.S., also provides that if another provision of law requires a record to be sent by a specified manner, the record can be sent electronically if meets a number of statutory requirements specified in that subsection.

Because the bill does not require the consumer's agreement, it could be interpreted to be in violation of FUETA (s. 668.50(5)(b), F.S.) and thereby in violation of E-SIGN. On the other hand, the bill might be interpreted to fall within the allowance of s. 668.50(8)(b), F.S., but this construction may be questionable for two reasons: (1) Section 668.50(8)(b), F.S., merely adds provisions that must be met when another provision of law requires a record to be sent in a specified manner, but it does not explicitly render s. 668.50(5)(b), F.S., inapplicable, so both provisions of FUETA could be interpreted to apply; and (2) The bill allows alternative methods of delivery, rather than requiring a specified manner, so it might be argued that s. 668.50(8)(b), F.S., does not apply. If either of these two interpretations is reached, the bill would conflict with FUETA.

If the provisions of the bill are interpreted to be allowed under s. 668.50(8)(b), F.S., it is possible that this interpretation could create a conflict with the federal E-SIGN. E-SIGN allows the exemption from federal preemption through the adoption of the Uniform Electronic Transaction Act (UETA), "except that any exception to the scope of [UETA] shall be preempted to the extent such exception is inconsistent with [E-Sign]…."[14] Since this interpretation would allow a separate Florida law to override the consumer agreement provision of FUETA that would otherwise apply, it might be argued that it has created the "exception to the scope of [UETA]" that causes federal preemption to the extent the exception is inconsistent with E-Sign. A federal preemption in this area would apply the E-SIGN requirement for affirmative consumer consent, along with the expansive notification requirements.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

[14] 15 USC s. 7002(a)(1).

950798

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Clemens) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 16 - 20
4 and insert:
5 effectuation of coverage. Electronic transmission of a policy
6 for commercial risks, including, but not limited to, workers'
7 compensation and employers' liability, commercial automobile
8 liability, commercial automobile physical damage, commercial
9 lines residential property, commercial nonresidential property,
10 farm owners insurance, and the types of commercial lines risks
11 set forth in s. 627.062(3)(d), constitutes delivery to the
12 insured or to the person entitled to delivery. The transmission

950798

13 must include notice to the insured, or to the person entitled to
14 delivery, of his or her right to receive the policy via United
15 States mail rather than via electronic transmission. If the
16 insured or the person entitled to delivery communicates to the
17 insurer electronically or in writing that he or she does not
18 agree to delivery by electronic means, a paper copy of the
19 policy shall be provided to the insured or the person entitled
20 to delivery.
21
22 ========== T I T L E A M E N D M E N T ==========
23 And the title is amended as follows:
24 Delete line 4
25 and insert:
26 policy may be delivered by electronic means;
27 specifying the types of policies that can be delivered
28 electronically; requiring that a paper copy of the
29 policy be provided upon request; providing

By Senator Smith

31-00333A-13 2013262__

A bill to be entitled

An act relating to the delivery of insurance policies; amending s. 627.421, F.S.; providing that an insurance policy may be delivered by electronic means; providing an effective date.

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

Section 1. Subsection (1) of section 627.421, Florida Statutes, is amended to read:

627.421 Delivery of policy.—

(1) Subject to the insurer's requirement as to payment of premium, every policy shall be mailed, ~~or~~ delivered, or electronically transmitted to the insured or to the person entitled thereto within ~~not later than~~ 60 days after the effectuation of coverage. Consent of the insured is not required for electronic delivery of a policy; however, a paper copy of the policy shall be provided to the insured or to the person entitled thereto at his or her request.

Section 2. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic _____

Bill Number SB 262 *(if applicable)*

Name Meredith Snowden

Amendment Barcode _____ *(if applicable)*

Job Title consultant

Address 215 S Monroe St Ste. 702
Street

Tall FL 32301
City *State* *Zip*

Phone 510-9257

E-mail mshowden@cflaw.com

Speaking: [x] For [ ] Against [ ] Information

Representing Fcci Insurance group

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 550

INTRODUCER: Senator Simpson

SUBJECT: Worthless Checks, Drafts, or Orders of Payment

DATE: February 27, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Pre-meeting**
2.			CM	
3.			JU	
4.				
5.				
6.				

I. Summary:

SB 550 amends the means by which the payee of a check, draft, or order of payment that was refused (hereinafter "bad check") may provide notice to the maker or drawer (hereinafter "maker") of the bad check prior to bringing a civil action seeking damages of 3 times the face value of the bad check. The bill allows notice to be provided by the payee posting at the point of sale or printing on an invoice sent before payment for goods or services the following: "If your check or debit card transaction is returned by your bank for insufficient funds, you authorize the collection of the amount of the check, as well as a return fee provided in section 832.08(5), Florida Statutes." The bill allows the payee to obtain the full recovery currently authorized under the statute – damages of three times the face value of the check, all bank fees incurred, court costs and attorney fees – without delivering the currently required written demand to the maker or drawer of the bad check and a 30-day period to cure by tendering the face value of the check plus the statutory service fee.

The effective date is July 1, 2013.

This bill substantially amends the following section of the Florida Statutes: 68.065

II. Present Situation:

Civil Actions to Collect Worthless Checks, Drafts, or Orders of Payment

Section 68.065, F.S., governs civil actions brought for the purpose of collecting a check, draft, or order of payment (hereinafter "bad check") refused due to a lack of funds, credit, or an account, or where the maker of the check stops payment with intent to defraud. The statute details a two-

stage process for civil recovery. In step one, the payee sends a written demand notice[1] to the maker of the bad check detailing that the bad check has been dishonored, the statutory service fee[2] also must be tendered to the payee, and that if the face amount of the check plus the statutory service fee is not paid within 30 days the maker of the bad check is subject to a civil action for three times the value of the check. If the maker of the bad check tenders the face amount of the check and the statutory service fee within 30 days of receiving notice, the matter is resolved and the payee does not have a civil cause of action under the statute.

Step two of the civil recovery process is available if the maker of the bad check fails to pay the face value of the check and the service fee within 30 days of receiving the written demand letter. The payee may now file a civil action seeking recovery of three times the face value of the check plus court costs, reasonable attorney fees, and any bank fees incurred by the payee. Once the action commences, the maker of the bad check may cure prior to the hearing by paying the face value of the check and statutory service charge, plus the payee's court costs, attorney's fees, and incurred bank fees. The court or jury may waive all or part of the statutory damages if the maker failed to satisfy the dishonored check due to economic hardship.

III. Effect of Proposed Changes:

Section 1. Amends s. 68.065, F.S., to allow the payee to bring a civil action seeking recovery of a bad check if the payee posts at the point of sale or prints on an invoice sent before payment for goods or services the following notice: "If your check or debit card transaction is returned by your bank for insufficient funds, you authorize the collection of the amount of the check, as well as a return fee provided in section 832.08(5), Florida Statutes." The bill allows the payee to obtain recovery of the amount owing without delivering a written demand to the maker or drawer of the bad check and allowing a 30 day period to cure by tendering the face value of the check plus the statutory service fee.

Section 2. Provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

---

[1] The written demand must be in a form contained in s. 68.065(3), F.S., and must be delivered by certified or registered mail, evidenced by return receipt or by first class mail evidenced by an affidavit of service of mail.

[2] The payee service charge is limited by s. 68.065(2), F.S., to the greater of a range between $25 to $40, based on the face value of the bad check, or 5 percent of the bad check's face value.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Consumers who pass bad checks will be subject to full recovery under s. 68.065, F.S., damages of three times the face value of the check, all bank fees incurred, court costs and attorney fees – without being afforded a 30-day period to cure by tendering the face value of the check plus the statutory service fee. Payees will incur less costs and like obtain greater recovery in actions under s. 68.065, F.S., without having to make a written demand and providing the maker of the bad check an opportunity to cure.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill has a conflict, s. 68.065(3), F.S., as amended by the bill will allow "recovery under this section" if the payee posts a required notice at the point of sale or includes the required notice on an invoice instead of a written demand. However, subsection (1) states that recovery in a civil action under this section is three times the amount owed for the bad check if the maker does not pay the amount owing within 30 days of receiving a written demand letter.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

580832

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Hays) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Section 68.065, Florida Statutes, is amended to
6 read:
7 68.065 Actions to collect worthless ~~checks, drafts, or~~
8 ~~orders of~~ payment instruments; attorney ~~attorney's~~ fees and
9 collection costs.—
10 (1) As used in this section, the term "payment instrument"
11 or "instrument" means a check, draft, order of payment, debit
12 card order, or electronic funds transfer.

580832

13 (2) In lieu of a service charge authorized under subsection
14 (3), s. 832.062(4)(a), or s. 832.07, the payee of a payment
15 instrument, the payment of which is refused by the drawee
16 because of lack of funds, lack of credit, or lack of an account,
17 or where the maker or drawer stops payment on the instrument
18 with intent to defraud, may lawfully collect bank fees actually
19 incurred by the payee in the course of tendering the payment,
20 plus a service charge of $25 if the face value does not exceed
21 $50; $30 if the face value exceeds $50 but does not exceed $300;
22 $40 if the face value exceeds $300; or 5 percent of the face
23 value of the payment instrument, whichever is greater. The right
24 to damages under this subsection may be claimed without the
25 filing of a civil action.
26 (3)(a) ~~(1)~~ In any civil action brought for the purpose of
27 collecting a ~~check, draft, or order of~~ payment instrument, the
28 payment of which is ~~was~~ refused by the drawee because of ~~the~~
29 lack of funds, lack of credit, or lack of an account, or where
30 the maker or drawer stops payment on the instrument ~~check,~~
31 ~~draft, or order of payment~~ with intent to defraud, and where the
32 maker or drawer fails to pay the amount owing, in cash, to the
33 payee within 30 days after ~~following~~ a written demand therefor,
34 as provided in subsection (4) ~~(3)~~, the maker or drawer is ~~shall~~
35 ~~be~~ liable to the payee, in addition to the amount owing upon
36 such payment instrument ~~check, draft, or order~~, for damages of
37 triple the amount so owing. However, in no case shall the
38 liability for damages be less than $50. The maker or drawer is
39 ~~shall~~ also ~~be~~ liable for any court costs and reasonable attorney
40 fees incurred by the payee in taking the action. Criminal
41 sanctions, as provided in s. 832.07, may be applicable.

580832

42 (b) ~~(2)~~ The payee may also charge the maker or drawer of the
43 ~~check, draft, or order of~~ payment instrument a service charge
44 not to exceed the service fees authorized under s. 832.08(5) or
45 5 percent of the face amount of the instrument, whichever is
46 greater, when making written demand for payment. In the event
47 that a judgment or decree is rendered, interest at the rate and
48 in the manner described in s. 55.03 may be added toward the
49 total amount due. Any bank fees incurred by the payee may be
50 charged to the maker or drawer of the ~~check, draft, or order of~~
51 payment instrument.
52 (4) ~~(3)~~ Before recovery under subsection (3) ~~this section~~
53 may be claimed, a written demand must be delivered by certified
54 or registered mail, evidenced by return receipt, or by first-
55 class mail, evidenced by an affidavit of service of mail, to the
56 maker or drawer of the ~~check, draft, or order of~~ payment
57 instrument to the address on the ~~check or other~~ instrument, to
58 the address given by the drawer at the time the instrument was
59 issued, or to the drawer's last known address. The form of such
60 notice shall be substantially as follows:
61 "You are hereby notified that a check, draft, order of
62 payment, debit card order, or electronic funds transfer numbered
63 .... in the face amount of $.... issued by you on ...(date)...,
64 drawn upon ...(name of bank)..., and payable to ...., has been
65 dishonored. Pursuant to Florida law, you have 30 days from
66 receipt of this notice to tender payment in cash of the full
67 amount of the dishonored payment instrument, ~~check~~ plus a
68 service charge of $25~~,~~ if the face value does not exceed $50,
69 $30~~,~~ if the face value exceeds $50 but does not exceed $300,
70 $40~~,~~ if the face value exceeds $300, or 5 percent of the face

580832

71 amount of the dishonored instrument ~~check~~, whichever is greater,
72 the total amount due being $.... and .... cents. Unless this
73 amount is paid in full within the 30-day period, the holder of
74 the dishonored payment ~~check or~~ instrument may file a civil
75 action against you for three times the amount of the dishonored
76 instrument ~~check~~, but in no case less than $50, in addition to
77 the payment of the dishonored instrument ~~check~~ plus any court
78 costs, reasonable attorney fees, and any bank fees incurred by
79 the payee in taking the action."
80 (5) ~~(4)~~ A subsequent person receiving a payment instrument
81 ~~check, draft, or order,~~ from the original payee or a successor
82 endorsee has the same rights that the original payee has against
83 the maker of the instrument, if ~~provided~~ such subsequent person
84 gives notice in a substantially similar form to that provided in
85 subsection (4) ~~above~~. A subsequent person providing such notice
86 is ~~shall be~~ immune from civil liability for the giving of such
87 notice and for proceeding under the forms of such notice, so
88 long as the maker of the instrument has the same defenses
89 against the subsequent person as against the original payee.
90 However, the remedies available under this section may be
91 exercised only by one party in interest.
92 (6) ~~(5)~~ After ~~Subsequent to the~~ commencement of the action
93 but before ~~prior to~~ the hearing, the maker or drawer may tender
94 to the payee, as satisfaction of the claim, an amount of money
95 equal to the sum of the payment instrument ~~check~~, the service
96 charge, court costs, and incurred bank fees. Other provisions
97 notwithstanding, the maker or drawer is liable to the payee for
98 all attorney fees and collection costs incurred by payee as a
99 result of the payee's claim.

580832

100 (7) ~~(6)~~ If the court or jury determines that the failure of
101 the maker or drawer to satisfy the dishonored payment instrument
102 ~~check~~ was due to economic hardship, the court or jury has the
103 discretion to waive all or part of the statutory damages.
104 Section 2. This act shall take effect July 1, 2013.
105
106 ========== T I T L E A M E N D M E N T ==========
107 And the title is amended as follows:
108 Delete everything before the enacting clause
109 and insert:
110 A bill to be entitled
111 An act relating to the collection of worthless payment
112 instruments; amending s. 68.065, F.S.; defining the
113 term "payment instrument"; applying certain provisions
114 relating to civil actions brought to collect
115 dishonored checks, drafts, and orders of payment to
116 specified types of payment instruments to permit the
117 award of triple damages, court costs, and reasonable
118 attorney fees, the imposition of service charges, and
119 requirements for written demands for payment that must
120 be delivered before commencement of collection
121 actions; authorizing the payee of a dishonored payment
122 instrument to recover bank fees and a service charge
123 without filing a civil action; conforming provisions
124 to changes made by the act; providing an effective
125 date.

By Senator Simpson

18-00977-13 2013550__

A bill to be entitled

An act relating to worthless checks, drafts, or orders of payment; amending s. 68.065, F.S.; permitting recovery of worthless checks, drafts, or orders of payment without the sending of a specified written demand if the payee has a specified notice posted at the point of sale or on an invoice; providing an effective date.

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

Section 1. Section 68.065, Florida Statutes, is amended to read:

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney ~~attorney's~~ fees and collection costs.—

(1) In any civil action brought for the purpose of collecting a check, draft, or order of payment, the payment of which was refused by the drawee because of the lack of funds, credit, or an account, or where the maker or drawer stops payment on the check, draft, or order of payment with intent to defraud, and where the maker or drawer fails to pay the amount owing, in cash, to the payee within 30 days following a written demand therefor, as provided in subsection (3), the maker or drawer shall be liable to the payee, in addition to the amount owing upon such check, draft, or order, for damages of triple the amount so owing. However, in no case shall the liability for damages be less than $50. The maker or drawer shall also be liable for any court costs and reasonable attorney fees incurred

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-00977-13 2013550__

by the payee in taking the action. Criminal sanctions, as provided in s. 832.07, may be applicable.

(2) The payee may also charge the maker or drawer of the check, draft, or order of payment a service charge not to exceed the service fees authorized under s. 832.08(5) or 5 percent of the face amount of the instrument, whichever is greater, when making written demand for payment. In the event that a judgment or decree is rendered, interest at the rate and in the manner described in s. 55.03 may be added toward the total amount due. Any bank fees incurred by the payee may be charged to the maker or drawer of the check, draft, or order of payment.

(3) Before recovery under this section may be claimed, either:

(a) A written demand must be delivered by certified or registered mail, evidenced by return receipt, or by first-class mail, evidenced by an affidavit of service of mail, to the maker or drawer of the check, draft, or order of payment to the address on the check or other instrument, to the address given by the drawer at the time the instrument was issued, or to the drawer's last known address. The form of such notice shall be substantially as follows:

"You are hereby notified that a check numbered .... in the face amount of $.... issued by you on ...(date)..., drawn upon ...(name of bank)..., and payable to ...., has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check, plus a service charge of $25~~,~~ if the face value does not exceed $50, $30~~,~~ if the face value exceeds $50 but does not exceed $300, $40~~,~~ if the face value exceeds $300, or 5 percent

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 of the face amount of the check, whichever is greater, the total
60 amount due being $.... and .... cents. Unless this amount is
61 paid in full within the 30-day period, the holder of the check
62 or instrument may file a civil action against you for three
63 times the amount of the check, but in no case less than $50, in
64 addition to the payment of the check plus any court costs,
65 reasonable attorney fees, and any bank fees incurred by the
66 payee in taking the action~~.~~”; or
67 (b) The payee must have posted at the point of sale or have
68 printed on an invoice sent before payment for goods or services
69 a notice in substantially the following form:
70
71 “If your check or debit card transaction is returned by
72 your bank for insufficient funds, you authorize the collection
73 of the amount of the check, as well as a return fee as provided
74 in section 832.08(5), Florida Statutes.”
75
76 (4) A subsequent person receiving a check, draft, or order~~,~~
77 from the original payee or a successor endorsee has the same
78 rights that the original payee has against the maker of the
79 instrument, provided such subsequent person gives notice in a
80 substantially similar form to that provided in subsection (3)
81 ~~above~~. A subsequent person providing such notice shall be immune
82 from civil liability for the giving of such notice and for
83 proceeding under the forms of such notice, so long as the maker
84 of the instrument has the same defenses against the subsequent
85 person as against the original payee. However, the remedies
86 available under this section may be exercised only by one party
87 in interest.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 (5) After ~~Subsequent to~~ the commencement of the action but
89 before ~~prior to~~ the hearing, the maker or drawer may tender to
90 the payee, as satisfaction of the claim, an amount of money
91 equal to the sum of the check, the service charge, court costs,
92 and incurred bank fees. Other provisions notwithstanding, the
93 maker or drawer is liable to the payee for all attorney fees and
94 collection costs incurred by payee as a result of the payee’s
95 claim.
96 (6) If the court or jury determines that the failure of the
97 maker or drawer to satisfy the dishonored check was due to
98 economic hardship, the court or jury has the discretion to waive
99 all or part of the statutory damages.
100 Section 2. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Worthless Checks, Drafts

Bill Number: SB 550 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: *(if applicable)*

Job Title: Senior Vice President

Address: 516 N. Adams St
Street

Tallahassee, Fl 32312
City, State, Zip

Phone: 850-224-7173

E-mail: bbevis@aif.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: Associated Industries of Florida

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic _____

Bill Number SB 550 *(if applicable)*

Name Lance Lozano

Amendment Barcode _____ *(if applicable)*

Job Title Chief Operating Officer

Address 116 S. Monroe St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-681-6265

E-mail llozano@fuba.org

Speaking: ☑ For ☐ Against ☐ Information

Representing Florida United Businesses Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic _____

Bill Number 550 (if applicable)

Name Pablo Diaz

Amendment Barcode _____ (if applicable)

Job Title Legislative Director

Address _____
Street

_____
City State Zip

Phone 850-681-0416

E-mail _____

Speaking: [x] For [ ] Against [ ] Information

Representing National Federation of Independent Business

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2, 2013
Meeting Date

Topic: Worthless Checks

Bill Number: 550 (if applicable)

Name: Samantha Padgett

Amendment Barcode: (if applicable)

Job Title: General Counsel

Address: 227 S. Adams St.
Street

Tallahassee, FL 32301
City State Zip

Phone: 850-222-4082

E-mail: samantha@frf.org

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Retail Federation

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1622

INTRODUCER: Senator Richter

SUBJECT: Establishment of a Clearinghouse Diversion Program Within the Citizens Property Insurance Corporation

DATE: March 15, 2013 REVISED: 3/29/2013

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Pre-meeting**
2.			CA	
3.				
4.				
5.				
6.				

I. Summary:

SB 1622 establishes a clearinghouse within the Citizens Property Insurance Corporation. Policies seeking new and renewal coverage from Citizens must first be submitted through the clearinghouse to allow private market insurers the opportunity to offer coverage before being placed in Citizens. Any policyholder who receives offers of coverage from admitted carriers at approved rates within 15 percent of Citizens' rate would not be eligible for coverage with Citizens.

This bill creates the following section of the Florida Statutes: 627.3518, F.S.

II. Present Situation:

Citizens Property Insurance Corporation (Citizens)

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[1] Citizens is not a private insurance company.[2] Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight-member Board of

[1] Admitted market means insurance companies licensed to transact insurance in Florida.
[2] Section 627.351(6)(a)1., F.S. Citizens is also subject to regulation by the Office of Insurance Regulation.

Governors that administers its Plan of Operations, which is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoints two members to the board.

Citizens Accounts

Citizens offers three types of property and casualty insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surplus and deficits.[3] Assets may not be commingled or used to fund losses in another account.[4] The three Citizens accounts are:

Personal Lines Account (PLA): Statewide account offering multiperil policies covering homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

- Policies in Force: 838,143
- In Force Premium: $1,379,410,864
- Total Exposure: $175,864,284,312

Coastal Account (COASTAL): Coastal area account offering personal residential wind-only policies, commercial residential wind-only policies and commercial nonresidential wind-only policies issued in limited eligible coastal areas. In addition, in August of 2007, Citizens began offering personal and commercial residential multiperil policies in the Coastal account.

- Policies in Force: 438,642
- In Force Premium: $1,144,655,922
- Total Exposure: $191,101,715,209

Commercial Lines Account (CLA): Statewide account offering multiperil policies covering commercial residential-condominium associations, apartment buildings and homeowners associations; and commercial non-residential policies.

- Policies in Force: 8,016
- In Force Premium: $200,296,331
- Total Exposure: $38,748,152,744

Total All Accounts Combined**:** [5]
- Policies in Force: 1,284,801
- In Force Premium: $2,724,363,117
- Total Exposure: $405,714,152,265

[3] The Personal Lines Account and the Commercial Lines account are combined for credit and Florida Hurricane Catastrophe Fund coverage.
[4] Section 627.351(6)(b)2b., F.S.
[5] Citizens weekly report as of 3/1/2013 on file with committee staff.

Citizens Financial Resources

"Citizens' financial resources include insurance premiums, investment income, operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. As of December 13, 2013, Citizens will have an accumulated surplus of approximately $6.34 billion. For the 2013 hurricane season Citizens will have purchased $1.75 billion in private reinsurance coverage along with the $5.73 billion in mandatory layer reinsurance from the FHCF. For the 2013 hurricane season Citizens' probable maximum loss (PML) from a 1-in-100 year event is $20.42 billion."

If a deficit occurs in a Citizens account, Citizens is authorized to levy assessments on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.[6] The assessments Citizens may impose and their sequence is as follows:

Citizens Surcharge: Requires up to 15 percent of premium surcharge for 12 months on all Citizens' policies, collected upon issuance or renewal. This 15 percent assessment can be levied on each of the three Citizens' accounts with a maximum assessment of 45 percent of premium.

Regular Assessment: If the Citizens' surcharge is insufficient to cure the deficit for the coastal account, Citizens can require an assessment against all other insurers (except medical malpractice and workers compensation). The assessment may be recouped from policyholders through a rate filing process of up to 2 percent of premium or 2 percent of the deficit, whichever is greater. This assessment is not levied against Citizens' policyholders.

Emergency Assessment: Requires any remaining deficit for either of Citizens three accounts be funded by multi-year emergency assessments on all insurance policyholders (except medical malpractice and workers comp), but including Citizens' policyholders. This assessment is levied up to 10 percent of premium or 10 percent of the deficit per account, whichever is greater. The maximum emergency assessment that can be levied against Florida's varicose insurance policyholders is 30 percent per policy.

Citizens Rates

Citizens' rates for coverage are required to be actuarially sound and are subject to the rate standards for property and casualty insurance in s. 627.062, F.S., except as otherwise provided.[7] From 2007 until 2010, Citizens rates were frozen by statute[8] at the level that had been established in 2006. In 2010, the Legislature established a "glide path" to impose annual rate increases up to a level that is actuarially sound.[9] Citizens must implement an annual rate increase which does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges. The implementation of this increase ceases when Citizens has achieved actuarially sound rates. In addition to the overall glide path rate increase,

[6] Accident and health insurance and policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are.

Citizens can increase its rates to recover the additional reimbursement premium that it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the FHCF coverage, pursuant to s. 215.555(5)(b), F.S.

Eligibility

If a policyholder seeking coverage from Citizens is offered coverage from an admitted carrier at the admitted carrier's current rate approved by the OIR and such offer of coverage is within 15 percent of Citizens' rate, that policyholder is not eligible for coverage with Citizens. [10] Policyholders who have coverage with Citizens remain eligible for such coverage regardless of any offer made by an admitted carrier.[11]

III. Effect of Proposed Changes:

The bill creates s. 627.3518, F.S., and recognizes Citizens current authority to establish a clearinghouse for the purpose of determining the eligibility of new and renewal risks who are seeking insurance coverage with Citizens. The bill requires Citizens to implement such a clearinghouse by July 1, 2013. The bill requires that all new and renewal applications, excluding commercial residential, must be submitted to the clearinghouse before Citizens can bind or renew coverage.

The clearinghouse:

- Must develop an application process to facilitate private insurers in determining whether or not to make an offer of coverage through the clearinghouse.
- Must enter into contracts with Florida property insurance companies to participate in the clearinghouse and must accept appointments from voluntary market insurers.
- Must require all new and renewal applicants to be submitted to the clearinghouse to see if there are any offers of coverage from an authorized insurer.
- Must require all new applications for coverage to be subject to a 48-hour period that allows a private insurer participating in the clearinghouse to select applicants for coverage.
- Allows an applicant to accept an offer from a surplus lines insurer if the applicant does not receive an offer of coverage from admitted insurers.
- May charge a reasonable fee as a percentage of an agent's commission to offset the costs of the clearinghouse. Insurers participating in the clearinghouse are not required to pay a fee or use the clearinghouse.

All licensed insurers are authorized to participate in the clearinghouse. Insurers making offers of coverage through the clearinghouse are allowed, but not required, to appoint the agent whose customer is bound and underwritten through the clearinghouse for as long as that policy remains with the insurer. If the insurer does not appoint the agent, it must enter into a limited agency agreement with the agent who is not appointed. If an insurer makes an offer for an applicant

[7] Section 627.351(6)(n)1., F.S.
[8] Section 627.351(6)(n)4., F.S.
[9] Ch. 2009-87; s.10, L.O.F.
[10] Section 627.351(6)(c)5.a., F.S.
[11] Id.

whose agent is an exclusive agent, that agent can give the applicant an opportunity to accept coverage from an insurer with whom the agent has a limited servicing agreement. All agents must maintain the exclusive use of expirations, records, or other written or electronic information directly related to such applications or renewals written through the corporation or through an insurer participating in the clearinghouse.

The corporation is authorized to recognize private entities that independent agents may elect to use as an alternative to the clearinghouse. The alternative option cannot be used as a replacement for the clearinghouse. Neither the clearinghouse nor an alternative private entity can prohibit insurers from electing to participate in more than one program, but an insurer participating in the private entity alternative must also participate in the clearinghouse.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

SB 1606 has been filed to exempt certain underwriting guidelines, manuals, rating information and other underwriting criteria information submitted to the clearinghouse.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill authorizes Citizens' clearinghouse to charge a reasonable fee as a percentage of an agent's commission to offset the costs of the clearinghouse.

B. Private Sector Impact:

Policyholders with Citizens who receive offers of coverage from admitted carriers at approved rates within 15 percent of Citizens' rate would no longer be eligible for coverage with Citizens.

C. Government Sector Impact:

Citizens will need to spend an indeterminate amount of surplus to start up the clearinghouse.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

874164

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Richter) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 28 - 176
4 and insert:
5 (1) As used in this section, the term:
6 (a) "Clearinghouse" means the clearinghouse diversion
7 program created under this section.
8 (b) "Corporation" means Citizens Property Insurance
9 Corporation.
10 (c) "Exclusive agent" means a licensed insurance agent who
11 has agreed, by contract, to act exclusively for one company or
12 group of affiliated insurance companies and is disallowed by the

874164

13 provisions of that contract to directly write for any other
14 unaffiliated insurer, absent express consent from the company or
15 group of affiliated insurance companies.
16 (d) "Independent agent" means a licensed insurance agent
17 not described in paragraph (c).
18 (2) In order to confirm eligibility with the corporation
19 and to enhance the access of new applicants for coverage and the
20 access of existing policyholders of the corporation to offers of
21 coverage from authorized and eligible insurers, the corporation
22 shall establish a clearinghouse to facilitate the diversion of
23 ineligible applicants and existing policyholders from the
24 corporation into the voluntary insurance market.
25 (3) Notwithstanding s. 626.752, the clearinghouse shall
26 have the same rights and responsibilities in carrying out its
27 duties as a licensed general lines agent, but is not required to
28 employ or engage a licensed general lines agent or to maintain
29 an insurance agency license in order to solicit and place
30 insurance coverage. In establishing the clearinghouse, the
31 corporation may:
32 (a) Require all new applications and all policies due for
33 renewal to be submitted to the clearinghouse or a private
34 alternative in order to facilitate obtaining an offer of
35 coverage from an authorized insurer before binding or renewing
36 coverage by the corporation.
37 (b) Employ or otherwise contract with individuals or other
38 entities to provide administrative or professional services in
39 order to carry out the plan within the corporation in accordance
40 with the applicable purchasing requirements under s. 627.351.
41 (c) Enter into a contract with an authorized or eligible

874164

42 insurer participating in the clearinghouse and accept an
43 appointment by such insurer.
44 (d) Provide funds to operate the clearinghouse, or charge
45 agents and insurers a reasonable fee to offset or partially
46 offset the costs of the clearinghouse on policies that are
47 accepted by the participating insurers. An insurer that
48 participates in the clearinghouse is not required to use the
49 clearinghouse for the renewal of policies initially written
50 through the clearinghouse.
51 (e) Develop an enhanced application for obtaining
52 information that will assist private insurers in determining
53 whether to make an offer of coverage through the clearinghouse.
54 (f) Before approving new applications for coverage by the
55 corporation, require every application to be subject to a 48-
56 hour period that allows an insurer participating in the
57 clearinghouse to select the application for coverage. The
58 insurer may issue a binder on any policy selected for coverage
59 for a period of at least 30 days, but not more than 60 days.
60 (4) An authorized or eligible insurer may participate in
61 the clearinghouse; however, participation is not mandatory. An
62 insurer that makes an offer of coverage to a new applicant or
63 renews a policy for a policyholder through the clearinghouse:
64 (a) Is not required to individually appoint an agent whose
65 customer is underwritten and bound through the clearinghouse.
66 Notwithstanding s. 626.112, an insurer is not required to
67 appoint an agent on a policy underwritten through the
68 clearinghouse if that policy remains with the insurer. An
69 insurer may appoint an agent whose customer is initially
70 underwritten and bound through the clearinghouse. If an insurer

874164

71 accepts a policy from an agent who is not appointed pursuant to
72 this paragraph and thereafter accepts a policy from such agent,
73 the provisions of s. 626.112 requiring appointment apply to the
74 agent.
75 (b) Must enter into a limited agency agreement with each
76 agent who is not appointed in accordance with paragraph (a) and
77 whose customer is underwritten and bound through the
78 clearinghouse.
79 (c) Must enter into its standard agency agreement with each
80 agent whose customer is underwritten and bound through the
81 clearinghouse if that agent has been appointed by the insurer
82 pursuant to s. 626.112.
83 (d) Must comply with s. 627.4133(2).
84 (e) Must participate through their single designated
85 managing general agent or broker; however, the provisions of
86 paragraph (6)(a) regarding ownership, control, and use of the
87 expirations apply.
88 (5)(a) Notwithstanding s. 627.3517, an applicant for new
89 coverage is not eligible for coverage from the corporation if
90 the applicant is offered coverage from an authorized insurer
91 through the clearinghouse at a premium that is at or below the
92 eligibility threshold established under s. 627.351(6)(c)5.a.
93 (b) Notwithstanding any other provisions of law, if a
94 renewing policyholder of the corporation is offered coverage
95 from an authorized insurer for a personal lines or commercial
96 lines risk at a premium that is no more than 15 percent above
97 the corporation's renewal premium for comparable coverage, the
98 risk is not eligible for coverage with the corporation.
99 (c) Notwithstanding s. 626.916(1), if an applicant for new

874164

100 or renewal coverage from the corporation does not receive an
101 offer of coverage from an authorized insurer, the applicant may
102 choose to accept an offer of coverage from an eligible insurer
103 or its broker under ss. 626.913-626.937. Such offer of coverage
104 from an eligible insurer does not make the risk ineligible for
105 coverage with the corporation.
106 (d) An applicant for new or renewal coverage from the
107 corporation may choose to accept any offer of coverage received
108 through the clearinghouse from an authorized insurer which is
109 greater than 15 percent of the corporation's renewal premium.
110 (e) Section 627.351(6)(c)5.a.(I) and b.(I) does not apply
111 to an offer of coverage from an authorized insurer obtained
112 through the clearinghouse.
113 (6) An independent agent who submits a new application for
114 coverage or who is the agent of record on a renewal policy
115 submitted to the clearinghouse:
116 (a) Must maintain ownership and the exclusive use of
117 expiration, record, or other written or electronic information
118 directly related to such application or renewal written through
119 the corporation or through an insurer participating in the
120 clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
121 (II)(B). A contract with the corporation or required by the
122 corporation may not amend, modify, interfere with, or limit such
123 rights of ownership. Such expiration, record, or other written
124 or electronic information may be used to review an application
125 or issue a policy or for any other purpose necessary for placing
126 business through the clearinghouse.
127 (b) Is not required to be appointed by an insurer
128 participating in the clearinghouse for policies written solely

874164

129 through the clearinghouse, notwithstanding s. 626.112.
130 (c) May accept an appointment from an insurer participating
131 in the clearinghouse.
132 (d) Must enter into a standard or limited agency agreement
133 with the insurer, at the insurer's option.
134
135 An applicant who is ineligible for coverage under subsection (5)
136 remains ineligible if the applicant's independent agent is
137 unwilling or unable to enter into a standard or limited agency
138 agreement with an insurer participating in the clearinghouse.
139 (7) An exclusive agent who submits a new application for
140 coverage or who is the agent of record on a renewal policy
141 submitted to the clearinghouse:
142 (a) Must maintain ownership and the exclusive use of
143 expiration, record, or other written or electronic information
144 directly related to such application or renewal written through
145 the corporation or through an insurer participating in the
146 clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
147 (II)(B). A contract with the corporation or required by the
148 corporation may not amend, modify, interfere with, or limit such
149 rights of ownership. Such expiration, record, or other written
150 or electronic information may be used to review an application
151 or issue a policy or for any other purpose necessary for placing
152 business through the clearinghouse.
153 (b) Is not required to be appointed by an insurer
154 participating in the clearinghouse for policies written solely
155 through the clearinghouse, notwithstanding s. 626.112.
156 (c) Must accept an offer of coverage from an insurer whose
157 limited servicing agreement is approved by that agent's

874164

158 exclusive insurer as eligible to participate in the
159 clearinghouse with that insurer's exclusive agents.
160 (d) Must enter into a limited servicing agreement with the
161 insurer making an offer of coverage, and may do so only after
162 the exclusive agent's insurer has approved the terms of the
163 agreement. The exclusive agent's insurer must approve a limited
164 service agreement for the clearinghouse if the insurer has
165 approved a service agreement with the agent for other purposes.
166
167 An applicant is ineligible for coverage under subsection (5) if
168 the applicant's exclusive agent is unwilling or unable to enter
169 into a standard or limited agency agreement with a participating
170 insurer making an offer of coverage to that applicant.
171 (8) To promote private market initiatives that provide
172 offers of coverage from authorized and eligible insurers to
173 applicants for coverage by the corporation and to the
174 corporation's policyholders on renewal, the corporation shall
175 publish, by January 1, 2014, reasonable standards for private
176 alternatives to the submission of a risk to the clearinghouse.
177 Notwithstanding s. 626.752, such private alternatives may act in
178 a master agency arrangement that allows agents to be appointed
179 as subagents of a master agency and to use private alternatives
180 for the submission of risks to the clearinghouse. The
181 alternative option allowed under this subsection is an
182 alternative to and not a replacement for the clearinghouse. The
183 clearinghouse or any private entity operating under this
184 subsection may not prohibit insurers that elect to participate
185 from participating in more than one clearinghouse or
186 alternative; however, an insurer participating in the private

874164

187 entity must also participate in the clearinghouse.
188 (9) Submission of an application to the clearinghouse for
189 coverage by the corporation does not constitute the binding of
190 coverage, and the failure of the clearinghouse to obtain an
191 offer of coverage by an insurer is not considered acceptance of
192 coverage of the risk by the corporation.
193 (10) The clearinghouse does not include commercial
194 residential policies.

285242

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Banking and Insurance (Richter) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 176 and 177
4 insert:
5 Section 2. Temporary keepout program.—Citizens Property
6 Insurance Corporation shall implement a temporary keepout
7 program beginning July 1, 2013, and ending on the date the
8 clearinghouse program established under s. 627.3518, Florida
9 Statutes, is operational.
10 (1) Subject to procedures adopted by the corporation, the
11 program shall provide an opportunity for new applicants for
12 personal residential multiperil coverage with the corporation to

285242

13 be offered coverage with authorized insurers through the market
14 assistance plan established under s. 627.3515, Florida Statutes.
15 (2) The program is subject to all of the following:
16 (a) The corporation may not accept a new personal
17 residential multiperil application for coverage within 72 hours
18 after submission of the risk to the market assistance plan under
19 subsection (1).
20 (b) Section 627.3517, Florida Statutes, relating to
21 consumer choice of agent does not apply to applications for
22 coverage accepted by authorized insurers under the program.
23 (c) An insurer issuing policies under this section is
24 subject to s. 627.3518(3), Florida Statutes, relating to agent
25 appointment.
26 (d) Notwithstanding s. 626.916(1), Florida Statutes, if an
27 applicant for new or renewal coverage from the corporation does
28 not receive an offer of coverage from an eligible insurer, the
29 applicant may accept an offer from a designated broker of an
30 insurer eligible under ss. 626.913-626.937, Florida Statutes.
31 (3) This section expires on March 1, 2014, or when the
32 clearinghouse program established under s. 627.3518, Florida
33 Statutes, becomes operational, whichever occurs first.
34
35 ========== T I T L E A M E N D M E N T ==========
36 And the title is amended as follows:
37 Delete line 11
38 and insert:
39 risks to the corporation; establishing a temporary
40 keepout program that allows authorized insurers to
41 provide coverage to applicants for coverage through

285242

42 the corporation through the market assistance program
43 until the clearinghouse is operational; providing
44 program requirements; providing for expiration;
45 providing an effective date.

By Senator Richter

23-01409A-13 20131622__

A bill to be entitled

An act relating to the establishment of a clearinghouse diversion program within the Citizens Property Insurance Corporation; creating s. 627.3518, F.S.; authorizing the creation of a clearinghouse diversion program within the corporation for identifying and diverting insurance coverage to private insurers; providing definitions; providing requirements and duties of the corporation, insurers, and agents; providing for an alternative to submitting risks to the corporation; providing an effective date.

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

Section 1. Section 627.3518, Florida Statutes, is created to read:

627.3518 Citizens Property Insurance Corporation clearinghouse.—The Legislature recognizes that Citizens Property Insurance Corporation has authority to establish a clearinghouse as a separate organizational unit within the corporation for the purpose of determining the eligibility of new and renewal risks seeking coverage through the corporation and facilitating the identification and diversion of ineligible applicants and current policyholders from the corporation into the voluntary insurance market. The purpose of this section is to augment that authority by providing a framework for the corporation to implement such program by July 1, 2013.

(1) DEFINITIONS.—As used in this section, the term:

(a) "Clearinghouse" means the clearinghouse diversion

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23-01409A-13 20131622__

program created under this section.

(b) "Corporation" means Citizens Property Insurance Corporation.

(c) "Exclusive agent" means any licensed insurance agent who has, by contract, agreed to act exclusively for one company or group of affiliated insurance companies, and who is disallowed by that contract to directly write for any other unaffiliated insurer absent express consent from the company or group of affiliated companies.

(d) "Independent agent" means a licensed insurance agent who is not required by contract to act only on behalf of one company or group of affiliated insurance companies.

(2) The clearinghouse shall have all the rights and responsibilities in carrying out its duties as a licensed general lines agent, but is not required to employ or engage a licensed general lines agent or maintain an insurance agency license in order to solicit and place insurance coverage. In establishing the clearinghouse the corporation:

(a) Shall require all new applications for coverage and all policies up for renewal to be submitted to the clearinghouse to facilitate obtaining an offer of coverage from an authorized insurer before binding or renewing coverage with the corporation.

(b) Shall develop an enhanced application for obtaining information that will assist private insurers in determining whether or not to make an offer of coverage through the clearinghouse.

(c) Shall require all new applications for coverage to be subject to a 48-hour period that allows a private insurer

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59 participating in the clearinghouse to select applicants for
60 coverage before the application is submitted to the corporation
61 for coverage. The insurer may issue a binder to a selected
62 applicant for at least 30 days, but not more than 60 days.
63 (d) Notwithstanding s. 626.916(1), if an applicant for new
64 or renewal coverage from the corporation does not receive an
65 offer of coverage from admitted insurers, may allow the
66 applicant to accept an offer from a surplus lines insurer
67 eligible under ss. 626.913-626.937.
68 (e) Shall provide funds to operate the clearinghouse. The
69 corporation may charge a reasonable fee as a percentage of an
70 agent's commission to offset, or partially offset the costs of
71 the clearinghouse. However, insurers participating in the
72 clearinghouse are not required to pay a fee or use the
73 clearinghouse to renew policies initially written through the
74 clearinghouse.
75 (f) Shall enter into contracts with licensed property
76 insurance companies operating in this state to participate in
77 the clearinghouse and accept appointments from voluntary market
78 insurers.
79 (g) May employ or otherwise contract with individuals or
80 other entities to provide administrative or professional
81 services in accordance with purchasing requirements set forth in
82 the corporation's plan under s. 627.351(6)(c).
83 (3) A licensed insurer may participate in the
84 clearinghouse. Insurers making offers of coverage to new
85 applicants or renewing policyholders through the clearinghouse:
86 (a) Are not required to individually appoint an agent whose
87 customer is bound and underwritten through the clearinghouse for

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88 as long as that policy remains with the insurer. Notwithstanding
89 s. 626.112, an insurer is not required to appoint an agent on a
90 policy underwritten through the clearinghouse as long as that
91 policy remains with the insurer. Insurers may appoint an agent
92 whose customer is initially underwritten and bound through the
93 clearinghouse. If an insurer accepts a policy from an agent who
94 is not appointed and thereafter elects to accept a policy from
95 that agent which was not submitted through the program, the
96 provisions of s. 626.112 requiring appointment apply to that
97 agent.
98 (b) Shall enter into a limited agency agreement with each
99 agent whose customer is underwritten and bound through the
100 clearinghouse and who is not appointed in accordance with this
101 subsection.
102 (c) Shall enter into its standard agency agreement with
103 each agent whose customer is underwritten and bound through the
104 clearinghouse if that agent has been appointed by the insurer
105 pursuant to s. 626.112.
106 (d) Must comply with the s. 627.4133(2).
107 (4) Notwithstanding section 627.3157, if an applicant for
108 new coverage from the corporation is offered coverage from an
109 admitted insurer through the clearinghouse or through an
110 alternative option under subsection (7) at a rate that is at or
111 below the eligibility threshold established in s. 627.351(c)5.,
112 the risk is not eligible for coverage with the corporation.
113 Notwithstanding any other provisions of law, if a policyholder
114 at renewal is provided an offer of coverage from an admitted
115 insurer through the program or through an alternative option
116 under subsection (7), and the offer is no more than 15 percent

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117 above the policyholder's premium for comparable coverage through
118 the corporation, the risk is not eligible for coverage with the
119 corporation.
120 (5) Independent insurance agents submitting new
121 applications for coverage or who are the agent of record on a
122 renewal policy submitted to the clearinghouse:
123 (a) Notwithstanding s. 626.112, are not required to be
124 appointed by an insurer participating in the clearinghouse for
125 policies written solely through the clearinghouse.
126 (b) May accept an appointment from an insurer participating
127 in the clearinghouse.
128 (c) Must enter into a standard or limited agency agreement
129 with the insurer, at the insurer's option.
130 (d) Must maintain the exclusive use of expirations,
131 records, or other written or electronic information directly
132 related to such applications or renewals written through the
133 corporation or through an insurer participating in the
134 clearinghouse. Such expirations, records, or other written or
135 electronic information may be used to review an application,
136 issue a policy, or for any other purpose necessary for placing
137 such business through the clearinghouse.
138 (6) Exclusive agents submitting new applications for
139 coverage or that are the agent of record on a renewal policy
140 submitted to the program:
141 (a) Notwithstanding s. 626.112, are not required to be
142 appointed by an insurer participating in the clearinghouse for
143 policies written solely through the clearinghouse.
144 (b) Must provide the new applicant or renewing policyholder
145 the opportunity to accept an offer of coverage from an insurer

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146 whose limited servicing agreement is approved by that agent's
147 exclusive insurer as eligible to participate in the
148 clearinghouse with that insurer's exclusive agents.
149 (c) Must enter into only a limited servicing agreement with
150 the insurer making an offer of coverage.
151 (d) Must maintain the exclusive use of expirations,
152 records, or other written or electronic information directly
153 related to such applications or renewals written through the
154 corporation or through an insurer participating in the program,
155 notwithstanding s. 627.351(6)(c)5.a.(I)(B) and (II)(B). Such
156 expirations, records, or other written or electronic information
157 may be used to review an application, issue a policy, or for any
158 other purpose necessary for placing such business through the
159 clearinghouse.
160 (7) The corporation may recognize private entities that the
161 independent agent elects to use as an alternative to submitting
162 a risk to the clearinghouse. An alternative option allowed under
163 this subsection shall obtain offers of coverage from authorized
164 insurers for new applicants seeking coverage from the
165 corporation and for corporation policyholders on renewal. The
166 alternative option may not be used as a replacement for the
167 clearinghouse. Neither the clearinghouse nor a private entity
168 operating under this subsection may prohibit insurers from
169 electing to participate in more than one program or alternative,
170 and an insurer participating in the private entity alternative
171 must also participate in the clearinghouse.
172 (8) Submission of an application for coverage by the
173 corporation to the clearinghouse does not constitute the binding
174 of coverage by the corporation, and failure of the clearinghouse

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

175 to obtain an offer of coverage by an insurer is not considered
176 acceptance of coverage of the risk by the corporation.
177 Section 2. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1606

INTRODUCER: Senator Richter

SUBJECT: Public Records/Citizens Property Insurance Corporation

DATE: March 16, 2013 REVISED: 3/29/13

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Pre-meeting**
2.			GO	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1606 exempts from public record all underwriting guidelines, manuals, rating information and other underwriting criteria used by insurers participating in the Citizens clearinghouse program created in SB 1622.

The exemptions of the bill are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

This bill substantially amends the following section of the Florida Statutes: 627.3518

II. Present Situation:

Public Records Law

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

> Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body,

[1] Section 1390, 1391 F.S. (Rev. 1892).
[2] Article I, s. 24, Fla. Constitution.

> officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates public records provision of the State Constitution, specifies conditions under which public access must be provided to records of an agency.[4] Section 119.07(1)(a), F.S., states:

> (a) Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.

Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean:

> . . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

Only the Legislature is authorized to create exemptions to open government requirements.[8] Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

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[3] Chapter 119, F.S.

[4] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Florida Constitution also establishes a right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted by law or the state constitution.

[5] Section 119.011(11), F.S.

[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

[8] Article I, s. 24(c), Fla. Constitution.

[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency or to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements, then an agency is not prohibited from disclosing the record in all circumstances.[13]

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)[14] provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Public Meetings Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.[15]

The Act states that an exemption may be created or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, whose administration would be significantly impaired without the exemption;
- Protects information of a sensitive, personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[16]

The Act also requires consideration of the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?

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[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[11] Art. I, s. 24(c), Fla. Constitution.
[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] Section 119.15, F.S.
[15] Section 119.15(5)(a), F.S.
[16] Section 119.15(4)(b), F.S.

- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Citizens' Clearinghouse

SB 1622 requires Citizens to implement a clearinghouse by July 1, 2013. All new and renewal applications, excluding commercial residential, must be submitted to the clearinghouse before Citizens can bind or renew coverage.

The clearinghouse:

- Must develop an application process to facilitate private insurers in determining whether or not to make an offer of coverage through the clearinghouse.
- Must enter into contracts with Florida property insurance companies to participate in the clearinghouse and must accept appointments from voluntary market insurers.
- Must require all new and renewal applicants to be submitted to the clearinghouse to see if there are any offers of coverage from an authorized insurer.
- Must require all new applications for coverage to be subject to a 48-hour period that allows a private insurer participating in the clearinghouse to select applicants for coverage.
- Allows an applicant to accept an offer from a surplus lines insurer if the applicant does not receive an offer of coverage from admitted insurers.
- May charge a reasonable fee as a percentage of an agent's commission to offset the costs of the clearinghouse. Insurers participating in the clearinghouse are not required to pay a fee or use the clearinghouse.

All licensed insurers are authorized to participate in the clearinghouse, but participation is not mandatory.

III. Effect of Proposed Changes:

The bill exempts from public record all underwriting guidelines, manuals, rating information and other underwriting criteria used by insurers participating in the Citizens clearinghouse program.

This act shall take effect on the same date that SB 1622 or similar legislation creating s. 627.3518, Florida Statutes, the Citizen's Property Insurance Corporation clearinghouse, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

The exemptions of the bill are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Underwriting guidelines, manuals, rating information and other underwriting criteria belonging to insurers participating in the Citizens clearinghouse program will be protected.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Richter

23-01410-13 20131606__

A bill to be entitled

An act relating to public records; amending s. 627.3518, F.S.; providing an exemption from public records requirements for all underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the corporation's policyholder eligibility clearinghouse program which are used to identify and select risks from the program; providing for future review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (10) is added to section 627.3518, Florida Statutes, as created by SB ____, 2013 Regular Session, to read:

627.3518 Citizens Property Insurance Corporation policyholder eligibility clearinghouse program.—

(10) All underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the corporation's policyholder eligibility clearinghouse program which are used to identify and select risks from the program are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-01410-13 20131606__

October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is public necessity that all underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the Citizens Property Insurance Corporation's policyholder eligibility clearinghouse program which are used to identify and select risks from the program be made confidential and exempt from the requirements of s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The program will facilitate obtaining offers of coverage from authorized insurers for applicants for insurance coverage with Citizens Property Insurance Corporation and for policyholders with existing insurance coverage with Citizens Property Insurance Corporation. Obtaining offers of coverage from authorized insurers through the program will provide more choices for consumers and reduce Citizens Property Insurance Corporation's exposure and potential for assessments on its policyholders and policyholders in the private market. In order for the program to efficiently determine whether there are authorized insurers interested in making an offer of coverage for a particular risk, a substantial amount of detailed data from participating authorized insurers must be provided to the program. Public disclosure of the detailed data could result in a substantial chilling effect on insurer participation in the program, thereby undermining the program's success. Therefore, the Legislature declares that it is a public necessity that all underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 the Citizens Property Insurance Corporations policyholder
60 eligibility clearinghouse program which are used to identify and
61 select risks from the program be made confidential and exempt
62 from public records requirements.
63 Section 3. This act shall take effect on the same date that
64 SB ____ or similar legislation creating s. 627.3518, Florida
65 Statutes, the Citizen's Property Insurance Corporation
66 policyholder eligibility clearinghouse program, takes effect, if
67 such legislation is adopted in the same legislative session or
68 an extension thereof and becomes law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SPB 7136

INTRODUCER: For Consideration by Committee on Banking and Insurance

SUBJECT: Public Records/Inspector General/Citizens Property Insurance Corporation

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Submitted as Committee Bill**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7136 exempts from public record the identity of individuals who provide information to the Office of the Inspector General of Citizens, created in SB 1770, that an employee or agent of the corporation violated a federal, state, or local law, ordinance, or rule; committed an act of fraud, waste, abuse, malfeasance, or mismanagement; committed employee misconduct; or violated a policy of the corporation. Additionally, all information relating to an investigation conducted by the inspector general is confidential and exempt until he or she completes the investigation and determines such violation or act occurred. If the inspector general determines that such violation or act did not occur, the information remains confidential and exempt. Information relating to an investigation may be disclosed at any time to a current member of the Financial Services Commission or the current President of the Senate or Speaker of the House of Representatives.

The exemptions of the bill are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

This bill substantially amends the following section of the Florida Statutes: 627.351.

II. Present Situation:

Public Records Law

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

> Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates public records provision of the State Constitution, specifies conditions under which public access must be provided to records of an agency.[4] Section 119.07(1)(a), F.S., states:

> (a) Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.

Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean:

> . . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

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[1] Section 1390, 1391 F.S. (Rev. 1892).
[2] Article I, s. 24, Fla. Constitution.
[3] Chapter 119, F.S.
[4] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Florida Constitution also establishes a right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted by law or the state constitution.
[5] Section 119.011(11), F.S.
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).
[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

Only the Legislature is authorized to create exemptions to open government requirements.[8] Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency or to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements, then an agency is not prohibited from disclosing the record in all circumstances.[13]

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act) [14] provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Public Meetings Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.[15]

The Act states that an exemption may be created or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, whose administration would be significantly impaired without the exemption;
- Protects information of a sensitive, personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or

[8] Article I, s. 24(c), Fla. Constitution.
[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).
[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[11] Art. I, s. 24(c), Fla. Constitution.
[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] Section 119.15, F.S.
[15] Section 119.15(5)(a), F.S.

- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[16]

The Act also requires consideration of the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Citizens' Inspector General

Citizens' currently does not have an inspector general and is not required by law to have one. The Chief of Internal Audit has job duties and responsibilities similar to an inspector general. The Chief of Internal Audit position was created in Citizens in 2006 and Citizens' first Chief of Internal Audit started in January 2007. The position has been filled almost continuously since that time, with Citizens employing four Chiefs of Internal Audit since 2007.

Generally, the duties of the Chief of Internal Audit include: fostering and promoting accountability and integrity in Citizens; holding the Citizen's leadership, management and staff accountable for efficient, cost-effective operation; and preventing, identifying, and eliminating fraud, waste, corruption, illegal acts, and abuse. Specific duties and responsibilities for the position are contained in s. 627.351(6)(i), F.S. The Chief of Internal Audit carries out his duties primarily through audits, management reviews and investigations.

From December 2010 until October 2012, Citizens also had an Office of Corporate Integrity. The office handled employee complaints, particularly those that could indicate ethics violations and internal fraud. From December 2010 until July 2012, the employees in this office reported to Citizens' General Counsel and Chief Legal Officer. Thereafter, they reported to the Citizens' Chief of Internal Audit. The Office was disbanded by Citizens' Board in October 2012, but its functions were absorbed by other Citizens' staff, including the Office of Internal Audit, the Ethics Officer, and the Employee Relations Office.

The SB 1770 establishes the Office of the Inspector General within Citizens to ensure accountability, integrity, and efficiency. The inspector general is appointed by the Financial Services Commission and may be removed from office only by the commission. The inspector general is under the supervision of the commission until June 30, 2014, after which he/she reports to the chair of the board of governors.

[16] Section 119.15(4)(b), F.S.

The inspector general's duties are specified to initiate, direct, coordinate, participate in, and perform studies, reviews, evaluations, and investigations designed to assess management practices; compliance with laws, rules, and policies; and program effectiveness and efficiency. In addition, complete special projects and perform other duties as requested by the Financial Services Commission.

At least annually, the inspector general must provide a report to the President of the Senate and the Speaker of the House of Representatives the extent to which policies are returned to the voluntary market from the corporation's clearinghouse and must include an analysis regarding the effectiveness of the clearinghouse for depopulation of Citizens.

III. Effect of Proposed Changes:

The bill exempts from public record the name or identity of an individual who, in good faith, alleges, or provides information relating to an allegation, to the Office of the Inspector General of the corporation that an employee or agent of the corporation violated a federal, state, or local law, ordinance, or rule; committed an act of fraud, waste, abuse, malfeasance, or mismanagement; committed employee misconduct; or violated a policy of the corporation. The name or identity of such an individual may be disclosed only with the written consent of the individual or pursuant to a court order. Additionally, all information relating to an investigation of a possible violation or act described in this section conducted by the inspector general is confidential and exempt until he or she completes the investigation and determines such violation or act occurred. If the inspector general determines that such violation or act did not occur, the information remains confidential and exempt. Information relating to an investigation may be disclosed at any time to a current member of the Financial Services Commission or the current President of the Senate or Speaker of the House of Representatives.

This act shall take effect on the same date that SB 1770 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

The exemptions of the bill are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02917A-13 20137136__

A bill to be entitled

An act relating to public records; providing a public records exemption for the identity of individuals who make certain allegations or provide certain information to the inspector general of Citizens Property Insurance Corporation and for information relating to a resulting investigation; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. With respect to the Office of the Inspector General of the corporation:

(1) The name or identity of an individual who, in good faith, alleges, or provides information relating to an allegation, to the Office of the Inspector General of the corporation that an employee or agent of the corporation violated a federal, state, or local law, ordinance, or rule; committed an act of fraud, waste, abuse, malfeasance, or mismanagement; committed employee misconduct; or violated a policy of the corporation. The name or identity of such an individual may be disclosed only with the written consent of the individual or pursuant to a court order.

(2) All information relating to an investigation of a possible violation or act described in this section conducted by the inspector general is confidential and exempt until he or she completes the investigation and determines such violation or act

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597-02917A-13 20137136__

occurred. If the inspector general determines that such violation or act did not occur, the information remains confidential and exempt. Information relating to an investigation may be disclosed at any time to a current member of the Financial Services Commission or the current President of the Senate or Speaker of the House of Representatives.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Section 1 of this act shall be codified as sub-subparagraph j. of subparagraph 1. of paragraph (x) of subsection (6) of section 627.351, Florida Statutes, and the section and subsections in section 1 of this act may be redesignated to conform to that codification.

Section 3. (1) The Legislature finds and declares that it is a public necessity that the identity of an individual who makes an allegation, or provides information relating to an allegation against an employer or agent of the corporation regarding a violation of law, ordinance, rule, or corporation policy, or an act of fraud, waste, abuse, malfeasance, mismanagement, or employee misconduct, which is held by the Office of Inspector General of the Citizens Property Insurance Corporation, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the inspector general concludes any resulting evaluation, audit, or investigation. This exemption is necessary because failure to provide such protection could make individuals who provide information vulnerable to harassment or

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59 retaliation from persons who may be the subject of such
60 allegations and resulting investigations and have a chilling
61 effect that discourages individuals from disclosing information
62 that would facilitate the ability of the inspector general to
63 carry out his or her investigatory duties.
64 (2) The Legislature finds that it is a public necessity
65 that information relating to the inspector general's
66 investigation of a possible violation of law, ordinance, rule,
67 or corporation policy, or an act of fraud, waste, abuse,
68 malfeasance, mismanagement, or employee misconduct, be
69 confidential and exempt from s. 119.07(1), Florida Statutes, and
70 s. 24(a), Art. I of the State Constitution. This exemption is
71 necessary because the release of such information could
72 potentially be defamatory to an individual under investigation,
73 cause unwarranted damage to the good name or reputation of such
74 individual, or significantly impair the investigation. The
75 exemption creates a secure environment in which the inspector
76 general may conduct an investigation.
77 Section 4. This act shall take effect on the same date that
78 SB 1770 or similar legislation takes effect, if such legislation
79 is adopted in the same legislative session or an extension
80 thereof and becomes a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SPB 7140

INTRODUCER: For Consideration by Committee on Banking and Insurance

SUBJECT: Public Records/Citizens Property Insurance Corporation Clearinghouse

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Submitted as a Committee Bill**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7140 exempts from public record all underwriting guidelines, manuals, rating information and other underwriting criteria used by insurers participating in the Citizens clearinghouse program created in SB 1770.

The exemptions of the bill are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

This bill substantially amends the following section of the Florida Statutes: 627.3518

II. Present Situation:

Public Records Law

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[1] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[2] Article I, s. 24 of the State Constitution, provides that:

> Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body,

[1] Section 1390, 1391 F.S. (Rev. 1892).
[2] Article I, s. 24, Fla. Constitution.

> officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[3] which pre-dates public records provision of the State Constitution, specifies conditions under which public access must be provided to records of an agency.[4] Section 119.07(1)(a), F.S., states:

> (a) Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.

Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean:

> . . . all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[5]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.[6] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[7]

Only the Legislature is authorized to create exemptions to open government requirements.[8] Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.[9] A bill enacting an exemption[10] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[11]

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[3] Chapter 119, F.S.

[4] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Florida Constitution also establishes a right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted by law or the state constitution.

[5] Section 119.011(11), F.S.

[6] *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

[7] *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979).

[8] Article I, s. 24(c), Fla. Constitution.

[9] *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).

There is a difference between records that the Legislature has made exempt from public inspection and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency or to anyone other than to the persons or entities designated in the statute.[12] If a record is simply made exempt from disclosure requirements, then an agency is not prohibited from disclosing the record in all circumstances.[13]

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)[14] provides for the systematic review, through a 5-year cycle ending October 2 of the 5th year following enactment, of an exemption from the Public Records Act or the Public Meetings Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.[15]

The Act states that an exemption may be created or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the three statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, whose administration would be significantly impaired without the exemption;
- Protects information of a sensitive, personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[16]

The Act also requires consideration of the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?

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[10] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[11] Art. I, s. 24(c), Fla. Constitution.
[12] Attorney General Opinion 85-62.
[13] *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[14] Section 119.15, F.S.
[15] Section 119.15(5)(a), F.S.
[16] Section 119.15(4)(b), F.S.

- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Citizens' Clearinghouse

SB 1770 requires Citizens to implement a clearinghouse by July 1, 2013. All new and renewal applications, excluding commercial residential, must be submitted to the clearinghouse before Citizens can bind or renew coverage.

The clearinghouse:

- Must develop an application process to facilitate private insurers in determining whether or not to make an offer of coverage through the clearinghouse.
- Must enter into contracts with Florida property insurance companies to participate in the clearinghouse and must accept appointments from voluntary market insurers.
- Must require all new and renewal applicants to be submitted to the clearinghouse to see if there are any offers of coverage from an authorized insurer.
- Must require all new applications for coverage to be subject to a 48-hour period that allows a private insurer participating in the clearinghouse to select applicants for coverage.
- Allows an applicant to accept an offer from a surplus lines insurer if the applicant does not receive an offer of coverage from admitted insurers.
- May charge a reasonable fee as a percentage of an agent's commission to offset the costs of the clearinghouse. Insurers participating in the clearinghouse are not required to pay a fee or use the clearinghouse.

All licensed insurers are authorized to participate in the clearinghouse, but participation is not mandatory.

III. Effect of Proposed Changes:

The bill exempts from public record all underwriting guidelines, manuals, rating information and other underwriting criteria used by insurers participating in the Citizens clearinghouse program.

This act shall take effect on the same date that SB 1770 or similar legislation creating s. 627.3518, Florida Statutes, the Citizen's Property Insurance Corporation clearinghouse, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

The exemptions of the bill are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Underwriting guidelines, manuals, rating information and other underwriting criteria belonging to insurers participating in the Citizens clearinghouse program will be protected.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02918A-13 20137140__

A bill to be entitled

An act relating to public records; amending s. 627.3518, F.S.; providing an exemption from public records requirements for all underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the corporation's policyholder eligibility clearinghouse program which are used to identify and select risks from the program; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (11) is added to section 627.3518, Florida Statutes, as created by SB 1770 or similar legislation, 2013 Regular Session, to read:

627.3518 Citizens Property Insurance Corporation clearinghouse.—

(11) Underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the corporation's clearinghouse which are used to identify and select risks from the clearinghouse are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds and declares that it is a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

597-02918A-13 20137140__

public necessity that underwriting guidelines, manuals, rating information, and other underwriting criteria or instructions submitted by an insurer to the Citizens Property Insurance Corporation's clearinghouse which are used to identify and select risks from the clearinghouse be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The program will facilitate obtaining offers of coverage from authorized insurers for new applicants for insurance coverage with the corporation and for policyholders seeking to renew existing insurance coverage with the corporation. Obtaining offers of coverage from authorized insurers through the clearinghouse will provide more choices for consumers and reduce the corporation's exposure and potential for imposing assessments on its policyholders and policyholders in the private market. In order for the program to efficiently determine whether there are authorized insurers interested in making an offer of coverage for a particular risk, a substantial amount of detailed data from participating insurers must be provided to the program. Public disclosure of the detailed data could result in a substantial chilling effect on insurer participation in the program and thereby undermine the program's success.

Section 3. This act shall take effect on the same date that SB 1770 or similar legislation creating s. 627.3518, Florida Statutes, the Citizen's Property Insurance Corporation clearinghouse, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 410

INTRODUCER: Senator Bean

SUBJECT: Money Services Businesses

DATE: March 27, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Burgess	BI	**Favorable**
2.			AGG	
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 410 establishes a check-cashing database within the Office of Financial Regulation (OFR) for regulators and law enforcement to access in order to target and identify persons involved in workers' compensation insurance premium fraud and other criminal activities that have been documented in a statewide grand jury report and a subsequent Chief Financial Officer Work Group. The OFR regulates money services businesses (MSBs) that offer financial services, such as check cashing, money transmittals (wire transfers), sales of monetary instruments, and currency exchange outside the traditional banking environment.

The check-cashing database created by SB 410 would be part of the existing deferred presentment database currently operated by the OFR. The bill would require check cashers to submit check cashing transactional data to OFR. The OFR would create and maintain a check-cashing transactional database for check cashers to submit specified data for transactions exceeding $1,000. The OFR would be required to interface the database with information maintained at the websites of the Department of State and the Department of Financial Services. The bill allows the Financial Services Commission to adopt, by rule, to use up to $0.25 of an existing fee authorized for the operation of the deferred presentment database for the use of implementing and operating the check-cashing database.

This bill amends the following sections of the Florida Statutes: 560.103, 560.309, and 560.310,

II. Present Situation:

The Office of Financial Regulation (OFR) is responsible for safeguarding the financial interests of the public by licensing, examining, and regulating depository institutions and other entities, such as money service businesses, which are subject to the provisions of ch. 560, F.S.

Licensure of Check Cashers

Money service businesses are licensed under two license categories. Money transmitters and payment instrument issuers are licensed under part II of ch. 560, F.S., while check cashers and foreign currency exchangers are licensed under part III. Current law provides that the requirement for licensure does not apply to a person cashing payment instruments that have an aggregate face value of less than $2,000 per person, per day and that are incidental to the retail sale of goods or services, within certain parameters.[1] Deferred presentment providers (payday lenders) are subject to regulation under part II or part III and part IV of chapter 560, F.S.[2] As of February 27, 2013, OFR indicated that there were 159 companies in Florida that had filed a notice of intent with OFR to engage in deferred presentment transactions. In addition, 1,115 companies were licensed to conduct check-cashing transactions.[3]

Check Cashing Fees

Check cashers are limited in the fees they may charge. By law, a check casher may not charge fees:

- In excess of 5 percent of the face amount of the payment instrument, or $5, whichever is greater.
- In excess of 3 percent of the face amount of the payment instrument, or $5, whichever is greater, if the payment instrument is any kind of state public assistance or federal social security benefit.
- For personal checks or money orders in excess of 10 percent of the face amount of those payment instruments, or $5, whichever is greater.[4]

In addition, check cashers are authorized to collect a fee linked to the direct costs of verifying a customer's identity or employment. That fee, established by rule,[5] may not exceed $5. Rule 69V-560.801, F.A.C., provides:

- In addition to the fees established in s. 560.309(8), F.S., a check casher or deferred presentment provider may collect the direct costs associated with verifying a payment instrument holder's identity, residence, employment, credit history, account status, or other necessary information, including the verification of a drawer's status on the OFR's administered database for DPP transactions prior to cashing the payment instrument or accepting a personal check in connection with a DPP transaction. Such verification fee shall

[1] Section 560.304, F.S.
[2] Section 560.403, F.S., provides that a DPP is required to be licensed under part II or part III of chapter 560, F.S., and have on file with the OFR a declaration of intent to engage in deferred presentment transactions.
[3] Information provided by OFR on March 29, 2013, and on file with Banking and Insurance Committee Staff.
[4] Section 560.309(8), F.S.
[5] Id.

be collected only when verification is conducted and shall not exceed $5 per transaction. For example, a check casher may not charge a drawer more than one (1) verification fee per diem, regardless of whether the check casher is cashing or has cashed more than one (1) of the drawer's payment instruments that day.

- For purposes of s. 560.309(8), F.S., and this rule, the "direct costs of verification" are the costs that are allocated by the provider to a particular function or are readily ascertainable based upon standard commercial practices and include internal staff and infrastructure costs incurred by the provider in performing the verification function and payments to third party vendors who provide verification related services.

Section 560.1105, F.S., requires each licensee and its authorized vendors to maintain specified records for a minimum of 5 years. In additions, s. 560.310, F.S., requires check casher licensees to maintain customer files cashing corporate instruments exceeding $1,000. Rule 69V-560.704, F.A.C., requires licensees to maintain a copy of the original payment instrument, a copy of the customer's personal identification presented at the time of acceptance, and customer files for those cashing corporate and third party payment instruments. Further, the rule requires that for payment instruments of $1,000 or more, the check casher must maintain an electronic log of payment instruments accepted, which includes, at a minimum, the following information:

- Transaction date,
- Payor name,
- Payee name,
- Conductor name, if other than the payee,
- Amount of payment instrument,
- Amount of currency provided,
- Type of payment instrument (personal, payroll, government, corporate, third-party, or other),
- Fee charged for the cashing of the payment instrument,
- Location where instrument was accepted, and
- Identification type and number presented by customer.

Licensees must maintain this information in an electronic format that is "readily retrievable and capable of being exported to most widely available software applications including Microsoft Excel." This information was intended to be used in the audit process. While this can be useful, it does not allow regulators and law enforcement to analyze information in a "real time" format through a central database, for the purpose of identifying and targeting persons engaged in violations of ch. 560, F.S., or other unlawful activity.

Workers' Compensation Insurance Fraud

In recent years, unscrupulous contractors and check cashers have colluded on a scheme that allows these contractors to hide their payroll and obtain workers' compensation coverage without purchasing such coverage. In addition to the workers' compensation fraud, these contractors are avoiding the payment of state and federal taxes. For their participation and risk, the check cashers may receive a fee of 7 percent of the value of the check or more for cashing the checks,

which exceeds the statutory limit check cashers are allowed to charge.[6]

In August 2007, the Supreme Court of Florida ordered the empanelment of a statewide grand jury to investigate various criminal offenses, including activities relating to check cashers. In 2008, the grand jury issued its report: *Check Cashers: A Call for Enforcement*. The Statewide Grand Jury report described a typical scheme.[7] First, a "shell" company is formed in the name of a nominee owner, often a temporary resident of the U.S. This company has no real operations or employees. This shell company will then buy a minimum premium policy to procure the certificate of insurance that the contractor needs to document proof of workers' compensation insurance coverage. A certificate of insurance does not show the amount of coverage because the number and class code of employees can vary throughout the year. The contractor then writes checks to this shell company playing the part of the phony subcontractor.

According to the statewide grand jury report, one indicted Miami check casher created mobile check cashing units that would provide check cashing at the contractor's construction site. In reality, the contractor is actually cashing the check that he or she has just written to the phony company and taking the cash back to pay his employees without maintaining any documentation regarding the actual payroll. On paper, however, it appears that the contractor is paying another company for their work on the project. According to the statewide grand jury, the amount of these checks is usually over the $10,000 limit and must be reported on a Currency Transaction Report (CTR) to the federal government.[8] The check casher actively participates in this scheme by either falsifying the CTR, claiming to have paid the money out to the phony subcontractor, or, in some cases, dispensing with the CTR altogether. Both of these actions are 3rd degree felonies. In 2008, the Legislature enacted major reforms recommended in the report to provide greater regulatory and enforcement tools for the OFR. However, the fraud continues.

The dollar magnitude of this fraud is tremendous. For example, the Division of Insurance Fraud of the Department of Financial Services collaborated with the North Florida High Intensity Drug Trafficking Area (HIDTA) Task Force in 2011 on a case that targeted individuals who were running a shell company scheme using undocumented foreign national laborers to avoid paying workers‟ compensation insurance premiums and federal and state taxes. The suspects were documented to have cashed checks totaling approximately $4 million at a check-cashing store to pay the workers under the table. The suspects were arrested; three vehicles and $67 thousand in cash were seized.

Typically, the insurance company will attempt to conduct a premium audit of an insured, such as the shell company, after the end of the policy year. However, by this time, the shell company has ceased operating and the nominee owner has disappeared, having usually gone back to his home

[6] *Check Cashers: A Call for Enforcement*, Eighteenth Statewide Grand Jury, Case No. SC 07-1128, Second Interim Report of the Statewide Grand Jury, March 2008.
[7] *Id.*
[8] The U.S. Department of Treasury has adopted regulations to implement the provisions of the Bank Secrecy Act under 31 C.F.R. s. 103, which requires MSBs to maintain certain records and report certain currency transactions and suspicious activities. For example, cash transaction reports (CTRs) are required to be filed for cash transactions involving more than $10,000. Section 560.1235, F.S., requires MSBs to comply with all state and federal laws relating to the detection and prevention of money laundering.

country. If any workers' compensation claims occur, the insurer is forced to try to offset such costs by increasing rates on legitimate contractors who secure adequate coverage.

In 2011, the Chief Financial Officer formed the Money Service Business Facilitated Workers' Compensation Work Group (work group) to study the issue of workers' compensation insurance premium fraud facilitated by check cashers. Subsequently, in 2012, legislation[9] was enacted that incorporated the following consensus recommendations of the work group to provide increased regulatory oversight of MSBs that are designed to provide greater prevention, detection, and prosecution of workers' compensation premium fraud:

- Requires licensees to maintain and deposit all checks accepted into a bank account in its own name and to report the termination of bank accounts to the OFR within five business days.
- Prohibits any money services business, its authorized vendor, or affiliated party to possess any fraudulent identification paraphernalia, or for someone other than the person who is presenting the check for payment to provide the customer's personal identification information to the check casher. A person who willfully violates these provisions commits a felony of the third degree.
- Authorizes the OFR to issue a cease and desist order; issue a removal order; the denial, suspension, or revocation of a license or any other action permitted by ch. 560, F.S., for noncompliance with the following: maintaining a federally insured depository account; depositing all checks accepted into its depository account; or submitting transactional information to the office.
- Requires a licensee to suspend its check cashing operations immediately if there is any interruption in its depository relationship and prohibits the resumption of check cashing operations until the licensee has secured a new depository relationship.

The work group also recommended the establishment of a statewide database for regulators and law enforcement to access for the detection of workers' compensation insurance fraud.

Deferred Presentment Provider Database

Part IV of chapter 560, F.S., regulates deferred presentment providers (DPPs). Section 560.404, F.S., requires payday lenders to access a database that is maintained by an OFR service provider. This database allows DPPs to comply with s. 560.404(19), F.S., which prohibits a DPP from entering into a deferred presentment agreement with a customer if the customer already has an outstanding deferred presentment agreement, or terminated an agreement within the previous 24 hours. Section 560.404(23), F.S., specifies that DPPs can charge $1 for each transaction, which partly supports the operation and maintenance of the database and partly supports the OFR's regulatory functions.

III. Effect of Proposed Changes:

Section 1 amends s. 560.103, F.S., to define the term, "database" to mean the deferred presentment transaction database, implemented pursuant to s. 560.404(23), F.S., that maintains transactional information submitted by deferred presentment provider licensees.

[9] Ch. 2012-85, L.O.F.

Section 2 amends s. 560.309, F.S., relating to check cashers, to authorize the Financial Services Commission by rule to use up to $0.25 of the existing deferred presentment fee authorized under s. 560.404(23), F.S., for data that is required to be submitted by a licensee for the check cashing database. The check-cashing database would be part of the current deferred presentment database.

Section 3 revises recordkeeping requirements of check cashers under s. 560.310, F.S. Licensees are required to submit specific transaction information to the OFR database created in this section. Currently, Rule 560.704, F.A.C., requires licensees to maintain similar information via an Excel spreadsheet. A licensee is required to submit the following information to the OFR database:

- Transaction date;
- Payor name;
- Payee name;
- Conductor name, if other than the payee;
- Amount of payment instrument;
- Amount of currency provided;
- Type of payment instrument;
- Fee charged for the cashing of the payment instrument;
- Branch/Location where instrument was accepted;
- Type of identification and identification number presented by the payee or customer
- Payee's workers' compensation insurance policy number if the payee is a business.

The OFR is required to maintain the database and ensure that the database provides various interfaces with the Department of State and the Department of Financial Services for purposes of verifying corporate information and workers' compensation coverage, respectively. The database must also have the capability to maintain an electronic log of the sale or issuance of payment instruments.

The section also provides that a licensee may rely on the information contained in the database as accurate, and such licensee is not subject to any administrative penalty or civil liability due to the reliance on inaccurate information contained in the database. Lastly, the section does not affect the rights of licensees to enforce contractual provisions of the money services businesses agreements through any civil action allowed by law.

The OFR is authorized to adopt rules to implement and administer provisions of this section.

Section 4 provides that the act will take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The database will aid in the detection and deterrence of unscrupulous contractors committing workers' compensation insurance fraud, thereby creating a more level playing field for legitimate contractors.

For checks cashed in excess of $1,000, check cashers will need to report certain data to the database. Currently, this data is maintained by the check casher in an electronic format (i.e., Excel spreadsheet) and made available to the OFR during the examination process. The database may reduce some administrative burden for licensees.

C. Government Sector Impact:

The bill will provide regulators and law enforcement with additional enforcement tools to detect and prosecute workers' compensation insurance fraud and other criminal activities.

Office of Financial Regulation's Fiscal Analysis[10]

The OFR provided the following estimates concerning the Deferred Presentment Provider Database based on current law.

Estimated operation and maintenance costs FY 2013-2014
Projected transactions: 7.6 Million @ $1.00
Projected revenue: $7.6 Million
Current operation and maintenance cost: $0.41 per $1.00
$7,600,000 * $0.41 = $3,116,000

Proposed Check Cashing Database SB 410
The OFR provided the following estimates assuming that $0.25 of the $1.00 fee currently collected from customers seeking payday loans would be used to fund the new check-cashing database.

[10] Office of Financial Regulation, Financial Services Commission, *2013 Bill Analysis,* March 29, 2013. Report on file with Banking and Insurance Committee staff.

Projected transactions: 7.6 Million at $1.00 per check
Projected revenue: $7.6 Million
Operation and maintenance cost: $0.25 per $1.00
$7,600,000 * $0.25 = $1,900,000

The number of checks cashed that exceed $1,000 is currently unknown. For calendar year 2012, it is estimated that 17 million checks were cashed by registered check cashers in Florida. These checks cashed represent approximately $8 billion with an average check amount cashed of $470.60.

While the number of checks cashed over $1,000 is indeterminate at this time, the OFR provided three possible scenarios of the projected costs, contingent upon the number of check cashing transactions involving a check over $1,000.

Potential estimate based on 5 percent of checks cashed that exceed $1,000
Additional Check Transactions: 17,000,000 * 5% = 850,000
Additional Cost per Transaction: $1,900,000 / 850,000 = $2.24

Potential estimate based on 10 percent of checks cashed that exceed $1,000
Additional Check Transactions: 17,000,000 * 10% = 1,700,000
Additional Cost per Transaction: $1,900,000 / 1,700,000 = $1.12

Potential estimate based on 15 percent of checks cashed that exceed $1,000
Additional Check Transactions: 17,000,000 * 15% = 2,550,000
Additional Cost per Transaction: $1,900,000 / 2,550,000 = $0.75

OFR's Total Projected Cost for Both Databases FY 2013-2014 = $5,016,000

The OFR is requesting five positions to analyze the data collected and to respond to information requests from regulatory and law enforcement agencies, the Division of Consumer Finance of the OFR is requesting a Financial Specialist position. To conduct examinations and investigations when data anomalies or indicators of unlawful conduct are present in the data, the Division of Consumer Finance is requesting two Financial Control Analyst positions and the Bureau of Financial Investigations is requesting two Senior Financial Investigators. The Financial Control Analysts and the Senior Financial Investigators will be assigned to OFR's regional offices.

Fiscal Impact of SB 410	Financial Specialist	Financial Control Analyst	Senior Financial Investigator
Salary & Benefits	$59,113	$62,377	$53,000
Adjusted S&B to Hire 10 percent above minimum salary	$65,024	$68,615	$58,300
Expenses	$1,800	$1,800	$1,800

Transfer to DMS - HR	$356	$356	$356
Cost per FTE	$67,180	$70,771	$60,456
Requested number of FTEs	1	2	2
Total Cost of Requested FTEs	$ 67,180.30	$141,541.40	$120,912.00

VI. Technical Deficiencies:

The bill tracks a provision in s. 560.494, F.S., relating to the deferred presentment database, which provides that a licensee would not be subject to any administrative penalty due to relying on inaccurate information in the database. According to the OFR, this language is unnecessary for the check-cashing database, as licensees do not have any reason to rely on other entries in the system such as in the deferred presentment database. The OFR suggests this language be removed as it could result in the OFR being precluded from assessing penalties or taking other administrative actions if a licensee intentionally enters its own information inaccurately in the database.

Lines 119-123 require the OFR to adopt rules to implement the provisions of the bill. However, the OFR reports to the Financial Services Commission, which has rulemaking authority for the OFR.[11]

VII. Related Issues:

According to the OFR, there are concerns that an effective date of July 1, 2013, will not provide sufficient time to develop a database and adopt the rules. It is also unclear whether this would provide adequate time for the check cashing companies to be trained to use the new database.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

[11] Section 20.121(3), F.S.

By Senator Bean

4-00749-13 2013410__

A bill to be entitled

An act relating to money services businesses; amending s. 560.103, F.S.; providing a definition; amending s. 560.309, F.S.; authorizing the Financial Services Commission to use a portion of the fees that licensees may charge for the direct costs of verification of payment instruments cashed for certain purposes; amending s. 560.310, F.S.; requiring licensees engaged in check cashing to submit certain transaction information to the Office of Financial Regulation related to the payment instruments cashed; requiring the office to maintain the transaction information in a centralized database; providing liability protection for licensees relying on database information; providing rulemaking authority; providing an effective date.

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

Section 1. Present subsections (12) through (35) of section 560.103, Florida Statutes, are renumbered as subsections (13) through (36), respectively, and a new subsection (12) is added to that section, to read:

560.103 Definitions.—As used in this chapter, the term:

(12) "Database" means the common database implemented pursuant to s. 560.404(23).

Section 2. Subsection (8) of section 560.309, Florida Statutes, is amended, present subsections (9) and (10) of that section are renumbered as subsections (10) and (11),

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respectively, and a new subsection (9) is added to that section, to read:

560.309 Conduct of business.—

(8) Exclusive of the direct costs of verification and database submission, which shall be established by rule not to exceed $5, a check casher may not:

(a) Charge fees, except as otherwise provided by this part, in excess of 5 percent of the face amount of the payment instrument, or $5, whichever is greater;

(b) Charge fees in excess of 3 percent of the face amount of the payment instrument, or $5, whichever is greater, if such payment instrument is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of the payment instrument; or

(c) Charge fees for personal checks or money orders in excess of 10 percent of the face amount of those payment instruments, or $5, whichever is greater.

(9) The commission may, by rule, use up to $0.25 of an existing fee authorized under s. 560.404(23) for data that must be submitted by a licensee for purposes of the operation and maintenance of the database.

Section 3. Section 560.310, Florida Statutes, is amended to read:

560.310 Records of check cashers and foreign currency exchangers.—

(1) A licensee engaged in check cashing must maintain for the period specified in s. 560.1105 a copy of each payment instrument cashed.

(2) If the payment instrument exceeds $1,000, the following

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59 additional information must be maintained:
60 (a) Customer files, as prescribed by rule, on all customers
61 who cash corporate payment instruments that exceed $1,000.
62 (b) A copy of the personal identification that bears a
63 photograph of the customer used as identification and presented
64 by the customer. Acceptable personal identification is limited
65 to a valid driver license; a state identification card issued by
66 any state of the United States or its territories or the
67 District of Columbia, and showing a photograph and signature; a
68 United States Government Resident Alien Identification Card; a
69 passport; or a United States Military identification card.
70 (c) A thumbprint of the customer taken by the licensee when
71 the payment instrument is presented for negotiation or payment.
72 (d) A payment instrument log that must be maintained
73 electronically as prescribed by rule. For purposes of this
74 paragraph, multiple payment instruments accepted from any one
75 person on any given day which total $1,000 or more must be
76 aggregated and reported on the log.
77 (e) The office shall require licensees to submit the
78 following information to the database, which must be accessible
79 to the office and the licensee in order to submit all
80 transactional check cashing data, before entering into each
81 check cashing transaction for all checks being cashed in such
82 format as required by rule:
83 1. Transaction date.
84 2. Payor name.
85 3. Payee name.
86 4. Customer name, if different from the payee name.
87 5. Amount of the payment instrument.

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88 6. Amount of currency provided.
89 7. Type of payment instrument, which may include personal,
90 payroll, government, corporate, third-party, or another type of
91 instrument.
92 8. Amount of the fee charged for cashing the payment
93 instrument.
94 9. Branch or location where the payment instrument was
95 accepted.
96 10. The type of identification and identification number
97 presented by the payee or customer.
98 11. Payee's workers' compensation insurance policy number,
99 if the payee is a business.
100 (3) A licensee under this part may engage the services of a
101 third party that is not a depository institution for the
102 maintenance and storage of records required by this section if
103 all the requirements of this section are met.
104 (4) The office shall ensure that the database:
105 (a) Provides an interface with the Secretary of State's
106 database for purposes of verifying corporate registration and
107 articles of incorporation pursuant to this section.
108 (b) Provides an interface with the Department of Financial
109 Services' database for purposes of determining proof of coverage
110 for workers' compensation.
111 (c) Maintains an electronic log of the sale or issuance of
112 payment instruments pursuant to this section.
113 (5) A licensee may rely on the information contained in the
114 database as accurate, and such licensee is not subject to any
115 administrative penalty or civil liability due to relying on
116 inaccurate information contained in the database.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 (6) This section does not affect the rights of the licensee
118 to enforce the contractual provisions of the money service
119 business agreements through any civil action allowed by law. The
120 office may adopt rules to administer this section, require that
121 additional information be submitted to the database, and ensure
122 that the database is used by the licensee in accordance with
123 this section.
124 Section 4. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.2.13
Meeting Date

Topic: WC Fraud

Bill Number: 470 *(if applicable)*

Name: Ashley Mayer

Amendment Barcode: *(if applicable)*

Job Title: Dir. Leg. & Cab Affairs

Address: Capitol, PL-11
Street

Tallahassee FL
City *State* *Zip*

Phone: 413-2863

E-mail: ashley.mayer@myfloridacfo.com

Speaking: [x] For [ ] Against [ ] Information

Representing: DFS

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Money Service Businesses

Bill Number: 410 *(if applicable)*

Name: French Brown

Amendment Barcode: *(if applicable)*

Job Title: Director, Legislative and Cabinet Affairs

Address: 200 E. Gaines St
Street

Tallahassee, FL 32399
City *State* *Zip*

Phone: 850-410-9544

E-mail: French.Brown@FLOFR.com

Speaking: [X] For [ ] Against [ ] Information

Representing: FL Office of Financial Regulation

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Money Services Businesses

Bill Number: 410 *(if applicable)*

Name: Greg Black

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 215 S. Monroe St., Suite 505
Street

TLH, FL 32301
City *State* *Zip*

Phone: 205 9000

E-mail: greg.black@matzlaw.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: Florida Community Financial Services Assoc. (FCFSA)

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Money Services Businesses

Bill Number: 410 (if applicable)

Name: Sarah Busk

Amendment Barcode: _____ (if applicable)

Job Title: Dir. of Govt Affairs

Address: 215 S. Monroe St. #602
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850.222.8900

E-mail: sjb@cardenaspartners.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Carpenters Regional Council

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

APRIL 02
Meeting Date

Topic: MONEY SERVICES BUSINESSES

Bill Number: 410 (if applicable)

Name: JOSEPH DOYLE

Amendment Barcode: (if applicable)

Job Title: CHAIRMAN

Address: PO BOX 14629
Street

TALLAHASSEE, FL 32317
City, State, Zip

Phone: 305.962.3974

E-mail: JDOYLE@FSCA.ORG

Speaking: [X] For [ ] Against [ ] Information

Representing: FINANCIAL SERVICES CONTROLS FLORIDA (FSCF)

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1410

INTRODUCER: Senator Simmons

SUBJECT: Fire Safety and Prevention

DATE: March 23, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow/Burgess	Burgess	BI	**Pre-meeting**
2.			CA	
3.			CJ	
4.				
5.				
6.				

I. Summary:

SB 1410 makes changes to Chapter. 633, F.S; Fire Prevention and Control, which is administered by the State Fire Marshal Division within the Florida Department of Financial Services. The bill:

- Revises provisions relating to the authority of the State Fire Marshal.
- Removing references to the Life Safety Code.
- Revises the renewal period for firesafety inspector certification from 3 years to 4.
- Revises provisions relating to the disciplinary authority of the State Fire Marshal.
- Authorizes the State Fire Marshal to deny, suspend, or revoke the licenses of certain persons.
- Provides terms and conditions of probation.
- Revises provisions relating to hearings, investigations, and recordkeeping duties and the authority of the State Fire Marshal.
- Requires the State Fire Marshal to investigate and keep records on all explosions in the state.
- Revises provisions relating to the authority of agents of the State Fire Marshal.
- Clarifies provisions relating to impersonating the State Fire Marshal, a firefighter, a firesafety inspector, or a volunteer firefighter, for which a criminal penalty is provided.
- Provides penalties for rendering a fire protection system inoperative.
- Provides penalties for using a certificate issues to another person.
- Defines the term “consultant.”
- Revises provisions to include investigation of explosions in fraudulent insurance claim investigations.
- Authorizes the State Fire Marshal to adopt rules to implement provisions relating to an insurance company’s investigation of a suspected explosion by intentional means.

- Clarifies and revises the powers and duties of the Division of State Fire Marshal.
- Requires the division to establish by rule uniform minimum standards for the employment and training of firefighters and volunteer firefighters.
- Requires the division to establish by rule minimum curriculum requirements and criteria for the approval of education or training providers.
- Requires the division to specify by rule standards for the approval, denial of approval, probation, suspension, and revocation of approval of education or training providers and facilities for training firefighters and volunteer firefighters.
- Requires the division to specify by rule standards for the certification, denial of certification, probation, and revocation of certification for instructors.
- Requires the division to establish by rule minimum training qualifications for persons serving as specified firesafety coordinators.
- Requires the division to issue specified licenses, certificates, and permits.
- Requires notification for change of address of a licensee, permittee, or certificateholder.
- Requires notification of any felony actions against, a licensee, permittee, or certificateholder.
- Revises applicability of uniform firesafety standards and removes obsolete provisions.
- Revises terminology to provide for declaratory statements rather than formal interpretations in nonbinding interpretations by the division regarding the Florida Fire Prevention Code.
- Provides that a special district may enact any ordinance relating to firesafety codes that is identical to ch. 633, F.S., or any state law, except as to penalties.
- Clarifies persons authorized to inspect buildings and structures.
- Revises requirements of persons conducting firesafety inspections.
- Increases from 3 years to 4 the number of years a fire safety inspector certificate is valid.
- Increases the continuing educations requirements for a fire safety inspector certificate from 40 hours to 54 hours.
- Requires repeat training for fire safety inspectors whose certification has lapsed for 8 years.
- Revises grounds for denial, refusal to renew, suspension, or revocation of a firesafety inspector certificate.
- Requires the department to provide by rule for the certification of Fire Code Administrators.
- Make changes relating to inspection of state buildings and premises.
- Defines the terms “high-hazard occupancy” and “state-owned building.”
- Provides for the identification of state-owned buildings or state-leased buildings or space.
- Authorizes, rather than requires, the State Fire Marshal or agents thereof to conduct performance tests on any electronic fire warning and smoke detection system, and any pressurized air-handling unit, in any state-owned building or state-leased building or space on a recurring basis.
- Requires the State Fire Marshal or agents thereof to ensure that fire drills are conducted in all high-hazard state-owned buildings or high-hazard state-leased occupancies at least annually.
- Requires that all new construction or renovation, alteration, or change of occupancy of any existing, state-owned building or state-leased building or space comply with uniform firesafety standards.
- Authorizes the division to inspect state-owned buildings and spaces and state-leased buildings and spaces as necessary before occupancy or during construction, renovation, or alteration to ascertain compliance with uniform firesafety standards.

- Requires the division to issue orders to cease construction, renovation, or alteration, or to preclude occupancy, of a state-owned or state-leased building or space for noncompliance.
- Authorizes the Florida Fire Safety Board to review complaints and make recommendations.
- Provides for the election of officers, quorum, and compensation of the board and requires the board to adopt a seal.
- Revises the provisions relating to fire equipment dealers who wish to withdraw a previously filed halon equipment exemption affidavit.
- Provides conditions that an applicant for a license of any class who has facilities located outside the state must meet in order to obtain a required equipment inspection.
- Provides for the adoption of rules with respect to the establishment and calculation of inspection costs.
- Revises and clarifies provisions that exclude from licensure for specified period applicants having a previous criminal conviction and defines the term "convicted."
- Provides conditions under which a licensed fire equipment dealer may apply to convert the license currently held to a higher or lower licensing category.
- Provides a procedure for an applicant who passes an examination for licensure or permit but fails to meet remaining qualifications within 1 year after the application date.
- Revises provisions that authorize the State Fire Marshal to suspend a fire protection system contractor's or permittee's certificate.
- Deletes provisions authorizing revocation of a certificate for no more than 5 years.
- Provides for an additional member of the Firefighters Employment, Standards, and Training Council be added from the Florida Forest Service.
- Provides for organization of the council, meetings, quorum, compensation, and adoption of a seal.
- Provides for special powers of the council in connection with the employment and training of firefighters.
- Specifies classes of certification awarded by the division and authorizes the division to establish specified additional certificates by rule.
- Revises provisions relating to firefighter and volunteer firefighter training and certification.
- Requires the division to establish by rule specified courses and course examinations.
- Provides that courses may only be administered by specified education or training providers and taught by certified instructors.
- Revises provisions with respect to payment of training costs and payment of tuition for attendance at approved courses.
- Provides requirements for issuance by the division of a firefighter and volunteer firefighter certificate of compliance.
- Authorizes the division to issue a Special Certificate of Compliance and provides requirements and limitations with respect thereto.
- Provides procedures and requirements for reexamination after failure of an examination.
- Increases the required number of hours of the structural fire training program from 40 to 54 hours.
- Provides for a Forestry Certificate of Compliance and prescribing the rights, privileges, and benefits thereof.
- Revises provisions relating to disqualifying offenses and provides requirements of the division with respect to suspension or revocation of a firefighter certificate.

- Revises provisions relating to retention of certification as a firefighter and defines the term "active."
- Prohibits a fire service provider from employing an individual as a firefighter or supervisor of firefighters and from retaining the services of an individual volunteering as a firefighter or a supervisor of firefighters without required certification.
- Requires a fire service provider to make a diligent effort to determine possession of required certification prior to employing or retaining an individual for specified services.
- Defining the terms "diligent effort" and "employ."
- Requires a fire service provider to notify the division of specified hirings, retentions, terminations, decisions not to retain a firefighter, and determinations of failure to meet certain requirements.
- Authorizes the division to conduct site visits to fire departments to monitor compliance.
- Requires the State Fire Marshal to determine, and adopt by rule, course work or degrees that represent the best practices toward supplemental compensation goals.
- Specifies that supplemental compensation shall be paid to qualifying full-time employees of a fire service provider.
- Specifies that policy guidelines be adopted by rule; classifying the division as a fire service provider responsible for the payment of supplemental compensation to full-time firefighters employed by the division.
- Provides conditions for permanent revocation of certification, prospective application of such provisions, and retroactive application with respect to specified convictions.
- Revises provisions relating to revocation of certification.
- Provides requirements with respect to application for certification.
- Requires specified submission of fingerprints and a fee be submitted to the Florida Department of Law Enforcement.
- Revises definitions of "firefighter employee," "firefighter employer," and "firefighter place of employment."
- Revises provisions that require the division to make studies, investigations, inspections, and inquiries with respect to firefighter employee injuries, illnesses, safety-based complaints, or line-of-duty deaths in firefighter employee places of employment.
- Authorizes the division to adopt by rule procedures for conducting inspections and inquiries of firefighter employers and further authorizes the division to enter premises to investigate compliance. Also provides criminal penalties.
- Revises definitions of the terms "safe" and "safety."
- Revises provisions relating to required safety inspections and clarifies that the division may not assess penalties as a result of such inspections.
- Requires firefighter employers to submit a plan for the correction of noncompliance issues to the division for approval in accordance with division rule.
- Provides procedure if a plan is not submitted, does not provide corrective actions, is incomplete, or is not implemented.
- Provides for workplace safety committees and coordinators, including mandatory negotiations during collective bargaining.
- Provides for compensation of the workplace safety committee.
- Authorizes the cancellation of an insurance plan due to noncompliance.

- Prescribes additional administrative penalties for firefighter employers for violation of, or refusal to comply with, part V of ch. 633, F.S. and provides for location of hearings.
- Clarifies requirements from which private firefighter employers are exempt.
- Eliminates a prerequisite to exemption for specified firefighter employers.
- Requires reinspection after specified noncompliance.
- Removes provisions that exclude from employment for a specified period an applicant for employment with a fire department who has a prior felony conviction.
- Revises provisions relating to adjustments in payments of accidental death benefits for firefighters.
- Provides that certain rules concerning statements of regulatory costs do not apply to the updates and amendments to the Florida Fire Prevention Code.
- Revises provisions relating to the homestead exemption for spouses of veterans who died in the line of duty.
- Creates a homestead exemption for surviving spouses of first responders who die in the line of duty.
- Revises provisions of the State Boiler Code.
- Establishes construction standards for new boilers installed or imported into this state.
- Requires the installer, rather than the owner, of a boiler placed in use after a specified date to submit a data report before operation.
- Authorizes seasonal retailers of sparklers to submit one registration form for multiple locations but requires each seasonal retailer of sparklers to pay an annual registration fee for each retail location registered.
- Repeals the retrofit of existing nursing homes through the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program.
- Repeals the State Fire Marshal Scholarship Grant Program.

This bill substantially amends and or renumbers the following sections of the Florida Statutes: ss. 112.011, 112.1815, 112.191, 112.81, 119.071, 120.541, 120.80, 121.0515, 125.01, 125.01045, 125.56, 166.0446, 175.032, 175.121, 196.081, 218.23, 252.515, 255.45, 258.0145, 281.02, 384.287, 395.0163, 400.232, 400.915, 429.41, 429.44, 429.73, 447.203, 468.602, 468.609, 489.103, 489.105, 496.404, 509.032, 513.05, 553.73, 553.77, 553.79, 554.103, 590.02, 627.4107, 633.01, 633.02, 633.021, 633.0215, 633.022, 633.025, 633.026, 633.027, 633.042, 633.052, 633.061, 633.065, 633.071, 633.081, 633.082, 633.083, 633.085, 633.101, 633.111, 633.115, 633.121, 633.14, 633.15, 633.151, 633.161, 633.162, 633.163, 633.167, 633.171, 633.175, 633.31, 633.34, 633.35, 633.351, 633.352, 633.353, 633.38, 633.382, 633.39, 633.41, 633.42, 633.43, 633.44, 633.45, 633.461, 633.47, 633.48, 633.49, 633.50, 633.511, 633.517, 633.521, 633.527, 633.531, 633.534, 633.537, 633.539, 633.541, 633.547, 633.549, 633.551, 633.554, 633.557, 633.60, 633.70, 633.701, 633.702, 633.72, 633.801, 633.802, 633.803, 633.805, 633.806, 633.807, 633.809, 633.811, 633.812, 633.814, 633.816, 633.817, 633.818, 633.821, 791.012, 791.015, 893.13, 934.03, 943.61.1002.33, 1002.34, 1013.12, 1013.38.

This bill creates the following sections of the Florida Statutes: ss. 633.132, 633.138, 633.406. This bill repeals the following sections of the Florida Statutes: ss. 633.024, 633.0245, 633.03, 633.0421, 633.13, 633.18, 633.30, 633.32, 633.33, 633.37, 633.445, 633.46, 633.514, 633.524, 633.804, 633.808, 633.810, 633.813, 633.815, 633.819, 633.820.

II. Present Situation:

Division of the State Fire Marshal (State Fire Marshal)

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.01, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.[1] Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.[2]

The Division of the State Fire Marshal (Division) consists of the following four bureaus: fire and arson investigations, fire standards and training, forensic fire and explosives analysis, and fire prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.[3]

Definition of Terms

(2) Under current law s. 633.021, F.S., defines the following terms:

- "Certificate" means a certificate of competency issued by the State Fire Marshal.[4]
- "Certification" means the act of obtaining or holding a certificate of competency from the State Fire Marshal.[5]
- "High-hazard occupancy" means any building or structure:
    - That contains combustible or explosive matter or flammable conditions dangerous to the safety of life or property.
    - In which persons receive educational instruction.
    - In which persons reside, excluding private dwellings.
    - Containing three or more floor levels.

Such buildings or structures include, but are not limited to, all hospitals and residential health care facilities, nursing homes and other adult care facilities, correctional or detention facilities, public schools, public lodging establishments, migrant labor camps, residential child care facilities, and self-service gasoline stations.[6]

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[1] The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.
[2] s. 633.0215(1), F.S.
[3] State Fire Marshal website: http://www.myfloridacfo.com/sfm/; last checked March 25, 2013.
[4] s. 633.021(2), F.S.
[5] s. 633.021(3), F.S.
[6] s. 633.021(13)(a), F.S.

NFPA 101 Life Safety Code

(3, 21,) The National Fire Protection Association publishes the NFPA 101 Life Safety Code. The Life Safety Code is used to protect people based on building construction, protection, and occupancy features that minimize the effects of fire and related hazards, and covers life safety in both new and existing structures.[7] Under current law the State Fire Marshal must adopt the Life Safety Code.[8] The current Florida Fire Prevention Code and the Life Safety Code incorporates the NFPA 101 Life Safety Code as adopted by the State Fire Marshal.[9]

Suspension, Revocation and Fines

(4) Under current law, if the State Fire Marshal finds that one or more grounds exist for the suspension or revocation of any license, certificate, or permit issued by the division, the State Fire Marshal may, in its discretion for first time offenders, in lieu of the suspension or revocation, impose upon the licensee or permittee an administrative fine not to exceed $1,000 for each violation, and not to exceed a total of $10,000 in any one proceeding. [10] The State Fire Marshal may allow the licensee, certificateholder, or permittee a reasonable period, not to exceed 30 days, within which to pay to the State Fire Marshal the amount of the fine. If the licensee, certificateholder, or permittee fails to pay the administrative fine in its entirety to the State Fire Marshal within such period, the license, permit, or certificate shall stand suspended until payment of the administrative fine has been made.[11]

Investigation of Fires and Reports

(6) Under current law the State Fire Marshal shall investigate the cause, origin, and circumstances of every fire occurring in this state wherein property has been damaged or destroyed where there is probable cause to believe that the fire was the result of carelessness or design. Report of all such investigations shall be made on approved forms to be furnished by the fire marshal.[12]

State Fire Marshal Agents - Authority

(8) Under current law the authority of the State Fire Marshal may be exercised by his or her agents, either individually or in conjunction with any other state or local official charged with similar responsibilities.[13]

Impersonating State Fire Marshal

(11) Under current law a person who falsely assumes or pretends to be the State Fire Marshal, an agent of the Division, a firefighter or a firesafety inspector and who acts as such to require a

[7] http://www.nfpa.org/aboutthecodes (Last visited March 25, 2013.)
[8] s. 633.0215(2), F.S.
[9] s. 633.01(1), F.S.
[10] s. 633.163(1), F.S.
[11] s. 633.163(2), F.S.
[12] s. 633.03, F.S.
[13] s. 633.13, F.S.

person to aid or assist him or her in any matter relating to the duties of the State Fire Marshal commits a felony of the third degree. If the impersonation occurs during the commission of a separate felony by that person, the impersonator shall be charged with a felony of the first degree.[14]

Tampering

(12) Under current law[15] it is a misdemeanor of the first degree to intentionally or willfully:

- Render a fire extinguisher or preengineered system required by statute or by rule inoperative except during such time as the extinguisher or preengineered system is being serviced, hydrotested, tested, repaired, or recharged, except pursuant to court order.
- Obliterate the serial number on a fire extinguisher for purposes of falsifying service records.
- Improperly service, recharge, repair, hydrotest, test, or inspect a fire extinguisher or preengineered system.
- Use the license or permit number of another person.
- Hold a permit and allow another person to use said permit number.
- Use, or permit the use of, any license by any individual or organization other than the one to whom the license is issued.

Investigation of Fraudulent Insurance Claims

(13) Under current law the State Fire Marshal, their agents, or any fire department official engaged in the investigation of a fire loss may request any insurance company investigating a claim under an insurance policy or contract with respect to a fire to release any information whatsoever in the possession of the insurance company relative to a loss from that fire. The insurance company shall release the available information to and cooperate with any official authorized to request such information.[16] If an insurance company has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the company shall notify the State Fire Marshal and shall furnish her or him with all material acquired by the company during the course of its investigation.[17]

[14] s. 633.151, F.S.
[15] s. 633.171(2), F.S.
[16] s. 633.175(1), F.S.
[17] s. 633.175(2), F.S.

Fees; Insurance Regulatory Trust Fund

(15) Under current laws:[18]

The initial application fee for each class of certificate is $300.
The biennial renewal fee for each class of certificate is $150.
The initial application fee for the permit classification is $100.
The biennial renewal fee for the permit classification is $50.
The fee for certificates issued as duplicates or to reflect a change of address is $15.
The fee for each examination or reexamination for each class of certificate is $100.
The fee for a Class A fire suppression equipment license is $250.
The fee for a Class B and C fire suppression equipment license is $150.
The fee for a Class D fire suppression equipment license is $200.
The fee for certificates issued as duplicates or to reflect a change of address is $10.

All moneys collected by the State Fire Marshal are deposited in the Insurance Regulatory Trust Fund,[19] which is administered by the Office of Insurance Regulation of the Financial Services Commission, and is administratively housed in the Department of Financial Services. The Insurance Regulatory Trust Fund provides funding for the regulation of the insurance and fire protection industries. The sources of revenues to the trust fund come from license fees, fines and taxes collected from the insurance and fire protection industries.[20]

Examination Providers

(15) Under current law the State Fire Marshal may enter into a contract with any qualified public entity or private company in accordance with chapter 287 to provide examinations for any applicant for any examination administered under the jurisdiction of the State Fire Marshal. The State Fire Marshal may direct payments from each applicant for each examination directly to such contracted entity or company.[21]

The Florida Fire Code Advisory Council

(22) The Council in house at the Department of Financial Services and consists of 11 members appointed by the State Fire Marshal. Each appointee serves a 4-year term but no member can serve more than two consecutive terms. The council advises and recommends s to the State Fire Marshal changes to and interpretation of the uniform firesafety standards, the Florida Fire Prevention Code, and those portions of the Florida Fire Prevention Code that have the effect of conflicting with building construction standards of the Florida Building Code. The members of the council must represent the following groups and professions: One member shall be the State Fire Marshal, or his or her designated appointee who shall be an administrative employee of the marshal, one member shall be an administrative officer from a fire department representing a municipality or a county selected from a list of persons submitted by the Florida Fire Chiefs Association, one member shall be an architect licensed in the state selected from a list of persons

[18] s. 633.524(1), F.S., and s. 633.061, F.S.
[19] s. 633.524(2), F.S.,
[20] s. 624.523, F.S.
[21] s. 633.524(3), F.S.

submitted by the Florida Association/American Institute of Architects, one member shall be an engineer with fire protection design experience registered to practice in the state selected from a list of persons submitted by the Florida Engineering Society, one member shall be an administrative officer from a building department of a county or municipality selected from a list of persons submitted by the Building Officials Association of Florida, one member shall be a contractor licensed in the state selected from a list submitted by the Florida Home Builders Association, one member shall be a Florida certified firefighter selected from a list submitted by the Florida Professional Firefighters' Association, one member shall be a Florida certified municipal fire inspector selected from a list submitted by the Florida Fire Marshal's Association, one member shall be selected from a list submitted by the Department of Education, one member shall be selected from a list submitted by the Chancellor of the State University System and one member shall be a representative of the general public.[22]

Firesafety Inspector Certificate

(27) Under current law every firesafety inspector certificate is valid for 3 years from the date of issuance. Renewal of certification is subject to the affected person's completing proper application for renewal and meeting all of the requirements for renewal, which shall include completion of at least 40 hours during the preceding 3-year period of continuing education as required by the rule of the department or, in lieu thereof, successful passage of an examination as established by the department.[23]

Fire Equipment Dealer License - Reexamination

(35) Under current law an applicant who fails the examination may take it 3 more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course approved by the State Fire College or an equivalent course approved by the State Fire Marshal. An applicant may not submit a new application within 6 months after the date of his or her last reexamination.[24]

5 Year Limit on Revocation

(49) Under s.633.547(3)(b), F.S., the State Fire Marshal may revoke a certificate for a period not to exceed 5 years.

Firefighters Employment, Standards, and Training Council

(56) The Council is housed at the Department of Financial Services and consists of 13 members. Two members are fire chiefs appointed by the Florida Fire Chiefs Association, two members are firefighters who are not officers, appointed by the Florida Professional Firefighters Association, two members are firefighter officers who are not fire chiefs, appointed by the State Fire Marshal,

[22] s. 633.72(1), F.S.
[23] s. 633.081(5), F.S.
[24] s. 633.061(4)(d), F.S.

one member appointed by the Florida League of Cities, one member appointed by the Florida Association of Counties, one member appointed by the Florida Association of Special Districts, one member appointed by the Florida Fire Marshal's Association, and one member appointed by the State Fire Marshal, and one member are a director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal. To be eligible for appointment as a fire chief member, firefighter officer member, firefighter member, or a director or instructor of a state-certified firefighting facility, a person shall have had at least 4 years' experience in the firefighting profession. The remaining member, who are appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government. Members serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.[25] Members are appointed for 4-year terms and in no event shall a member serve more than two consecutive terms. Any vacancy are filled in the manner of the original appointment for the remaining time of the term.[26]

Under current law the Council shall have the power to consult and cooperate with any employing agency, university, college, community college, the Florida State Fire College, or other educational institution concerning the employment and safety of firefighters, including, but not limited to, the safety of firefighters while at the scene of a fire or the scene of an incident related to the provision of emergency services to which a firefighter responds, and the development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of firefighter employment, fire science, fire technology, fire administration, and all allied and supporting fields.[27]

Criminal History

(6) Under current law a firefighter applicant cannot have been convicted of a felony or of a misdemeanor directly related to the position of employment sought, nor have pled nolo contendere to any charge of a felony. If an applicant has been convicted of a felony, such applicant must be in compliance with s. 112.011(2)(b), F.S. If an applicant has been convicted of a misdemeanor directly related to the position of employment sought, such applicant shall be excluded from employment for a period of 4 years after expiration of sentence. If the sentence is suspended or adjudication is withheld in a felony charge or in a misdemeanor directly related to the position or employment sought and a period of probation is imposed, the applicant must have been released from probation.[28]

Supplemental Income for Firefighters

(64) Every firefighter is entitled to supplemental compensation from the employing agency under specified circumstances are met.[29] The Firefighters' Supplemental Compensation Trust Fund, created under the Department of Revenue, provides the funds necessary for the supplemental

[25] s. 633.31(1), F.S.
[26] s. 633.31(2), F.S.
[27] s. 633.33(4), F.S.
[28] s. 633.34(2), F.S.
[29] s. 633.382, F.S.

compensation.[30] The Firefighters' Supplemental Compensation Trust Fund is funded by certain amounts appropriated from the Police and Firefighter's Premium Tax Trust Fund.[31]

The amount of supplemental compensation for a firefighter is determined as follows:

- Fifty dollars is paid monthly to a firefighter who receives an associate degree from a college, if the degree is applicable to fire department duties;
- One hundred and ten dollars is paid monthly to a firefighter who receives a bachelor's degree from a college or university, regardless of whether the firefighter earned an associate degree earlier, if the bachelor's degree is applicable to fire department duties.

Florida State Fire College

(68) The stated purpose of the Florida State Fire College is:[32]

- To provide firefighters with professional instruction and training in firefighting, fire prevention, and emergency operations.
- To develop new methods and practices for firefighting and fire prevention.
- To assist the state and local governments in their investigation and determination of the causes of fires.
- To provide facilities for testing firefighting equipment.
- To disseminate information on fires, firefighting and fire prevention to fire departments and others interested persons.
- To do such other things necessary for the promotion of public safety in the field of fire hazards and fire prevention work.

(73) Current law requires that, in performing its duties related to the Florida State Fire College, the division must:[33]

- Enter into agreements with school districts, community colleges, junior colleges, or universities, as necessary to perform its duties;
- Approve appropriate budget requests for the fire college educational program;
- Prepare a legislative budget request for the Florida State Fire College education program;
- Implement procedures to obtain appropriate entitlement funds from federal and state grants; and
- Develop a staffing and funding formula for the Florida State Fire College.

Frequency of Work-Related Injuries

(83) Current law requires the division to develop a process to identify firefighter employers whose firefighters have a high frequency or severity of work-related injuries.[34] This process includes:

[30] s. 633.382(4)(c), F.S.
[31] Id.
[32] s. 633.44, F.S.
[33] s. 633.50, F.S.

- Performing safety inspections of the facilities and operations; and
- The development of safety and health programs.

A firefighter employer identified as having a high frequency or severity of work-related injuries must implement a safety and health program developed by the division. The division cannot assess a penalty based on the results of a safety inspection, except the insurer or self-insurance fund can cancel the contract or terminate any discount that had been granted. Insurers shall distribute such safety and health programs to the firefighter employers so identified by the division. A firefighter employer can submit its own program in lieu of using the program developed by the division, subject to approval by the division.

Disqualification from Public Employment Based on Criminal Conviction

(89) Generally, a person cannot be disqualified from public employment solely because of a prior conviction for a crime, unless the crime was a felony or first-degree misdemeanor and directly related to the position of employment. The general application of this provision, however, does not apply to firefighters. A person applying to become a firefighter who has a prior felony conviction shall be excluded from employment for a period of 4 years after the expiration of the sentence, or until the person has received a full pardon or has had his or her civil rights restored.

Legislative Ratification of Agency Rules

(91) Current law provides that if the adverse impact or regulatory costs of a rule exceed specified criteria, the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives at least 30 days before the next legislative session, and the rule is not effective until ratified by the Legislature.[35] These provisions do not apply to the adoption of emergency rules or federal standards.

When multiple bills that pass in the same session affect the same statutory provision in inconsistent and irreconcilable ways, the version that is most strongly supported by legislative intent is placed in the text, and a footnote is inserted setting out the alternative text and explaining the conflict.[36]

In 2011, the legislature passed CS/CS/CS/HB 993 and HB 7239, which amended S. 120.541(4), F.S.[37] In addition, the legislature passed CS/CS/CS/HB 849, which also amended s. 120.541(4), F.S., by providing that emergency rules would be subject to legislative ratification.[38] Further that bill provided that triennial updates and amendments to the Florida Building Code and triennial updates and amendments to the Florida Fire Prevention Code would be exempt from legislative ratification. The provisions of CS/CS/CS/HB 993 and HB 7239 were incorporated into statutory text, but the provisions of CS/CS/CS/HB 849 were put in footnote 1 of that section.

[34] s. 633.809, F.S.
[35] s. 120.541(3), F.S.
[36] See, the Preface to Florida Statutes: "STATUTORY CONSTRUCTION: Multiple acts in the same section affecting a statutory provision."
[37] See, s.2, ch. 2011-225, L.O.F.
[38] See, s. 1, ch. 2011-222, L.O.F.

Property Tax Exemptions

(92) In 2012, the legislature passed CS/HB 95, titled the "Fallen Heroes Family Tax Relief Act." The bill provided an exemption from property tax on a homestead owned by a surviving spouse of a first responder who died in the line of duty. The bill defined a first responder to be a law enforcement officer, a correctional officer, a firefighter, or an emergency medical technician or paramedic. The effect of the act becoming law was contingent upon House Joint Resolution 93 being approved by Florida voters in the general election in November, 2012. As a result, the current 2012 Florida Statutes contain the provisions of CS/HB 95 as a footnote. Subsequent to the publication of the 2012 Florida Statutes, the text of Joint Resolution 93 was passed as an amendment to the Florida Constitution.

Boiler Safety

(93) Chapter 554, F.S., is titled the "Boiler Safety Act." Under the provisions of ch. 554, F.S., the DFS has adopted and enforces the State Boiler Code for the "safe construction, installation, inspection, maintenance, and repair of boilers,"[39] based on generally accepted nationwide engineering standards and practices. The law also provides the DFS with the responsibility and authority to adopt an existing code for new construction and installation known as the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (A.S.M.E.), and allows the DFS to adopt amendments to keep this code updated. The DFS reports that the current process for adopting amendments the Boiler and Pressure Vessel Code causes delays in keeping up with the frequent changes that are made by the A.S.M.E.

Current law requires that the owner of any boiler installed in Florida must submit the A.S.M.E. manufacturer's data report on the boiler to the chief inspector within 90 days of the installation of the boiler.

Fireworks Safety Standards

(96) Under current law, the outdoor display of fireworks is governed by the National Fire Protection Association (NFPA) 1123, Code for Fireworks Display, 1995 Edition, approved by the American National Standards Institute.[40] A state law or local ordinance can impose more restrictive requirements, but cannot allow less restrictive regulations. The division shall promulgate rules to carry out the provisions of this section. The Code for Fireworks Display does apply to fireworks on private residential property, or to sparklers or paper caps.

Registration of Sparkler Manufacturers

(97) Current law defines a "seasonal retailer" as a person who sells sparklers at retail in Florida from June 20 through July 5 and from December 10 through January 2.[41] The law requires that a manufacturer, distributor, wholesaler, retailer, or seasonal retailer of sparklers must register annually with the division before doing business in Florida.[42] The annual registration fee is set by

[39] s. 554.103(1), F.S.
[40] s.791.012, F.S.
[41] s. 791.01(7), F.S.
[42] s. 791.015(1), F.S.

the division and cannot exceed $1,000. A seasonal retailer must pay an annual fee set by the division, not to exceed $200.[43]

III. Effect of Proposed Changes:

Section 1 requests the Division of Law Revision and Information to create part 1 of chapter 633, Florida Statutes, consisting of sections 633.102, 633.104, 633.106, 633.108, 633.112, 633.114, 633.116, 633.118, 633.122, 633.124, 633.126, 633.128, 633.132, 633.134, 633.136, and 633.138, F.S., to be entitled "General Provisions."

Section 2 renumbers current s. 633.021, F.S., to become s. 633.102, F.S., incorporates language from s. 633.30, F.S., makes technical changes in regards to drafting, removes definitions for certificate, certification, and high hazard occupancy and adds definitions for:

- "Department" means the Department of Financial Services.
- "Division" means the Division of State Fire Marshal within the Department of Financial Services.
- "Firefighter" means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division.
- "Fire service support personnel" means an individual who does not hold a current and valid certificate issued by the division and who may only perform support services.
- "Fire service provider" means a municipality or county, the state, or any political subdivision of the state, including authorities and special districts, employing firefighters or utilizing volunteer firefighters to provide fire extinguishment for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.
- "Hot zone" means the area immediately around an incident where serious threat of harm exists, which includes the collapse zone for a structure fire.
- "Minimum Standards Course" means training of at least 360 hours as prescribed by rule adopted by the division which is required to obtain a Firefighter Certificate of Compliance.
- "Support services" means those activities that a fire service provider has trained an individual to perform safely outside the hot zone of an emergency scene, including pulling hoses, opening and closing fire hydrants, driving and operating apparatus, carrying tools, carrying or moving equipment, directing traffic, manning a resource pool, or similar activities.
- "Suspension" means the temporary withdrawal of a license, certificate, or permit issued pursuant to this chapter.
- "Volunteer firefighter" means an individual who holds a current and valid Volunteer Firefighter Certificate of Completion issued by the division.

Section 3 renumbers current s. 633.01, F.S., to become s. 633.104, F.S., requires the State Fire Marshal establish by rule guidelines and procedures for a 4 year renewal of firesafety inspector certification. The bill removes references to the Life Safety Code which is incorporated in the Florida Fire Prevention Code. Incorporates s. 633.517(2), F.S., allowing the State Fire Marshal or her or his duly appointed hearing officer may administer oaths and take testimony about all

[43] s. 791.015(3), F.S.

matters within the jurisdiction of this chapter. Chapter 120 shall govern hearings conducted by or on behalf of the State Fire Marshal. The bill incorporates s. 633.524(3), F.S., allowing that the State Fire Marshal may contract with any qualified public entity or private company in accordance with chapter 287 to provide examinations for any applicant for any examination administered under the jurisdiction of the State Fire Marshal. The State Fire Marshal may direct payments from each applicant for each examination directly to such contracted entity or company. The bill also makes technical changes in regards to drafting.

Section 4 renumbers current s. 633.01, F.S., to become s. 633.106, F.S., inserts current language granting the State Fire Marshal the authority to deny, suspend, or revoke the license, certificate, or permit of any individual who does not meet the qualifications established by, or who violates any provision under this chapter or any rule authorized by this chapter. The bill inserts current language found in s. 633.167, F.S., regarding probationary periods as well as the ability of the State Fire Marshal to impose a fine not to exceed $1,000 per violation. Allows the State Fire Marshal to set terms and conditions and to take disciplinary action for any violations of such terms. Also makes technical changes in regards to drafting.

Section 5 renumbers current s. 633.15, F.S., to become s. 633.108, F.S.

Section 6 renumbers current s. 633.101, F.S., to become s. 633.112, F.S., incorporates language found in ss. 633.03, F.S., and 633.18, F.S., additionally the bill requires the State Fire Marshal to investigate the cause, origin, and circumstances of every explosion occurring in this state. Reports of such investigations shall be made on approved forms to be furnished by the State Fire Marshal. The bill also makes technical changes in regards to drafting.

Section 7 renumbers current s. 633.111, F.S., to become s. 633.112, F.S., requires the State Fire Marshal to keep records of all explosions in the state.

Section 8 renumbers current s. 633.02, F.S., to become s. 633.114, F.S., incorporates s. 633.13, F.S., with regards to authorization for agents of the State Fire Marshal to investigate individually or in conjunction with any other state or local official charged with similar responsibilities.

Section 9 renumbers current s. 633.14, F.S., to become s. 633.116, F.S.

Section 10 renumbers current s. 633.121, F.S., to become s. 633.118, F.S., replaces the term “fire department” with “fire service providers” and makes technical changes in regards to drafting.

Section 11 renumbers current s. 633.151, F.S., to become s. 633.122, F.S., includes the impersonation of a “volunteer firefighter” when impersonating oneself as the State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or a firesafety inspector by wearing a uniform or presenting or displaying a badge as credentials that would cause a reasonable person to believe that the impersonator is a State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or firesafety inspector. The current penalties committed for impersonating those listed above are a felony of the third degree, punishable as provided in ss. 775.082 and 775.083 or, if the impersonation occurs during the commission of a separate felony by that person, commits a felony of the first degree, punishable as provided in ss. 775.082 and 775.083. Also makes technical changes in regards to drafting.

Section 12 renumbers current s. 633.171, F.S., to become s. 633.124, F.S., includes penalties for rendering inoperative a "fire protection system" as well as penalties for the use of a certificate or permit issued to another person. Also makes technical changes in regards to drafting.

Section 13 renumbers current s. 633.175, F.S., to become s. 633.126, F.S., adds the term "consultant" which means any individual or entity, or employee of the individual or entity, retained by an insurer to assist in the investigation of a fire, explosion, or suspected fraudulent insurance act. Additionally, explosions are added to the jurisdiction of the State Fire Marshal who may request any insurance company investigating a claim under an insurance policy or contract with respect to an explosion to release any information whatsoever in the possession of the insurance company relative to a loss from that explosion. The bill also makes technical changes in regards to drafting.

Section 14 renumbers current s. 633.45, F.S., to become s. 633.128, F.S., establishes by rule, uniform minimum standards for training volunteer firefighter, minimum curriculum requirements and criteria used by approve education or training providers as well as, standards for the approval, denial, probation, suspension, and revocation of an education or training provider and the facilities used for training. Also makes technical changes in regards to drafting.

Section 15 creates s. 633.132, F.S., the bill adds a $10 fee for each permit and license wanting to change their fire equipment dealer's license to a different category. Per the department, such requests currently result in a new application fee of $150 to $250 depending on license type. The bill also incorporates the fees listed in s. 633.061, F.S., except the fee for duplicate license or change of address which has been reduced from $15 to $10.

Section 16 renumbers current s. 633.39, F.S., to become s. 633.134, F.S.

Section 17 renumbers current s. 633.115, F.S., to become s. 633.136, F.S., makes technical changes when referencing the division as well as technical changes with regards to cross referencing other statutes and drafting.

Section 18 creates s. 633.138, F.S., requires individuals issued a license, permit, or certificate under this chapter to notify the division in writing of any changes to her or his current mailing address, e-mail address, and or place of practice. Notwithstanding any other provision of law, delivery by regular mail or e-mail using the last known mailing address or e-mail address on record with the division, shall constitute adequate and sufficient notice on any official communication by the division. Furthermore, any individual issued a license, permit, or certificate under this chapter shall notify the division in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof, or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.

Section 19 renumbers current s. 633.042, F.S., to become s. 633.142, F.S., adds language in s. 633.0421, F.S.

Section 20 requests the Division of Law Revision and Information to create part 1 of chapter 633, F.S., consisting of ss. 633.202, 633.204, 633.206, 633.208, 633.212, 633.214, 633.216, 633.218, 633.222, 633.224, 633.226, and 633.228, F.S., to be entitled "Fire Safety and Prevention."

Section 21 renumbers current s. 633.0215, F.S., to become s. 633.202, F.S., requires the State Fire Marshal to adopt the current edition of the National Fire Protection Association's Standard 1, the current edition of Life Safety Code and the current edition of NFPA Pamphlet 101. Removes the requirement the Life Safety Code be updated for statewide use every 3 years. Removes obsolete language pertaining to a study and the adoption of rules for a voice-over-Internet-protocol telephone service. Per the department such study has been completed and the rules have since been adopted. Makes technical changes with regards to cross referencing other statutes and drafting.

Section 22 renumbers current s. 633.72, F.S., to become s. 633.204, F.S., allows for a candidate from a "special district" to be included on the Florida Fire Chiefs Association's list for administrative officer. Requires one member of the Florida Fire Code Advisory Council be a Florida certified firesafety inspector selected from a list submitted by the Florida Fire Marshals' and Inspectors' Association. Requires the council shall meet at least semiannually if necessary to advise the State Fire Marshal's Office on matters subject to this section. Allows the council to review proposed changes to the Florida Fire Prevention Code and the uniform fire safety standards pursuant to s. 633.202(4), F.S. Makes technical changes with regards to cross referencing other statutes and drafting.

Section 23 renumbers current s. 633.022, F.S., to become s. 633.206, F.S., applies uniform firesafety standards to state universities and removes such standards for public food service establishments, lodging parks, recreational vehicle parks, recreational camps and self-service gasoline stations. The bill removes an obsolete requirement that a nursing home licensee must submit complete sprinkler construction documentation to the Agency for Health Care Administration. The bill also makes technical changes with regards to cross referencing other statutes.

Section 24 renumbers current s. 633.025, F.S., to become s. 633.208, F.S., changes the term "minimum firesafety codes and standards" to "Florida Fire Prevention Code." Makes technical changes with regards to cross referencing other statutes and drafting.

Section 25 renumbers current s. 633.026, F.S., to become s. 633.212, F.S., changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S., and changes the term "formal interpretation" to "declaratory statement" with regards to interpretation made by the division. Also, makes technical changes with regards to cross referencing other statutes and drafting.

Section 26 renumbers current s. 633.052, F.S., to become s. 633.214, F.S., changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S. The bill clarifies citations can be issued by a firesafety inspector for violations of the Florida Fire Prevention Code. Allows a "special district" to enact any ordinance relating to firesafety that

is identical to the Florida Fire Prevention Code. Also makes technical changes with regards to drafting.

Section 27 renumbers current s. 633.081, F.S., to become s. 633.216, F.S., clarifies persons authorized to enforce laws and rules on behalf of the State Fire Marshal may conduct inspections. The bill cross references other statutes in regards to requirements for firesafety certification. Increases from 3 years to 4 the number of years an inspector certificate is valid as well as the number of years continuing education must be completed. The bill increases the continuing education requirements for a fire safety inspector certificate from 40 hours to 54 hours. Requires a previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the fire safety inspector training as specified by the division. The bill changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S., and makes other technical changes with regards to cross referencing other statutes and drafting.

Section 28 renumbers current s. 633.085, F.S., to become s. 633.218, F.S., includes the current definition of s. 633.021(13), F.S., for "high-hazard occupancy." Applies the term "state-owned building" to include private correctional facilities as defined under s. 944.710(3), F.S., and state universities as defined under s. 1000.21(6), F.S. Requires a state-owned building or state-leased building or space shall be identified through use of the United States National Grid Coordinate System. The bill clarifies the uses of the terms "high-hazard occupancy" and "state-owned building" as they are applied to this section. Changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S., and makes technical changes with regards to drafting.

Section 29 renumbers current s. 633.027, F.S., to become s. 633.222, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 30 renumbers current s. 633.60, F.S., to become s. 633.224, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 31 renumbers current s. 633.557, F.S, to become s. 633.226, F.S.

Section 32 renumbers current s. 633.161, F.S., to become s. 633.228, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 33 requests the Division of Law Revision and Information to create part III of chapter 633, F.S., consisting of ss. 633.302, 633.304, 633.306, 633.308, 633.312, 633.314, 633.316, 633.318, 633.322, 633.324, 633.326, 633.328, 633.332, 633.334, 633.336, 633.338, 633.342, 633.344, 633.346, 633.348, and 633.3482, F.S., to be entitled "Fire Protection and Suppression."

Section 34 renumbers current s. 633.511, F.S., to become s. 633.302, F.S., the bill incorporates all the language in s. 633.514, F.S., and makes technical changes with regards to cross referencing other statutes and drafting. Also changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S.

Section 35 renumbers current s. 633.061, F.S., to become s. 633.304, F.S., strikes the fees that have been moved into s. 633.132(1)(a)6, F.S. Requires fire equipment dealers who wish to withdraw their previously filed halon equipment exemption affidavit must notify the division in writing and obtain an inspection before installing, removing or servicing halon equipment. Makes technical changes to the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S. Allows fire equipment dealer applicant's with facilities outside of the state, instead of paying for an inspection completed by the division, can provide a notarized statement from a professional engineer licensed by the applicant's state verifying the applicant possesses the equipment required for the class of license sought and that all such equipment is operable. The bill requires applicants of this section must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. If an applicant has been convicted of any such crime, the applicant shall be excluded from licensure for a period of 4 years after expiration of sentence or final release by the Parole Commission unless the applicant receives a full pardon or has had her or his civil rights restored. Allows the procedure for which a fire equipment dealer can convert their license to a lower licensing category. Removes current restrictions on number reexaminations for a fire equipment license in a given year but requires an applicant who passes the exam has one year from the application date to complete the licensure requirements or else the applicant must reapply. The bill also makes technical changes with regards to drafting.

Section 36 renumbers current s. 633.065, F.S., to become s. 633.306, F.S., makes technical changes with regards to cross referencing other statutes.

Section 37 renumbers current s 633.071, F.S., to become s. 633.308, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 38 renumbers current s. 633.082, F.S., to become s. 633.312, F.S., makes technical changes with regards to cross referencing other statutes and clarifies the term "appropriate authority" in lieu of the terms "agency having jurisdiction" and "agency shall."

Section 39 renumbers current s. 633.083, F.S., to become s. 633.314, F.S., makes technical changes with regards to drafting.

Section 40 renumbers current s 633.162, F.S., to become s. 633.316, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 41 renumbers current s. 633.521, F.S., to become s. 633.318, F.S., changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S. Makes other technical changes with regards to cross referencing other statutes and drafting.

Section 42 renumbers current s. 633.551, F.S., to become s. 633.322, F.S., allows a "special district" to regulate the work performed by contractors through a system of permits, plan approval, fees, and inspections which are designed to secure compliance with state and local building laws or to enforce other local laws. The bill also makes other technical changes with regards to drafting.

Section 43 renumbers current s. 633.527, F.S., to become s. 633.324, F.S.

Section 44 renumbers current s. 633.531, F.S., to become s. 633.326, F.S.

Section 45 renumbers current s. 633.534, F.S., to become s. 633.328, F.S., changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S., and makes other technical changes with regards to drafting.

Section 46 renumbers current s. 633.537, F.S., to become s. 633.332, F.S., strikes the fee for renewal of an inactive license which has been moved into s. 633.132(1)(a)7, F.S. Also makes technical changes with regards to drafting.

Section 47 renumbers current s. 633.539, F.S., to become s. 633.334, F.S., changes the name "division of State Fire Marshal" to the new definition term "division" created in s. 633.102(5), F.S., and makes other technical changes with regards cross referencing other statutes.

Section 48 renumbers current s. 633.541, F.S., to become s. 633.336, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 49 renumbers current s. 633.547, F.S., to become s. 633.338, F.S., allows disciplinary actions taken by a special district to be reviewed by the State Fire Marshal to determine issuing additional disciplinary action. Clarifies the terms and conditions when the State Fire Marshal suspends a license. The bill removes the restriction that the State Fire Marshal cannot revoke a license for more than 5 years. Makes other technical changes with regards to cross referencing other statutes and drafting.

Section 50 renumbers current s. 633.549, F.S., to become s. 633.342, F.S., makes technical changes with regards to drafting.

Section 51 renumbers current s. 633.554, F.S., to become s. 633.344, F.S.

Section 52 renumbers section 633.70, F.S., to become s. 633.344, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 53 renumbers current s. 633.701, F.S., to become s. 633.348, F.S.

Section 54 renumbers current s. 633.702, F.S., to become s. 633.3482, F.S., makes technical changes with regards to drafting.

Section 55 requests the Division of Law Revision and Information to create part IV of chapter 633, F.S., consisting of ss. 633.402, 633.404, 633.406, 633.408, 633.412, 633.414, 633.416, 633.418, 633.422, 633.424, 633.426, 633.428, 633.432, 633.434, 633.436, 633.438, 633.442, and 633.444, F.S., to be entitled "Fire Standards and Training."

Section 56 renumbers current s. 633.31, F.S., to become s. 633.402, F.S., and incorporates language in ss. 633.32 and 633.33, F.S. The bill adds a member to the Firefighters Employment, Standards, and Training Council who is to be an employee of the Florida Forest Service

appointed by the director of the Florida Forest Service at the Department of Agriculture and Consumer Services. Removes the current authority under s 633.33(4), F.S., allowing the council to consult and cooperate with any employing agency, university, college, community college, the Florida State Fire College, or other educational institution concerning the employment and safety of firefighters, including, but not limited to, the safety of firefighters while at the scene of a fire or the scene of an incident related to the provision of emergency services to which a firefighter responds, and the development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of firefighter employment, fire science, fire technology, fire administration, and all allied and supporting fields. The bill makes technical changes with regards to drafting.

Section 57 renumbers current s. 633.42, F.S., to become s. 633.404, F.S., clarifies the term "a fire service provider" in lieu of "an employing agency" and changes "department" to "division."

Section 58 creates s. 633.406, F.S., by incorporating the "firefighter certificate of compliance," the "special certificate of compliance" and the "forestry certificate of compliance" from s. 633.35, F.S., the "certificate of competency" from s. 633.021(2), F.S., and creates the "fire services instructor certificate" and "volunteer firefighter certificate." Additionally, the bill allows that the division may establish by rule certificates and awards in recognition of special training or education received by an individual, authorizing that individual to perform specialized firefighting services or provide specialized firefighting instruction, such as hazardous materials and urban search and rescue.

Section 59 renumbers current s. 633.35, F.S., to become s. 633.408, F.S., requires the division to establish by rule a minimum standards course and course examination to provide the training required to obtain a firefighter certificate of compliance, courses and course examinations to provide training required to obtain a volunteer firefighter certificate of completion or a special certificate of compliance and courses to provide continuing training for firefighters and volunteer firefighters. Courses may only be administered by education or training providers approved by the division and taught by certified instructors. Allows but does not require a fire service provider pay part or all of the costs of tuition for attendance at approved courses. Allows for firefighters from other states to be certified if the division determines their training meets the minimum training required under this section. The bill allows for an extension of the 6-month reexamination period based upon documented medical necessity. Also makes technical changes with regards cross referencing other statutes and drafting.

Section 60 renumbers current s. 633.34, F.S., to become s. 633.412, F.S., replaces the term "employment" with "certification," strengthens the requirement that an applicant cannot have been convicted of a misdemeanor relating to the certification or to perjury or false statements. Imposes a lifetime ban for licensure on anyone having been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state or under the law of any other country. The bill also imposes a new restriction, that an applicant cannot have been dishonorably discharged from the Armed Forces of the United States. Defines the term "convicted" to mean a finding of guilt or the acceptance of a plea of guilty or nolo contendere, in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.

Requires when the division suspends or revokes an individual's certificate, the division must suspend or revoke all other certificates issued by the division.

Section 61 renumbers current s. 633.352, F.S., to become s. 633.414, F.S., changes the time a certificate is valid from 3 years to 4, requires a minimum of 40 hours of training every 4 years, requires reexamination of the Minimum Standards Course within 6 months of the 4-year expiration, and also requires certificateholder must be active as a firefighter. Requires certified fire safety instructors must provided documentation that they taught a minimum of 40 hours every 4 years. Requires volunteer firefighters be active or successfully complete a minimum of 40 hours of training every 4 years. Defines the term "active" as being employed as a firefighter or providing service as a volunteer firefighter for a cumulative 6 months within a 4-year period. Applies the new 4 year certificate is applied to new applicants beginning July 1, 2013, and is prospectively applied among current certificateholder beginning July 1, 2014.

Section 62 renumbers current s. 633.41, F.S., to become s. 633.416, F.S., and establishes standards for firefighter employment and volunteer firefighter service. The bill provides that a fire service provider:

- Can only hire someone with a Firefighter Certificate of Compliance to extinguish fires for the protection of life or property or supervise others to do so;
- Can only hire someone with a Firefighter Certificate of Compliance or Special Certificate of Compliance to serve as the administrative and command head; and
- Can only retain the services of someone volunteering to extinguish fires for the protection of life or property or to supervise others to do so if the person has Volunteer Firefighter Certificate of Completion.

The bill provides that the fire service provider must make a diligent effort to insure that all hires meet the specified certificate requirements, including contacting at least three of the applicant's previous employers and contacting the division to determine the applicant's certification status.

The bill provides that within 10 days the fire service provider must notify the division of: the hiring of a firefighter; the retention of a volunteer firefighter; the termination of employment of a firefighter; or of its decision not to retain a volunteer firefighter. The bill specifies the information that must be included in the fire service provider's notification to the division. If the fire service provider makes a determination that an applicant has not met the certification requirements, the fire service provider must notify the division within 10 days. The bill authorizes the division to conduct site visits to fire departments to insure compliance with the provisions of this section.

Section 63 renumbers current s. 633.38, F.S., to become s. 633.418, F.S., changes references and other minor technical changes. Further, current law requires the division to prescribe curricula and standards for advanced and specialized training courses, but provides that these standards do not bind any employing agency as to the requirements it may have for promoting personnel. The bill exempts "fire service providers" from the standards, as opposed to the current term "employing agency."

Section 64 renumbers current s. 633.382, F.S., to become s. 633.422, F.S. The bill adds legislative intent recognizing the need for supplemental compensation for firefighters who pursue higher educational opportunities that directly relates to the improvement of the health, safety, and welfare of firefighters and those who firefighters protect. The bill specifies that for the purposes of s. 633.422, F.S., division is to be considered a fire service provider responsible for payment of supplemental compensation to firefighters employed full-time by the division. The bill removes certain definitions.

Section 65 renumbers current s. 633.353, F.S., to become s. 633.424, F.S., and makes minor technical changes.

Section 66 renumbers current s. 633.351, F.S., to become s. 633.426, F.S., relating to disciplinary action and standards for revocation of certification. The bill defines "certificate" to mean any of the certificates issued under s. 633.406.[44] The bill provides that a person is not eligible to apply for a certificate if the individual has been:

- Convicted of a misdemeanor relating to the certification or to perjury or false statements;
- Convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of any other state, of United States, or of another country; or
- Dishonorably discharged from any of the Armed Forces of the United States.

The bill provides that the certification of an individual will be permanently revoked if the individual:

- Is convicted of a misdemeanor relating to perjury or false statement;
- Is convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of any other state, of United States, or of another country;
- Is dishonorably discharged from any of the Armed Forces of the United States; or
- Has demonstrated a lack of moral fitness to carry out the responsibilities under the certification.

The provisions of this section that apply to revocation of a certificate will be applied prospectively to convictions and dishonorable discharges after July 1, 2013. For convictions prior to July 1, 2013, the statute as it existed before this bill would apply.

The bill requires that an applicant must submit fingerprints and a processing fee to the division. The bill requires that the Florida Department of Law Enforcement must retain and enter into the statewide automated fingerprint identification system all fingerprints submitted to the division under these provisions. The Florida Department of Law Enforcement will search the fingerprints against all arrest fingerprints and report to the division any arrest records that are identified with the retained fingerprints.

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[44] As identified in the description of newly created s. 633.406, F.S., the certificates that will be issued under that section include a Firefighter Certificate, a Fire Safety Inspector Certificate, a Forestry Certificate, a Fire Service Instructor Certificate, Certificate of Competency, a Special Certificate of Compliance, and a Volunteer Firefighter Certificate.

Section 67 renumbers current s. 633.43, F.S., to become s. 633.428, F.S., and makes minor technical changes.

Section 68 renumbers current s. 633.44, F.S., to become s. 633.432, F.S., and provides that beside those purposes already listed, an additional purpose of the Florida State Fire College is to ensure professionalism and competence of those who perform firefighting, fire prevention, and associated fire protection functions by administering a system of certification and licensing.

Section 69 renumbers current s. 633.48, F.S., to become s. 633.434, F.S., and changes references.

Section 70 renumbers current s. 633.461, F.S., to become s. 633.436, F.S. Current law specifies the allowable uses for funds received from the Insurance Regulatory Trust Fund. One of the current allowable uses is the State Fire Marshal Scholarship Grant Program. The bill deletes this program from the purposes for which the funds used.

Section 71 renumbers current s. 633.47, F.S., to become s. 633.438, F.S.

Section 72 renumbers current s. 633.49, F.S., to become s. 633.442, F.S., and makes minor technical changes.

Section 73 renumbers current s. 633.50, F.S., to become s. 633.444, F.S., corrects references, makes minor technical changes, and adds provisions to the division's duties related to the Florida State Fire College. The bill provides that, in addition to its statutory duties related to the State Fire College, the division must:

- Establish criteria for approving education or training providers.
- Register the approved education or training providers in an electronic database.

An education or training provider must be approved and registered before it can offer a course to fulfill an education or training requirement, and only an approved and registered provider can provide instruction or training that will be recognized by the division as fulfilling an education or training requirement.

Section 74 requests the Division of Law Revision and Information to create part V of chapter 633, Florida Statutes, consisting of sections 633.502, 633.504, 633.506, 633.508, 633.512, 633.516, 633.518, 633.520, 633.522, 633.526, 633.528, 633.532, 633.534, and 633.536, Florida Statutes, and entitled "Florida Firefighters Occupational Safety and Health Act."

Section 75 renumbers current s. 633.801, F.S., to become s. 633.502, F.S., and provides that the title "Florida Firefighters Occupational Safety and Health Act," which is currently applied to ss. 633.801 – 633.821, will instead apply to ss. 633.502 – 633.536.

Section 76 renumbers current s. 633.802, F.S., to become s. 633.504, F.S., changes references and amends current definitions. Current law defines "firefighter employee" as any person engaged in specifically defined employment. The bill specifies that a "firefighter employee" is a firefighter, a volunteer firefighter, or an individual providing support services. The bill expands

the current definition of "firefighter place of employment" to include the physical location at which a firefighter employee is deployed.

Section 77 renumbers current s. 633.803, F.S., to become s. 633.506, F.S., corrects references, makes minor technical changes.

Section 78 renumbers current s. 633.821, F.S., to become s. 633.508, F.S., corrects references, deletes obsolete language and incorporates all the language formerly contained in ss. 633.808(1), 633.808(2), and 633.808(3), F.S., and renumbers those sections to be ss. 633.508(7)(a), 633.508(7)(b), and 633.508(7)(c), F.S., respectively.

Section 79 renumbers current s. 633.817, F.S., to become s. 633.512, F.S., and corrects references.

Section 80 renumbers current s. 633.805, F.S., to become s. 633.516, F.S.

Section 81 renumbers current ss. 633.806(1) and 633.806(2), F.S., to become ss. 633.518(1) and 633.518(2), F.S., respectively, corrects references, and adds provisions. Current law authorizes the division to conduct investigations into the causes of firefighter injuries. The bill expands this authority of the division to conduct studies, investigations or inspections into the causes of firefighter injuries, illnesses, safety-based complaints or Line of Duty Deaths. The bill also incorporates the language formerly contained in s. 633.815, F.S., and renumbers it to be s. 633.518(3), F.S., with minor technical changes.

Section 82 renumbers current s. 633.807, F.S., to become s. 633.520, F.S., and corrects references.

Section 83 renumbers current s. 633.809, F.S., to become s. 633.522(1), F.S., and makes technical changes; renumbers current ss. 633.810(1), 633.810(2), 633.810(3), and 633.810(4), F.S., to become ss. 633.522(2), 633.522(3), 633.522(4), 633.522(5),F.S., respectively; and renumbers current s. 633.813, F.S., to become s. 633.522(6), F.S., with minor technical changes.

Section 84 renumbers current s. 633.811, F.S., to become s. 633.526, F.S., corrects references, and specifies sanctions that the division may impose for violations by firefighter employers. The bill provides that when the division finds that a firefighter employer has violated any rule adopted under a provision of this part, the division may:

- Issue an administrative cease and desist order, enforceable in the circuit court.
- Assess an administrative fine of an amount between $100 and $1,000 for each violation and each day a violation is committed.

The bill also provides that hearings under s. 633.811, F.S., will be conducted in Tallahassee, rather than in the county of the violation, as provided by current law.

Section 85 renumbers current s. 633.812, F.S., to become s. 633.528, F.S., corrects references, and removes the requirements in current law that a private firefighter employer with 20 or more full-time firefighter employees must provide for a safety committee in the safety program.

Section 86 renumbers current s. 633.816, F.S., to become s. 633.532, F.S., and corrects references.

Section 87 renumbers current s. 633.818, F.S., and s. 633.819, F.S., to become s. 633.534(1), F.S., and s. 633.534(2),F.S., respectively, and corrects references.

Section 88 renumbers current s. 633.814, F.S., to become s. 633.536, F.S., and corrects references.

Section 89 amends s. 112.011, F.S., relating to disqualification from public employment based on criminal convictions. The bill repeals the current statutory provision that a person with a felony conviction can become eligible to serve as a firefighter after a period of 4 years or if he or she has received a full pardon or has had his or her civil rights restored.

Section 90 amends s. 112.191, F.S., relating to payments provided to firefighters killed in the line of duty. Current law provides that an adjusted award of $50,000 be paid when the firefighter is accidently killed and an adjusted award of $150,000 be paid when the firefighter's death is the result of an intentional act of another person.[45] Under current law, the amounts are to be adjusted by agency rule to reflect changes since the "effective date of the act," based on the Consumer Price Index For All Urban Consumers published by the U.S. Department of Labor. The bill provides that the division is to apply the Consumer Price Index For All Urban Consumers to reflect price levels since July 1, 2002, and publish the resulting amounts on the division's website.

Section 91 amends s. 120.541, F.S., to move into the text of that section the provisions that are currently noted in footnote 1 of that section. The effect of the bill is to specify that triennial updates and amendments to the Florida Building Code and triennial updates and amendments to the Florida Fire Prevention Code are exempt from legislative ratification. The bill provides that emergency rules would become subject to legislative ratification.

Section 92 amends s. 196.081, F.S., to move the text of its current footnote 1 into the body of the statutory section. The effect is to create a new s. 196.081, F.S., which provides an exemption from property tax on a homestead owned by a surviving spouse of a first responder who died in the line of duty. The bill defines a first responder to be a law enforcement officer, a correctional officer, a firefighter, or an emergency medical technician or paramedic.

Section 93 amends s. 554.103, F.S. The bill removes the provision in current law that the State Boiler Code must cover the safe construction of boilers in Florida, but continues the current provision that the State Boiler Code must cover the safe installation, inspection, maintenance, and repair of boilers in Florida. The bill specifies that new boilers installed or imported into Florida must be constructed to the most current version of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (A.S.M.E.). This change makes the DFS better able to apply the most up-to-date engineering standards adopted by the A.S.M.E.

[45] S. 112.191(2), F.S.

The bill amends current law that requires that the owner of any boiler installed in Florida to submit the A.S.M.E. manufacturer's data report to the chief inspector within 90 days of the installation of the boiler. The bill places the responsibility to submit the report on the installer, rather than the owner, and requires that the report must be submitted before the boiler is placed into operation.

Section 94 amends s. 633.167, F.S., to remove from that section certain of the State Fire Marshal's authority to impose conditions for probation, because that authority has been moved to s 633.106, F.S.

Section 95 amends s. 633.517, F.S., to remove from that section certain of the State Fire Marshal's authority to administer oaths and take testimony, because that authority has been moved to s. 633.112, F.S.

Section 96 amends s. 791.012, F.S. The bill requires that the outdoor display of fireworks would be governed under a publication adopted in the Florida Fire Prevention Code, instead of the current standard approved by the American National Standards Institute.

Section 97 amends s. 791.015, F.S. Current law provides that a retailer who sells at more than one location may submit one registration form covering all of its locations. The bill specifies that this provision applies to seasonal retailers as well. The bill specifies that the maximum $200 annual registration fee for seasonal retailers applies to each retail location registered.

Section 98 repeals s. 633.024, F.S.

Section 99 repeals s. 633.0245, F.S.

Section 100 repeals s. 633.03, F.S., and moves the text of current s. 633.03, F.S., to become new s. 633.112(6), F.S.

Section 101 repeals s. 633.0421, F.S., and moves the text of current s. 633.0421, F.S., to become new s. 633.142(11)(b), F.S.

Section 102 repeals s. 633.13, F.S., and moves the text of current s. 633.13, F.S., to become new s. 633.114(2), F.S.

Section 103 repeals s. 633.18, F.S., and moves the text of current s. 633.18, F.S., to become new s. 633.112(5), F.S.

Section 104 repeals s. 633.30, F.S., and incorporates portions of the repealed text into new s. 633.102, F.S.

Section 105 repeals s. 633.32, F.S., and moves the text of current ss. 633.32(1), (2), (3), and (4), F.S., to become new ss. 633.402(5), (6), (7), and (8), F.S., respectively.

Section 106 repeals s. 633.33, F.S., and moves the text of current ss. 633.33(1), (2), (3), (5), and (6), F.S., to become new ss. 633.402(9)(a), (b), (c), (d), and (e), F.S., respectively.

Section 107 repeals s. 633.37, F.S., and incorporates portions of the repealed text into new s. 633.408, F.S.

Section 108 repeals s. 633.445, F.S.

Section 109 repeals s. 633.46, F.S., and incorporates portions of the repealed text into new s. 633.132, F.S.

Section 110 repeals s. 633.514, F.S., and moves the text of current ss. 633.514(1) and (2), F.S., to become new s. 633.302(4) and (5), F.S., respectively.

Section 111 repeals s. 633.524, F.S., and incorporates portions of the repealed text into new s. 633.132, F.S.

Section 112 repeals s. 633.804, F.S.

Section 113 repeals s. 633.808, F.S., and moves the text of current s. 633.808(1), (2), and (4), F.S., to become new s. 633.508(7)(a), (b), and (c), F.S., respectively.

Section 114 repeals s. 633.810, F.S., renumbers current ss. 633.810(1), (2), (3), and (4), F.S., to become new ss. 633.522(2), (3), (4), and (5), F.S., respectively.

Section 115 repeals s. 633.813, F.S., and renumbers current s. 633.813, F.S., to become new s. 633.522(6), F.S., with minor technical changes.

Section 116 repeals s. 633.815, F.S., and renumbers the current s. 633.815, F.S., to become new s. 633.518(3), F.S., with minor technical changes.

Section 117 repeals s. 633.819, F.S., and renumbers s. 633.819, F.S., to become new s. 633.534(2), F.S., with corrected references.

Section 118 repeals s. 633.820, F.S.

Sections 119-162 makes changes to cross referencing to reflect new chapter organization**.**

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

(62) A County, City, Special District Fire Department (fire service provider) must notify the division electronically within 10 days after the hiring or firing of a firefighter and the retention or non retention of a volunteer firefighter. The notification must include the individual's name, the date on which he or she was hired or retained and the last date of employment or retention before leaving the fire service provider.

(84) The bill provides that if the division finds that a firefighter employer has violated any rule, the firefighter employer can be assessed an administrative fine of an amount between $100 and $1,000 for each violation and each day a violation is committed.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

(15) A $10 fee is created instead of having fire equipment dealer's pay for a new application fee ($150 -$250) for downgrading their license. Also, the fee for duplicate fire equipment license or change of address has been reduced from $15 to $10.

B. Private Sector Impact:

(11) Under changes in the bill a person could be charged with a felony for impersonating a volunteer firefighter.

(58, 59) The bill creates requirements for becoming a certified volunteer firefighter and fire service instructor.

(18) The bill requires a license, permit, or certificate holder must notify the division in writing of any changes to her or his current mailing address or e-mail address. Delivery by regular mail or e-mail using the last known mailing address or e-mail address on record shall constitute adequate and sufficient notice on any official communication by the division.

(23) The bill removes current requirements that uniform firesafety standards must be applied to public food service establishments, lodging parks, recreational vehicle parks, recreational camps and self-service gasoline stations.

(27) The bill increases from 3 years to 4 the number of years a fire safety inspector certificate is valid, increases the continuing educations requirements for a fire safety inspector from 40 hours to 54 hours and requires repeat training for fire safety inspectors whose certification has lapsed for 8 years or more.

(35) The bill allows fire equipment dealer applicant's with facilities outside of the state, instead of paying for an inspection completed by the division, can provide a notarized statement from a professional engineer licensed by the applicant's state verifying the applicant possesses the equipment required for the class of license sought and that all such equipment is operable.

(35) The bill requires a fire equipment dealer applicant who has been convicted of a felony must wait 4 years after the end of their sentence or final release by the Parole Commission, unless they have received a full pardon or have had her or his civil rights restored, before applying.

(35) The bill removes current restrictions on number reexaminations for a fire equipment dealer license in a given year but requires an applicant who passes the exam has 1 year from the application date to complete the licensure requirements or else the applicant must reapply.

(49) The bill removes the restriction that the State Fire Marshal cannot revoke a license for more than 5 years, allowing a license to be revoked indefinitely.

(59) The bill allows for a fire service provider to pay part or all of the costs of tuition for attendance at approved courses. Allows for firefighters from other states to be certified if the division determines their training meets the minimum training required under this section. The bill also allows for an extension of the 6-month reexamination period based upon documented medical necessity.

(60) The bill would ban any convicted felon or dishonorably discharged member of the armed services from obtaining licensure as a firefighter.

(60) The bill requires when the division suspends or revokes an individual's certificate, the division must suspend or revoke all other certificates issued by the division.

(61) The bill increases from 3 years to 4 the number of years a Firefighter Certificate of Compliance is valid. The Continuing Education requirements remain at 40 hours.

(93) The bill amends current law that requires that the owner of any boiler installed in Florida to submit the A.S.M.E. manufacturer's data report to the chief inspector within 90 days of the installation of the boiler. The bill places the responsibility to submit the report on the installer, rather than the owner, and requires that the report must be submitted before the boiler is placed into operation.

(97) The bill specifies that the maximum $200 annual registration fee for seasonal retailers applies to each retail location registered.

C. Government Sector Impact:

(6, 7, 13) The bill clarifies the State Fire Marshal shall be required to investigate and keep records on the cause, origin and circumstance of every explosion that occurs in the state.

(22) The Florida Fire Code Advisory Council must meet at least semiannually if necessary to advise the State Fire Marshal's Office on matters relating to the Florida Fire Prevention Code.

(23) The bill requires uniform firesafety standards are to be applied to state universities defined under s. 1000.21, F.S.

(42) The bill allows a special district to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections which are designed to secure compliance with state and local building laws or to enforce other local laws for the protection of the public health and safety.

(56) The bill adds a member to the Firefighters Employment, Standards, and Training Council who is to be an employee of the Florida Forest Service appointed by the director of the Florida Forest Service at the Department of Agriculture and Consumer Services., fire technology, fire administration, and all allied and supporting fields.

(73) The bill provides that the division must establish criteria for approving education and training providers and register the approved providers in an electronic database. The DFS believes this responsibility will be met with existing resources.

(81) The bill expands the authority of the division to conduct studies or investigations into the causes of firefighter illnesses, safety-based complaints or Line of Duty Deaths. The DFS believes this responsibility will be met with existing resources.

(84) The bill provides that if the division finds that a firefighter employer has violated a rule, it can issue an administrative cease and desist order, enforceable in the circuit court.

VI. Technical Deficiencies:

Lines 952-954 adding “quadrennial” and removing “every four years” would make it clear rules do not need to be established every 4 years.

Lines 2175, 3174 and 3190 “special district” should be added after “municipality.”

The bill (section 91) provides that emergency rules would become subject to legislative ratification if they exceed the current statutory criteria. This appears to affect every agency subject to ch. 120, F.S. The bill title is limited to fire safety and prevention.

The bill (section 92) provides an exemption from property tax on a homestead owned by a surviving spouse of a first responder who died in the line of duty. A first responder is defined as a law enforcement officer, a correctional officer, a firefighter, or an emergency medical technician or paramedic. The bill title is limited to fire safety and prevention.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

360216

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Simmons) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. The Division of Law Revision and Information is
6 directed to create part I of chapter 633, Florida Statutes,
7 consisting of sections 633.102, 633.104, 633.106, 633.108,
8 633.112, 633.114, 633.116, 633.118, 633.122, 633.124, 633.126,
9 633.128, 633.132, 633.134, 633.136, and 633.138, Florida
10 Statutes, to be entitled "General Provisions."
11 Section 2. Section 633.021, Florida Statutes, is
12 transferred, renumbered as section 633.102, Florida Statutes,

360216

13 and amended to read:
14 633.102 ~~633.021~~ Definitions.—As used in this chapter, the
15 term:
16 (1) “Board” means the Florida Fire Safety Board.
17 ~~(2) “Certificate” means a certificate of competency issued~~
18 ~~by the State Fire Marshal.~~
19 ~~(3) “Certification” means the act of obtaining or holding a~~
20 ~~certificate of competency from the State Fire Marshal.~~
21 (2)~~(4)~~ “Contracting” means engaging in business as a
22 contractor.
23 (3)~~(5)~~(a) “Contractor I” means a contractor whose business
24 includes the execution of contracts requiring the ability to lay
25 out, fabricate, install, inspect, alter, repair, and service all
26 types of fire protection systems, excluding preengineered
27 systems. A Contractor I may also perform all of the duties
28 specified for a Contractor II, Contractor III, Contractor IV,
29 and Contractor V.
30 (b) “Contractor II” means a contractor whose business is
31 limited to the execution of contracts requiring the ability to
32 lay out, fabricate, install, inspect, alter, repair, and service
33 water sprinkler systems, water spray systems, foam-water
34 sprinkler systems, foam -water spray systems, standpipes,
35 combination standpipes and sprinkler risers, all piping that is
36 an integral part of the system beginning at the point of service
37 as defined in this section, sprinkler tank heaters, air lines,
38 thermal systems used in connection with sprinklers, and tanks
39 and pumps connected thereto, excluding preengineered systems. A
40 Contractor II may also perform the duties specified for a
41 Contractor IV and Contractor V.

360216

42 (c) “Contractor III” means a contractor whose business is
43 limited to the execution of contracts requiring the ability to
44 fabricate, install, inspect, alter, repair, and service carbon
45 dioxide ~~CO_2~~ systems, foam extinguishing systems, dry chemical
46 systems, and Halon and other chemical systems, excluding
47 preengineered systems.
48 (d) “Contractor IV” means a contractor whose business is
49 limited to the execution of contracts requiring the ability to
50 lay out, fabricate, install, inspect, alter, repair, and service
51 automatic fire sprinkler systems for detached one-family
52 dwellings, detached two-family dwellings, and mobile homes,
53 excluding preengineered systems and excluding single-family
54 homes in cluster units, such as apartments, condominiums, and
55 assisted living facilities or any building that is connected to
56 other dwellings. A Contractor IV is limited to the scope of
57 practice specified in NFPA 13D.
58 (e) “Contractor V” means a contractor whose business is
59 limited to the execution of contracts requiring the ability to
60 fabricate, install, inspect, alter, repair, and service the
61 underground piping for a fire protection system using water as
62 the extinguishing agent beginning at the point of service as
63 defined in this act and ending no more than 1 foot above the
64 finished floor.
65
66 The definitions in this subsection may ~~must~~ not be construed to
67 include ~~fire protection~~ engineers or architects and do not limit
68 or prohibit a licensed fire protection engineer or architect
69 with fire protection design experience from designing any type
70 of fire protection system. A distinction is made between system

360216

71 design concepts prepared by the design professional and system
72 layout as defined in this section and typically prepared by the
73 contractor. However, a person ~~persons~~ certified as a Contractor
74 I, Contractor II, or Contractor IV under this chapter may design
75 fire protection systems of 49 or fewer sprinklers, and may
76 design the alteration of an existing fire sprinkler system if
77 the alteration consists of the relocation, addition, or deletion
78 of not more than 49 sprinklers, notwithstanding the size of the
79 existing fire sprinkler system. A person certified as a
80 Contractor I, Contractor II, or Contractor IV may design a fire
81 protection system the scope of which complies with NFPA 13D,
82 Standard for the Installation of Sprinkler Systems in One- and
83 Two-Family Dwellings and Manufactured Homes, as adopted by the
84 State Fire Marshal, notwithstanding the number of fire
85 sprinklers. Contractor-developed plans may not be required by
86 any local permitting authority to be sealed by a registered
87 professional engineer.
88 (4) “Department” means the Department of Financial
89 Services.
90 (5) “Division” means the Division of State Fire Marshal
91 within the Department of Financial Services.
92 (6) “Explosives” means any chemical compound or mixture
93 that has the property of yielding readily to combustion or
94 oxidation upon the application of heat, flame, or shock and is
95 capable of producing an explosion and is commonly used for that
96 purpose, including but not limited to dynamite, nitroglycerin,
97 trinitrotoluene, ammonium nitrate when combined with other
98 ingredients to form an explosive mixture, blasting caps, and
99 detonators; but the term does not include cartridges for

360216

100 firearms or fireworks as defined in chapter 791.
101 (7)(a) “Fire equipment dealer Class A” means a licensed
102 fire equipment dealer whose business is limited to servicing,
103 recharging, repairing, installing, or inspecting all types of
104 fire extinguishers and conducting hydrostatic tests on all types
105 of fire extinguishers.
106 (b) “Fire equipment dealer Class B” means a licensed fire
107 equipment dealer whose business is limited to servicing,
108 recharging, repairing, installing, or inspecting all types of
109 fire extinguishers, including recharging carbon dioxide units
110 and conducting hydrostatic tests on all types of fire
111 extinguishers, except carbon dioxide units.
112 (c) “Fire equipment dealer Class C” means a licensed fire
113 equipment dealer whose business is limited to servicing,
114 recharging, repairing, installing, or inspecting all types of
115 fire extinguishers, except recharging carbon dioxide units, and
116 conducting hydrostatic tests on all types of fire extinguishers,
117 except carbon dioxide units.
118 (d) “Fire equipment dealer Class D” means a licensed fire
119 equipment dealer whose business is limited to servicing,
120 recharging, repairing, installing, hydrotesting, or inspecting
121 of all types of preengineered fire extinguishing systems.
122 (8) ~~A~~ “Fire extinguisher” means ~~is~~ a cylinder that:
123 (a) Is portable and can be carried or is on wheels.
124 (b) Is manually operated.
125 (c) May use a variety of extinguishing agents that are
126 expelled under pressure.
127 (d) Is rechargeable or nonrechargeable.
128 (e) Is installed, serviced, repaired, recharged, inspected,

360216

129 and hydrotested according to applicable procedures of the
130 manufacturer, standards of the National Fire Protection
131 Association, and the Code of Federal Regulations.
132 (f) Is listed by a nationally recognized testing
133 laboratory.
134 (9) "Firefighter" means an individual who holds a current
135 and valid Firefighter Certificate of Compliance or Special
136 Certificate of Compliance issued by the division under s.
137 633.408.
138 (10) "Fire service support personnel" means an individual
139 who does not hold a current and valid certificate issued by the
140 division and who may only perform support services.
141 (11)~~(9)~~ ~~A~~ "Fire hydrant" means ~~is~~ a connection to a water
142 main, elevated water tank, or other source of water for the
143 purpose of supplying water to a fire hose or other fire
144 protection apparatus for fire suppression operations. The term
145 does not include a fire protection system.
146 (12)~~(10)~~ ~~A~~ "Fire protection system" means ~~is~~ a system
147 individually designed to protect the interior or exterior of a
148 specific building or buildings, structure, or other special
149 hazard from fire. Such systems include, but are not limited to,
150 water sprinkler systems, water spray systems, foam-water
151 sprinkler systems, foam-water spray systems, carbon dioxide ~~CO_2~~
152 systems, foam extinguishing systems, dry chemical systems, and
153 Halon and other chemical systems used for fire protection use.
154 Such systems also include any overhead and underground fire
155 mains, fire hydrants and hydrant mains, standpipes and hoses
156 connected to sprinkler systems, sprinkler tank heaters, air
157 lines, thermal systems used in connection with fire sprinkler

360216

158 systems, and tanks and pumps connected to fire sprinkler
159 systems.
160 (13) ~~(11)~~ ~~A~~ "Firesafety inspector" means ~~is~~ an individual
161 who holds a current and valid Fire Safety Inspector Certificate
162 of Compliance issued ~~certified~~ by the division ~~State Fire~~
163 ~~Marshal~~ under s. 633.216 ~~s. 633.081~~ who is officially assigned
164 the duties of conducting firesafety inspections of buildings and
165 facilities on a recurring or regular basis on behalf of the
166 state or any county, municipality, or special district with fire
167 safety responsibilities.
168 (14) "Fire service provider" means a municipality or
169 county, the state, or any political subdivision of the state,
170 including authorities and special districts, employing
171 firefighters or utilizing volunteer firefighters to provide fire
172 extinguishment or fire prevention services for the protection of
173 life and property. The term includes any organization under
174 contract or other agreement with such entity to provide such
175 services.
176 (15) ~~(12)~~ "Handling" means touching, holding, taking up,
177 moving, controlling, or otherwise affecting with the hand or by
178 any other agency.
179 ~~(13)(a) For the purposes of s. 633.085(1), the term "high-~~
180 ~~hazard occupancy" means any building or structure:~~
181 ~~1. That contains combustible or explosive matter or~~
182 ~~flammable conditions dangerous to the safety of life or~~
183 ~~property.~~
184 ~~2. In which persons receive educational instruction.~~
185 ~~3. In which persons reside, excluding private dwellings.~~
186 ~~4. Containing three or more floor levels.~~

360216

187
188 ~~Such buildings or structures include, but are not limited to,~~
189 ~~all hospitals and residential health care facilities, nursing~~
190 ~~homes and other adult care facilities, correctional or detention~~
191 ~~facilities, public schools, public lodging establishments,~~
192 ~~migrant labor camps, residential child care facilities, and~~
193 ~~self-service gasoline stations.~~
194 ~~(b) For the purposes of this subsection, the term "high-~~
195 ~~hazard occupancy" does not include any residential condominium~~
196 ~~where the declaration of condominium or the bylaws provide that~~
197 ~~the rental of units shall not be permitted for less than 90~~
198 ~~days.~~
199 (16) ~~(14)~~ "Highway" means every way or place of whatever
200 nature within the state open to the use of the public, as a
201 matter of right, for purposes of vehicular traffic and includes
202 public streets, alleys, roadways, or driveways upon grounds of
203 colleges, universities, and institutions and other ways open to
204 travel by the public, notwithstanding that the same have been
205 temporarily closed for the purpose of construction,
206 reconstruction, maintenance, or repair. The term does not
207 include a roadway or driveway upon grounds owned by a private
208 person.
209 (17) "Hot zone" means the area immediately around an
210 incident where serious threat of harm exists, which includes the
211 collapse zone for a structure fire.
212 (18) ~~(15)~~ "Keeping" means possessing, holding, retaining,
213 maintaining, or having habitually in stock for sale.
214 (19) ~~(16)~~ "Layout" ~~as used in this chapter~~ means the layout
215 of risers, cross mains, branch lines, sprinkler heads, sizing of

360216

216 pipe, hanger locations, and hydraulic calculations in accordance
217 with the design concepts established through ~~the provisions of~~
218 the Responsibility Rules adopted by the Board of Professional
219 Engineers.
220 (20) ~~(17)~~ "Manufacture" means the compounding, combining,
221 producing, or making of anything or the working of anything by
222 hand, by machinery, or by any other agency into forms suitable
223 for use.
224 (21) ~~(18)~~ ~~A~~ "Minimum firesafety standard" means ~~is~~ a
225 requirement or group of requirements adopted pursuant to s.
226 633.208 ~~633.025~~ by a county, municipality, or special district
227 with firesafety responsibilities, or by the State Fire Marshal
228 pursuant to s. 394.879, for the protection of life and property
229 from loss by fire which shall be met, as a minimum, by every
230 occupancy, facility, building, structure, premises, device, or
231 activity to which it applies.
232 (22) "Minimum Standards Course" means training of at least
233 360 hours as prescribed by rule adopted by the division which is
234 required to obtain a Firefighter Certificate of Compliance under
235 s. 633.408.
236 (23) ~~(19)~~ "Motor vehicle" means any device propelled by
237 power other than muscular power in, upon, or by which any
238 individual ~~person~~ or property is or may be transported or drawn
239 upon a highway, except a device moved or used exclusively upon
240 stationary rails or tracks.
241 (24) ~~(20)~~ "Point-of-service" means the point at which the
242 underground piping for a fire protection system as defined in
243 this section using water as the extinguishing agent becomes used
244 exclusively for the fire protection system.

360216

245 (25)~~(21)~~(a) ~~A~~ "Preengineered system" means ~~is~~ a fire
246 suppression system which:
247 1. Uses any of a variety of extinguishing agents.
248 2. Is designed to protect specific hazards.
249 3. Must be installed according to pretested limitations and
250 configurations specified by the manufacturer and applicable
251 National Fire Protection Association (NFPA) standards. Only
252 those chapters within the National Fire Protection Association
253 standards which ~~that~~ pertain to servicing, recharging,
254 repairing, installing, hydrotesting, or inspecting any type of
255 preengineered fire extinguishing system may be used.
256 4. Must be installed using components specified by the
257 manufacturer or components that are listed as equal parts by a
258 nationally recognized testing laboratory such as Underwriters
259 Laboratories, Inc., or Factory Mutual Laboratories, Inc.
260 5. Must be listed by a nationally recognized testing
261 laboratory.
262 (b) Preengineered systems consist of and include all of the
263 components and parts providing fire suppression protection, but
264 do not include the equipment being protected, and may
265 incorporate special nozzles, flow rates, methods of application,
266 pressurization levels, and quantities of agents designed by the
267 manufacturer for specific hazards.
268 (26)~~(22)~~ "Private carrier" means a ~~any~~ motor vehicle,
269 aircraft, or vessel operating intrastate in which there is
270 identity of ownership between freight and carrier.
271 (27)~~(23)~~ "Sale" means the act of selling; the act whereby
272 the ownership of property is transferred from one person to
273 another for a sum of money or, loosely, for any consideration.

360216

274 The term includes the delivery of merchandise with or without
275 consideration.
276 (28) ~~(24)~~ "Special state firesafety inspector" means an
277 individual officially assigned to the duties of conducting
278 firesafety inspections required by law on behalf of or by an
279 agency of the state having authority for inspections other than
280 the division ~~of State Fire Marshal~~.
281 (29) ~~(25)~~ ~~A~~ "Sprinkler system" means ~~is~~ a type of fire
282 protection system, ~~either~~ manual or automatic, using water as an
283 extinguishing agent and installed in accordance with applicable
284 National Fire Protection Association standards.
285 (30) ~~(26)~~ "Storing" means accumulating, laying away, or
286 depositing for preservation or as a reserve fund in a store,
287 warehouse, or other source from which supplies may be drawn or
288 within which they may be deposited. The term is limited in
289 meaning and application to storage having a direct relationship
290 to transportation.
291 (31) "Support services" means those activities that a fire
292 service provider has trained an individual to perform safely
293 outside the hot zone of an emergency scene, including pulling
294 hoses, opening and closing fire hydrants, driving and operating
295 apparatus, carrying tools, carrying or moving equipment,
296 directing traffic, manning a resource pool, or similar
297 activities.
298 (32) "Suspension" means the temporary withdrawal of a
299 license, certificate, or permit issued pursuant to this chapter.
300 (33) ~~(27)~~ "Transportation" means the conveying or carrying
301 of property from one place to another by motor vehicle (except a
302 motor vehicle subject to ~~the provisions of~~ s. 316.302),

360216

303 aircraft, or vessel, subject to such limitations as are set
304 forth in s. 552.12, in which only the motor vehicles, aircraft,
305 or vessels of the Armed Forces and other federal agencies are
306 specifically exempted.
307 (34) ~~(28)~~ ~~A~~ "Uniform firesafety standard" means ~~is~~ a
308 requirement or group of requirements for the protection of life
309 and property from loss by fire which shall be met by every
310 building and structure specified in s. 633.206 ~~633.022(1)~~, and
311 is not ~~neither~~ weakened or ~~nor~~ exceeded by law, rule, or
312 ordinance of any other state agency or political subdivision or
313 county, municipality, or special district with firesafety
314 responsibilities.
315 (35) ~~(29)~~ "Use" means application, employment; that
316 enjoyment of property which consists of its employment,
317 occupation, exercise, or practice.
318 (36) "Volunteer firefighter" means an individual who holds
319 a current and valid Volunteer Firefighter Certificate of
320 Completion issued by the division under s. 633.408.
321 Section 3. Section 633.01, Florida Statutes, is transferred
322 and renumbered as section 633.104, Florida Statutes, subsections
323 (1), (3), (5), (6), and (7) of that section are amended, and
324 subsections (8) and (9) are added to that section, to read:
325 633.104 ~~633.01~~ State Fire Marshal; authority; ~~powers and~~
326 duties; rules.—
327 (1) The Chief Financial Officer is designated as "State
328 Fire Marshal." The State Fire Marshal has authority to adopt
329 rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the~~
330 ~~provisions of~~ this chapter ~~conferring powers or duties upon the~~
331 ~~department~~. Rules must ~~shall~~ be in substantial conformity with

360216

332 generally accepted standards of firesafety; must ~~shall~~ take into
333 consideration the direct supervision of children in
334 nonresidential child care facilities; and must ~~shall~~ balance and
335 temper the need of the State Fire Marshal to protect all
336 Floridians from fire hazards with the social and economic
337 inconveniences that may be caused or created by the rules. The
338 department shall adopt the Florida Fire Prevention Code ~~and the~~
339 ~~Life Safety Code~~.
340 (3) The State Fire Marshal shall establish by rule
341 guidelines and procedures for quadrennial ~~triennial~~ renewal of
342 firesafety inspector requirements for certification.
343 (5) It is the intent of the Legislature that there are to
344 be no conflicting requirements between the Florida Fire
345 Prevention Code ~~and the Life Safety Code authorized by this~~
346 ~~chapter~~ and ~~the provisions of~~ the Florida Building Code or
347 conflicts in their enforcement and interpretation. Potential
348 conflicts shall be resolved through coordination and cooperation
349 of the State Fire Marshal and the Florida Building Commission as
350 provided by this chapter and part IV of chapter 553.
351 (6) Only the State Fire Marshal may issue, and, when
352 requested in writing by any substantially affected person or a
353 local enforcing agency, the State Fire Marshal shall issue
354 declaratory statements pursuant to s. 120.565 relating to the
355 Florida Fire Prevention Code ~~and the Life Safety Code~~.
356 (7) The State Fire Marshal, in consultation with the
357 Department of Education, shall adopt and administer rules
358 prescribing standards for the safety and health of occupants of
359 educational and ancillary facilities pursuant to ss. 633.206
360 ~~633.022~~, 1013.12, 1013.37, and 1013.371. In addition, in any

360216

361 county, municipality, or special district that does not employ
362 or appoint a firesafety inspector certified under s. 633.216
363 ~~633.081~~, the State Fire Marshal shall assume the duties of the
364 local county, municipality, or independent special fire control
365 district as defined in s. 191.003 with respect to firesafety
366 inspections of educational property required under s.
367 1013.12(3)(b), and the State Fire Marshal may take necessary
368 corrective action as authorized under s. 1013.12(7).
369 (8) The State Fire Marshal or her or his duly appointed
370 hearing officer may administer oaths and take testimony about
371 all matters within the jurisdiction of this chapter. Chapter 120
372 governs hearings conducted by or on behalf of the State Fire
373 Marshal.
374 (9) The State Fire Marshal may contract with any qualified
375 public entity or private company in accordance with chapter 287
376 to provide examinations for any applicant for any examination
377 administered under the jurisdiction of the State Fire Marshal.
378 The State Fire Marshal may direct payments from each applicant
379 for each examination directly to such contracted entity or
380 company.
381 Section 4. Section 633.163, Florida Statutes, is
382 transferred, renumbered as section 633.106, Florida Statutes,
383 and amended to read:
384 633.106 ~~633.163~~ State Fire Marshal; disciplinary authority;
385 administrative fine and probation in lieu of suspension,
386 revocation, or refusal to issue a license, permit, or
387 certificate.—
388 (1) The State Fire Marshal may deny, suspend, or revoke the
389 license, certificate, or permit of any individual who does not

360216

390 meet the qualifications established by, or who violates any
391 provision under, this chapter or any rule authorized by this
392 chapter.
393 (2) ~~(1)~~ If the State Fire Marshal finds that one or more
394 grounds exist for the suspension, revocation, or refusal to
395 issue, renew, or continue any license, certificate, or permit
396 issued under this chapter, the State Fire Marshal may, in its
397 discretion, in lieu of the suspension, revocation, or refusal to
398 issue, renew, or continue, and, except on a second offense or
399 when the suspension, revocation, or refusal to issue, renew, or
400 continue is mandatory, impose upon the licensee,
401 certificateholder, or permittee one or more of the following:
402 (a) An administrative fine not to exceed $1,000 for each
403 violation, and not to exceed a total of $10,000 in any one
404 proceeding.
405 (b) Probation for a period not to exceed 2 years, as
406 specified by the State Fire Marshal in her or his order.
407 (3) ~~(2)~~ The State Fire Marshal may allow the licensee,
408 certificateholder, or permittee a reasonable period, not to
409 exceed 30 days, within which to pay to the State Fire Marshal
410 the amount of the fine. If the licensee, certificateholder, or
411 permittee fails to pay the administrative fine in its entirety
412 to the State Fire Marshal within such period, the license,
413 permit, or certificate shall stand suspended until payment of
414 the administrative fine.
415 (4) As a condition to probation or in connection therewith,
416 the State Fire Marshal may specify in her or his order
417 reasonable terms and conditions to be fulfilled by the
418 probationer during the probation period. If during the probation

360216

419 period the State Fire Marshal has good cause to believe that the
420 probationer has violated any of the terms and conditions, she or
421 he shall suspend, revoke, or refuse to issue, renew, or continue
422 the license, certificate, or permit of the probationer, as upon
423 the original ground or grounds referred to in subsection (2).
424 Section 5. Section 633.15, Florida Statutes, is transferred
425 and renumbered as section 633.108, Florida Statutes.
426 Section 6. Section 633.101, Florida Statutes, is
427 transferred, renumbered as section 633.112, Florida Statutes,
428 and amended to read:
429 633.112 ~~633.101~~ State Fire Marshal; hearings;
430 investigations; recordkeeping and reports; subpoenas of
431 witnesses; orders of circuit court ~~investigatory powers of State~~
432 ~~Fire Marshal; costs of service and witness fees~~.—
433 (1) The State Fire Marshal may in his or her discretion
434 take or cause to be taken the testimony on oath of a person ~~all~~
435 ~~persons~~ whom he or she believes to be cognizant of any facts in
436 relation to matters under investigation.
437 (2) If the State Fire Marshal is ~~shall be~~ of the opinion
438 that there is sufficient evidence to charge a ~~any~~ person with an
439 offense, he or she must ~~shall~~ cause the arrest of such person
440 and must ~~shall~~ furnish to the prosecuting officer of any court
441 having jurisdiction of the ~~said~~ offense all information obtained
442 by him or her, including a copy of all pertinent and material
443 testimony taken, together with the names and addresses of all
444 witnesses. In the conduct of such investigations, the State Fire
445 Marshal may request such assistance as may reasonably be given
446 by such prosecuting officers and other local officials.
447 (3) The State Fire Marshal may summon and compel the

360216

448 attendance of witnesses before him or her to testify in relation
449 to any matter ~~manner~~ which is, by ~~the provisions of~~ this
450 chapter, a subject of inquiry and investigation, and he or she
451 may require the production of any book, paper, or document
452 deemed pertinent thereto by him or her, and may seize furniture
453 and other personal property to be held for evidence.
454 (4) A person ~~All persons~~ so summoned and so testifying
455 shall be entitled to the same witness fees and mileage as
456 provided for witnesses testifying in the circuit courts of this
457 state, and officers serving subpoenas or orders of the State
458 Fire Marshal shall be paid in like manner for like services in
459 such courts, from the funds herein provided.
460 (5) Any agent designated by the State Fire Marshal for such
461 purposes, may hold hearings, sign and issue subpoenas,
462 administer oaths, examine witnesses, receive evidence, and
463 require by subpoena the attendance and testimony of witnesses
464 and the production of such accounts, records, memoranda, or
465 other evidence, as may be material for the determination of any
466 complaint or conducting any inquiry or investigation under this
467 chapter. In the case of disobedience to a subpoena, the State
468 Fire Marshal or her or his agent may invoke the aid of any court
469 of competent jurisdiction in requiring the attendance and
470 testimony of witnesses and the production of accounts, records,
471 memoranda, or other evidence and any such court may in case of
472 refusal to obey a subpoena issued to a person, issue an order
473 requiring the person to appear before the State Fire Marshal's
474 agent or produce accounts, records, memoranda, or other
475 evidence, as so ordered, or to give evidence touching any matter
476 pertinent to any complaint or the subject of any inquiry or

360216

477 investigation, and any failure to obey such order of the court
478 shall be punished by the court as contempt.
479 (6) The State Fire Marshal shall investigate the cause,
480 origin, and circumstances of every fire or explosion occurring
481 in this state if property has been damaged or destroyed and
482 there is probable cause to believe that the fire or explosion
483 was the result of carelessness or design. Report of all such
484 investigations shall be made on approved forms.
485 Section 7. Section 633.111, Florida Statutes, is
486 transferred, renumbered as subsections (7) and (8) of section
487 633.112, Florida Statutes, and amended to read:
488 633.112 State Fire Marshal; hearings; investigations;
489 recordkeeping and reports; subpoenas of witnesses; orders of
490 circuit court ~~investigatory powers of State Fire Marshal; costs~~
491 ~~of service and witness fees~~.
492 (7) The State Fire Marshal shall keep ~~in her or his office~~
493 a record of all fires and explosions occurring in this state
494 upon which she or he had caused an investigation to be made and
495 all facts concerning the same. These records, obtained or
496 prepared by the State Fire Marshal pursuant to her or his
497 investigation, include documents, papers, letters, maps,
498 diagrams, tapes, photographs, films, sound recordings, and
499 evidence. These records are confidential and exempt from the
500 provisions of s. 119.07(1) until the investigation is completed
501 or ceases to be active. For purposes of this section, an
502 investigation is considered “active” while such investigation is
503 being conducted by the department with a reasonable, good faith
504 belief that it may lead to the filing of administrative, civil,
505 or criminal proceedings. An investigation does not cease to be

360216

506 active if the department is proceeding with reasonable dispatch,
507 and there is a good faith belief that action may be initiated by
508 the department or other administrative or law enforcement
509 agency. Further, these documents, papers, letters, maps,
510 diagrams, tapes, photographs, films, sound recordings, and
511 evidence relative to the subject of an investigation shall not
512 be subject to subpoena until the investigation is completed or
513 ceases to be active, unless the State Fire Marshal consents.
514 These records shall be made daily from the reports furnished the
515 State Fire Marshal by her or his agents or others.
516 (8) Whenever the State Fire Marshal releases an
517 investigative report, any person requesting a copy of the report
518 shall pay in advance, and the State Fire Marshal shall collect
519 in advance, notwithstanding the provisions of s. 624.501(19)(a)
520 and (b), a fee of $10 for the copy of the report, which fee
521 shall be deposited into the Insurance Regulatory Trust Fund. The
522 State Fire Marshal may release the report without charge to any
523 state attorney or to any law enforcement agency or fire
524 department assisting in the investigation.
525 Section 8. Section 633.02, Florida Statutes, is
526 transferred, renumbered as section 633.114, Florida Statutes,
527 and amended to read:
528 633.114 ~~633.02~~ State Fire Marshal agents ~~Agents~~; authority;
529 ~~powers and~~ duties; compensation.—
530 (1) The State Fire Marshal shall appoint such agents as may
531 be necessary to carry out effectively ~~the provisions of~~ this
532 chapter, who shall be reimbursed for travel expenses as provided
533 in s. 112.061, in addition to their salary, when traveling or
534 making investigations in the performance of their duties. Such

360216

535 agents shall be at all times under the direction and control of
536 the State Fire Marshal, who shall fix their compensation, and
537 all orders shall be issued in the State Fire Marshal's name and
538 by her or his authority.
539 (2) The authority given the State Fire Marshal under this
540 chapter may be exercised by her or his agents, individually or
541 in conjunction with any other state or local official charged
542 with similar responsibilities.
543 Section 9. Section 633.14, Florida Statutes, is transferred
544 and renumbered as section 633.116, Florida Statutes.
545 Section 10. Section 633.121, Florida Statutes, is
546 transferred, renumbered as section 633.118, Florida Statutes,
547 and amended to read:
548 633.118 ~~633.121~~ Persons authorized to enforce laws and
549 rules of State Fire Marshal.—The chiefs of county, municipal,
550 and special-district fire service providers ~~departments~~; other
551 fire service provider ~~department~~ personnel designated by their
552 respective chiefs; and personnel designated by local governments
553 having no organized fire service providers ~~departments~~ are
554 authorized to enforce this chapter ~~law~~ and all rules prescribed
555 by the State Fire Marshal within their respective jurisdictions.
556 Such personnel acting under the authority of this section shall
557 be ~~deemed to be~~ agents of their respective jurisdictions, not
558 agents of the State Fire Marshal.
559 Section 11. Section 633.151, Florida Statutes, is
560 transferred, renumbered as section 633.122, Florida Statutes,
561 and amended to read:
562 633.122 ~~633.151~~ Impersonating State Fire Marshal,
563 firefighter ~~firefighters~~, volunteer firefighter, or firesafety

360216

564 inspector; criminal penalties.—A person who falsely assumes or
565 pretends to be the State Fire Marshal, an agent of the division
566 ~~of State Fire Marshal~~, a firefighter ~~as defined in s. 112.81~~, a
567 volunteer firefighter, or a firesafety inspector by identifying
568 himself or herself as the State Fire Marshal, an agent of the
569 division, a firefighter, a volunteer firefighter, or a
570 firesafety inspector by wearing a uniform or presenting or
571 displaying a badge as credentials that would cause a reasonable
572 person to believe that he or she is a State Fire Marshal, an
573 agent of the division, a firefighter, a volunteer firefighter,
574 or firesafety inspector commits ~~and who acts as such to require~~
575 ~~a person to aid or assist him or her in any matter relating to~~
576 ~~the duties of the State Fire Marshal, an agent of the division,~~
577 ~~a firefighter, or a firesafety inspector is guilty of~~ a felony
578 of the third degree, punishable as provided in ss. 775.082 and
579 775.083 or, if the impersonation occurs during the commission of
580 a separate felony by that person, commits ~~is guilty of~~ a felony
581 of the first degree, punishable as provided in ss. 775.082 and
582 775.083.
583 Section 12. Section 633.171, Florida Statutes, is
584 transferred and renumbered as section 633.124, Florida Statutes,
585 and subsections (1) and (2) and paragraph (b) of subsection (3)
586 of that section are amended, to read:
587 633.124 ~~633.171~~ Penalty for violation of law, rule, or
588 order to cease and desist or for failure to comply with
589 corrective order.—
590 (1) A ~~Any~~ person who violates any provision of this chapter
591 ~~law~~, any order or rule of the State Fire Marshal, or any order
592 to cease and desist or to correct conditions issued under this

360216

593 chapter commits a misdemeanor of the second degree, punishable
594 as provided in s. 775.082 or s. 775.083.
595 (2) It is a misdemeanor of the first degree, punishable as
596 provided in s. 775.082 or s. 775.083, to intentionally or
597 willfully:
598 (a) Render a fire protection system, fire extinguisher, or
599 preengineered system required by statute or by rule inoperative
600 except while ~~during such time as~~ the fire protection system,
601 fire extinguisher, or preengineered system is being serviced,
602 hydrotested, tested, repaired, or recharged, except pursuant to
603 court order.
604 (b) Obliterate the serial number on a fire extinguisher for
605 purposes of falsifying service records.
606 (c) Improperly service, recharge, repair, hydrotest, test,
607 or inspect a fire extinguisher or preengineered system.
608 (d) Use the license, certificate, or permit ~~number~~ of
609 another person.
610 (e) Hold a license, certificate, or permit and allow
611 another person to use the license, certificate, or ~~said~~ permit
612 ~~number~~.
613 (f) Use, or allow ~~permit~~ the use of, any license,
614 certificate, or permit by any individual or organization other
615 than the one to whom the license, certificate, or permit is
616 issued.
617 (3)
618 (b) A person who initiates a pyrotechnic display within any
619 structure commits a felony of the third degree, punishable as
620 provided in s. 775.082, s. 775.083, or s. 775.084, unless:
621 1. The structure has a fire protection system installed in

360216

622 compliance with s. 633.334 ~~633.065~~.
623 2. The owner of the structure has authorized in writing the
624 pyrotechnic display.
625 3. If the local jurisdiction requires a permit for the use
626 of a pyrotechnic display in an occupied structure, such permit
627 has been obtained and all conditions of the permit complied with
628 or, if the local jurisdiction does not require a permit for the
629 use of a pyrotechnic display in an occupied structure, the
630 person initiating the display has complied with National Fire
631 Protection Association, Inc., Standard 1126, 2001 Edition,
632 Standard for the Use of Pyrotechnics before a Proximate
633 Audience.
634 Section 13. Section 633.175, Florida Statutes, is
635 transferred and renumbered as section 633.126, Florida Statutes,
636 and subsections (1), (2), (3), (6), and (9) of that section are
637 amended, to read:
638 633.126 ~~633.175~~ Investigation of fraudulent insurance
639 claims and crimes; immunity of insurance companies supplying
640 information.—
641 (1)(a) As used in this section, the term "consultant" means
642 any individual or entity, or employee of the individual or
643 entity, retained by an insurer to assist in the investigation of
644 a fire, explosion, or suspected fraudulent insurance act.
645 (b) The State Fire Marshal or an agent appointed pursuant
646 to s. 633.114 ~~633.02~~, any law enforcement officer as defined in
647 s. 111.065, any law enforcement officer of a federal agency, or
648 any fire service provider ~~department~~ official who is engaged in
649 the investigation of a fire or explosion loss may request any
650 insurance company or its agent, adjuster, employee, or attorney,

360216

651 investigating a claim under an insurance policy or contract with
652 respect to a fire or explosion to release any information
653 whatsoever in the possession of the insurance company or its
654 agent, adjuster, employee, or attorney relative to a loss from
655 that fire or explosion. The insurance company shall release the
656 available information to and cooperate with any official
657 authorized to request such information pursuant to this section.
658 The information shall include, but shall not be limited to:
659 1.~~(a)~~ Any insurance policy relevant to a loss under
660 investigation and any application for such a policy.
661 2.~~(b)~~ Any policy premium payment records.
662 3.~~(c)~~ The records, reports, and all material pertaining to
663 any previous claims made by the insured with the reporting
664 company.
665 4.~~(d)~~ Material relating to the investigation of the loss,
666 including statements of a ~~any~~ person, proof of loss, and other
667 relevant evidence.
668 5.~~(e)~~ Memoranda, notes, and correspondence relating to the
669 investigation of the loss in the possession of the insurance
670 company or its agents, adjusters, employees, or attorneys.
671 (2) If an insurance company has reason to suspect that a
672 fire or explosion loss to its insured's real or personal
673 property was caused by intentional ~~incendiary~~ means, the company
674 shall notify the State Fire Marshal and shall furnish her or him
675 with all material acquired by the company during ~~the course of~~
676 its investigation. The State Fire Marshal may adopt rules to
677 implement this subsection.
678 (3) In the absence of fraud, bad faith, or malice, a ~~no~~
679 representative of or consultant to an insurance company or of

360216

680 the National Insurance Crime Bureau employed to adjust or
681 investigate losses caused by fire or explosion is not ~~shall be~~
682 liable for damages in a civil action for furnishing information
683 concerning fires or explosion suspected to be other than
684 accidental to investigators employed by other insurance
685 companies or the National Insurance Crime Bureau.
686 (6) The actions of an insurance company or of its agents,
687 employees, adjusters, consultants, or attorneys, in complying
688 with the statutory obligation of this section may not ~~shall in~~
689 ~~no way~~ be construed by a court as a waiver or abandonment of any
690 privilege or confidentiality of attorney work product, attorney-
691 client communication, or such other privilege or immunity as is
692 provided by law.
693 (9) A ~~Any~~ person who willfully violates ~~the provisions of~~
694 this section commits ~~is guilty of~~ a misdemeanor of the first
695 degree, punishable as provided in s. 775.082 or s. 775.083.
696 Section 14. Section 633.45, Florida Statutes, is
697 transferred, renumbered as section 633.128, Florida Statutes,
698 and amended to read:
699 633.128 ~~633.45~~ Division of State Fire Marshal; powers,
700 duties.—
701 (1) The division shall:
702 (a) Establish, by rule, uniform minimum standards for the
703 ~~employment and~~ training of firefighters and volunteer
704 firefighters.
705 (b) Establish, by rule, minimum curriculum requirements and
706 criteria used to approve education or training providers,
707 including ~~for~~ schools operated by or for any fire service
708 provider, ~~employing agency~~ for the specific purpose of training

360216

709 individuals seeking to become a firefighter ~~recruits~~ or
710 volunteer firefighter ~~firefighters~~.
711 (c) Specify, by rule, standards for the approval, denial of
712 approval, probation, suspension, and revocation of approval of
713 education or training providers and facilities for training
714 firefighters and volunteer firefighters ~~Approve institutions,~~
715 ~~instructors, and facilities for school operation by or for any~~
716 ~~employing agency for the specific purpose of training~~
717 ~~firefighters and firefighter recruits~~.
718 (d) Specify, by rule, standards for the certification,
719 denial of certification, probation, and revocation of
720 certification for instructors, ~~approval, denial of approval,~~
721 ~~probation, and revocation of approval of institutions,~~
722 ~~instructors, and facilities for training firefighters and~~
723 ~~firefighter recruits;~~ including a rule requiring each ~~that an~~
724 instructor to ~~must~~ complete 40 hours of continuing education
725 every 4 ~~3~~ years in order to maintain her or his certification
726 ~~the approval of the department~~.
727 (e) Issue certificates of competency to persons who, by
728 reason of experience and completion of basic inservice training,
729 advanced education, or specialized training, are especially
730 qualified for particular aspects or classes of firefighting
731 ~~firefighter~~ duties.
732 (f) Establish, by rule, minimum training qualifications for
733 persons serving as firesafety coordinators for their respective
734 departments of state government and certify ~~all~~ persons who
735 satisfy such qualifications.
736 (g) Establish a uniform lesson plan to be followed by
737 firesafety instructors in the training of state employees in

360216

738 firesafety and emergency evacuation procedures.
739 (h) Have complete jurisdiction over, and complete
740 management and control of, the Florida State Fire College and be
741 invested with full power and authority to make all rules ~~and~~
742 ~~regulations~~ necessary for the governance of the ~~said~~
743 institution.
744 (i) Appoint a superintendent of the Florida State Fire
745 College and such other instructors, experimental helpers, and
746 laborers as may be necessary and remove the same as in the
747 division's ~~its~~ judgment and discretion may be best, fix their
748 compensation, and provide for their payment.
749 (j) Have full management, possession, and control of the
750 lands, buildings, structures, and property belonging to the
751 Florida State Fire College.
752 (k) Provide for the courses of study and curriculum of the
753 Florida State Fire College.
754 (l) Make rules ~~and regulations~~ for the admission of
755 trainees to the Florida State Fire College.
756 (m) Visit and inspect the Florida State Fire College ~~and~~
757 ~~every department thereof~~ and provide for the proper keeping of
758 accounts and records thereof.
759 (n) Make and prepare all necessary budgets of expenditures
760 for the enlargement, proper furnishing, maintenance, support,
761 and conduct of the Florida State Fire College.
762 (o) Select and purchase all property, furniture, fixtures,
763 and paraphernalia necessary for the Florida State Fire College.
764 (p) Build, construct, change, enlarge, repair, and maintain
765 any and all buildings or structures of the Florida State Fire
766 College that may at any time be necessary for the ~~said~~

360216

767 institution and purchase and acquire all lands and property
768 necessary for same, of every nature and description whatsoever.
769 (q) Care for and maintain the Florida State Fire College
770 and do and perform every other matter or thing requisite to the
771 proper management, maintenance, support, and control of the ~~said~~
772 institution, necessary or requisite to carry out fully the
773 purpose of this chapter ~~act~~ and for raising it to, and
774 maintaining it at, the proper efficiency and standard as
775 required in and by part IV ~~the provisions of ss. 633.43-633.49~~.
776 (r) Issue a license, certificate, or permit of a specific
777 class to an individual who successfully completes the training,
778 education, and examination required under this chapter or by
779 rule for such class of license, certificate, or permit.
780 (2) The division, subject to the limitations and
781 restrictions ~~elsewhere herein~~ imposed in this chapter, may:
782 (a) Adopt rules ~~and regulations~~ for the administration of
783 this chapter ~~ss. 633.30-633.49~~ pursuant to chapter 120.
784 (b) Adopt a seal and alter the same at its pleasure.
785 (c) Sue and be sued.
786 (d) Acquire any real or personal property by purchase,
787 gift, or donation, and have water rights.
788 (e) Exercise the right of eminent domain to acquire any
789 property and lands necessary to the establishment, operation,
790 and expansion of the Florida State Fire College.
791 (f) Make contracts and execute necessary or convenient
792 instruments.
793 (g) Undertake by contract or contracts, or by its own agent
794 and employees, and otherwise than by contract, any project or
795 projects, and operate and maintain such projects.

360216

796 (h) Accept grants of money, materials, or property of any
797 kind from a federal agency, private agency, county,
798 municipality, ~~city, town,~~ corporation, partnership, or
799 individual upon such terms and conditions as the grantor may
800 impose.
801 (i) Perform all acts and do all things necessary or
802 convenient to carry out the powers granted herein and the
803 purposes of this chapter ~~ss. 633.30-633.49~~.
804 (3) The title to all property referred to in part IV ~~ss.~~
805 ~~633.43-633.49~~, however acquired, shall be vested in the
806 department and shall only be transferred and conveyed by it.
807 Section 15. Section 633.132, Florida Statutes, is created
808 to read:
809 633.132 Fees.—
810 (1) The division shall collect in advance the following
811 fees that it deems necessary to be charged:
812 (a) Pursuant to part III of this chapter:
813 1. Contractor certificate initial application: $300 for
814 each class of certificate.
815 2. Contractor biennial renewal fee: $150 for each class of
816 certificate.
817 3. Contractor permit initial application fee: $100 for each
818 class of permit.
819 4. Contractor permit biennial renewal fee: $50 for each
820 class of permit.
821 5. Contractor examination or reexamination fee: $100 for
822 each class of certificate.
823 6. Fire equipment dealer license:
824 a. Class A: $250.

360216

825 b. Class B: $150.
826 c. Class C: $150.
827 d. Class D: $200.
828 7. Fire equipment dealer or contractor application and
829 renewal fee for an inactive license: $75.
830 8. Fire equipment dealer license or permit exam or
831 reexamination: $50.
832 9. Reinspection fee for a dealer equipment inspection
833 conducted by the State Fire Marshal under s. 633.304(1): $50 for
834 each reinspection.
835 10. Permit for a portable fire extinguisher
836 installer/repairer/inspector: $90.
837 11. Permit for a preengineered fire extinguishing system
838 installer/repairer/inspector: $120.
839 12. Conversion of a fire equipment dealer’s license to a
840 different category: $10 for each permit and license.
841 (b) Pursuant to part IV of this chapter:
842 1. Certificate of compliance: $30.
843 2. Certificate of competency: $30.
844 3. Renewal fee for a certificate of compliance, competency,
845 or instruction: $15.
846 (c) Duplicate or change of address for any license, permit,
847 or certificate: $10.
848 (2) All moneys collected by the State Fire Marshal pursuant
849 to this chapter shall be deposited into the Insurance Regulatory
850 Trust Fund.
851 Section 16. Section 633.39, Florida Statutes, is
852 transferred and renumbered as section 633.134, Florida Statutes.
853 Section 17. Section 633.115, Florida Statutes, is

360216

854 transferred, renumbered as section 633.136, Florida Statutes,
855 and amended to read:
856 633.136 ~~633.115~~ Fire and Emergency Incident Information
857 Reporting Program; duties; fire reports.—
858 (1)(a) The Fire and Emergency Incident Information
859 Reporting Program is created within the division ~~of State Fire~~
860 ~~Marshal~~. The program shall:
861 1. Establish and maintain an electronic communication
862 system capable of transmitting fire and emergency incident
863 information to and between fire protection agencies.
864 2. Initiate a Fire and Emergency Incident Information
865 Reporting System that shall be responsible for:
866 a. Receiving fire and emergency incident information from
867 fire protection agencies.
868 b. Preparing and disseminating annual reports to the
869 Governor, the President of the Senate, the Speaker of the House
870 of Representatives, fire protection agencies, and, upon request,
871 the public. Each report shall include, but not be limited to,
872 the information listed in the National Fire Incident Reporting
873 System.
874 c. Upon request, providing other states and federal
875 agencies with fire and emergency incident data of this state.
876 3. Adopt rules to effectively and efficiently implement,
877 administer, manage, maintain, and use the Fire and Emergency
878 Incident Information Reporting Program. The rules shall be
879 considered minimum requirements and shall not preclude a fire
880 protection agency from implementing its own requirements which
881 may ~~shall~~ not conflict with the rules of the division ~~of State~~
882 ~~Fire Marshal~~.

360216

883 4. By rule, establish procedures and a format for each fire
884 protection agency to voluntarily monitor its records and submit
885 reports to the program.
886 5. Establish an electronic information database that ~~which~~
887 is accessible and searchable by fire protection agencies.
888 (b) The division ~~of State Fire Marshal~~ shall consult with
889 the Florida Forest Service of the Department of Agriculture and
890 Consumer Services and the State Surgeon General of the
891 Department of Health to coordinate data, ensure accuracy of the
892 data, and limit duplication of efforts in data collection,
893 analysis, and reporting.
894 (2) The Fire and Emergency Incident Information System
895 Technical Advisory Panel is created within the division ~~of State~~
896 ~~Fire Marshal~~. The panel shall advise, review, and recommend to
897 the State Fire Marshal with respect to the requirements of this
898 section. The membership of the panel shall consist of the
899 following 15 members:
900 (a) The current 13 members of the Firefighters Employment,
901 Standards, and Training Council as established in s. 633.402
902 ~~633.31~~.
903 (b) One member from the Florida Forest Service of the
904 Department of Agriculture and Consumer Services, appointed by
905 the director of the Florida Forest Service.
906 (c) One member from the Department of Health, appointed by
907 the State Surgeon General.
908 (3) For the purpose of this section, the term “fire
909 protection agency” shall be defined by rule by the division ~~of~~
910 ~~State Fire Marshal~~.
911 Section 18. Section 633.138, Florida Statutes, is created

360216

912 to read:
913 633.138 Notice of change of address of record; notice of
914 felony actions.—
915 (1) Any individual issued a license, permit, or certificate
916 under this chapter shall notify the division in writing of any
917 changes to her or his current mailing address, e-mail address,
918 and place of practice as specified in rule adopted by the
919 division.
920 (2) Notwithstanding any other provision of law, delivery by
921 regular mail or e-mail to a licensee, permittee, or
922 certificateholder, using the last known mailing address or e-
923 mail address on record with the division, constitutes adequate
924 and sufficient notice to the licensee, permittee, or
925 certificateholder of any official communication by the division.
926 (3) Any individual issued a license, permit, or certificate
927 under this chapter shall notify the division in writing within
928 30 days after pleading guilty or nolo contendere to, or being
929 convicted or found guilty of, any felony or a crime punishable
930 by imprisonment of 1 year or more under the law of the United
931 States or of any state thereof, or under the law of any other
932 country, without regard to whether a judgment of conviction has
933 been entered by the court having jurisdiction of the case.
934 Section 19. Section 633.042, Florida Statutes, is
935 transferred and renumbered as section 633.142, Florida Statutes,
936 and subsection (11) of that section is amended, to read:
937 633.142 ~~633.042~~ Reduced Cigarette Ignition Propensity
938 Standard and Firefighter Protection Act; preemption.—
939 (11) PREEMPTION.—
940 (a) This section shall be repealed if a federal reduced

360216

941 cigarette ignition propensity standard that preempts this
942 section is adopted and becomes effective.
943 (b) Notwithstanding any other provision of law, local
944 governmental units of this state may not enact or enforce any
945 ordinance or other local law or rule conflicting with, or
946 preempted by, any provision of this act or any policy of this
947 state expressed by this act, whether that policy be expressed by
948 inclusion of a provision in this act or by exclusion of that
949 subject from this act.
950 Section 20. The Division of Law Revision and Information is
951 requested to create part II of chapter 633, Florida Statutes,
952 consisting of sections 633.202, 633.204, 633.206, 633.208,
953 633.212, 633.214, 633.216, 633.218, 633.222, 633.224, 633.226,
954 and 633.228, Florida Statutes, to be entitled "Fire Safety and
955 Prevention."
956 Section 21. Section 633.0215, Florida Statutes, is
957 transferred and renumbered as section 633.202, Florida Statutes,
958 and subsections (2), (4), (7), (9), (10), and (12) through (15)
959 of that section are amended, to read:
960 633.202 ~~633.0215~~ Florida Fire Prevention Code.—
961 (2) The State Fire Marshal shall adopt the current edition
962 of the National Fire Protection Association's Standard 1, Fire
963 Prevention Code but may ~~shall~~ not adopt a building, mechanical,
964 or plumbing code. The State Fire Marshal shall adopt the current
965 edition of the Life Safety Code, NFPA ~~Pamphlet~~ 101, current
966 editions, by reference. The State Fire Marshal may modify the
967 selected codes and standards as needed to accommodate the
968 specific needs of the state. Standards or criteria in the
969 selected codes shall be similarly incorporated by reference. The

360216

970 State Fire Marshal shall incorporate within sections of the
971 Florida Fire Prevention Code provisions that address uniform
972 firesafety standards as established in s. 633.206 ~~633.022~~. The
973 State Fire Marshal shall incorporate within sections of the
974 Florida Fire Prevention Code provisions addressing regional and
975 local concerns and variations.
976 (4) The State Fire Marshal shall update, by rule adopted
977 pursuant to ss. 120.536(1) and 120.54, the Florida Fire
978 Prevention Code every 3 years. Once initially adopted and
979 subsequently updated, the Florida Fire Prevention Code ~~and the~~
980 ~~Life Safety Code~~ shall be adopted for use statewide without
981 adoptions by local governments. When updating the Florida Fire
982 Prevention Code ~~and the most recent edition of the Life Safety~~
983 ~~Code~~, the State Fire Marshal shall consider changes made by the
984 national model fire codes incorporated into the Florida Fire
985 Prevention Code, the State Fire Marshal's own interpretations,
986 declaratory statements, appellate decisions, and approved
987 statewide and local technical amendments.
988 (7) Any local amendment adopted by a local government must
989 strengthen the Fire Prevention Code requirements of the minimum
990 firesafety code.
991 (9) The State Fire Marshal shall make rules that implement
992 this section and ss. 633.104 and 633.208 ~~633.01 and 633.025~~ for
993 the purpose of accomplishing the objectives set forth in those
994 sections.
995 (10) Notwithstanding other provisions of this chapter, if a
996 county or a municipality within that county adopts an ordinance
997 providing for a local amendment to the Florida Fire Prevention
998 Code and that amendment provides a higher level of protection to

360216

999 the public than the level specified in the Florida Fire
1000 Prevention Code, the local amendment becomes effective without
1001 approval of the State Fire Marshal and is not rescinded pursuant
1002 to ~~the provisions of~~ this section, provided that the ordinance
1003 meets one or more of the following criteria:
1004 (a) The local authority has adopted, by ordinance, a fire
1005 service facilities and operation plan that outlines goals and
1006 objectives for related equipment, personnel, and capital
1007 improvement needs of the local authority related to the specific
1008 amendment for the next 5 years;
1009 (b) The local authority has adopted, by ordinance, a
1010 provision requiring proportionate reduction in, or rebate or
1011 waivers of, impact or other fees or assessments levied on
1012 buildings that are built or modified in compliance with the more
1013 stringent firesafety standards required by the local amendment;
1014 or
1015 (c) The local authority has adopted, by ordinance, a growth
1016 management plan that requires buildings and structures to be
1017 equipped with more stringent firesafety requirements required by
1018 the local amendment when these firesafety requirements are used
1019 as the basis for planning infrastructure development, uses, or
1020 housing densities.
1021
1022 Except as provided in s. 633.206 ~~633.022~~, the local appeals
1023 process shall be the venue if there is a dispute between parties
1024 affected by the provisions of the more stringent local
1025 firesafety amendment adopted as part of the Florida Fire
1026 Prevention Code pursuant to the authority in this subsection.
1027 Local amendments adopted pursuant to this subsection shall be

360216

1028 deemed local or regional variations and published as such in the
1029 Florida Fire Prevention Code. The act of publishing locally
1030 adopted firesafety amendments to the Florida Fire Prevention
1031 Code may ~~shall~~ not be construed to mean that the State Fire
1032 Marshal approves or denies the authenticity or appropriateness
1033 of the locally adopted firesafety provision, and the burden of
1034 protecting the local firesafety amendment remains solely with
1035 the adopting local governmental authority.
1036 ~~(12) Notwithstanding other provisions of this section, the~~
1037 ~~State Fire Marshal shall study the use of managed, facilities-~~
1038 ~~based, voice-over-Internet-protocol telephone service for~~
1039 ~~monitoring fire alarm signals. If the study determines that~~
1040 ~~voice-over-Internet-protocol telephone service technology~~
1041 ~~provides a level of protection equivalent to that required by~~
1042 ~~NFPA 72: National Fire Alarm Code, the State Fire Marshal shall~~
1043 ~~initiate rulemaking pursuant to ss. 120.536(1) and 120.54 by~~
1044 ~~December 1, 2008, to allow the use of this technology as an~~
1045 ~~additional method of monitoring fire alarm systems.~~
1046 (12) ~~(13)~~(a) The State Fire Marshal shall issue an expedited
1047 declaratory statement relating to interpretations of ~~provisions~~
1048 ~~of~~ the Florida Fire Prevention Code according to the following
1049 guidelines:
1050 1. The declaratory statement shall be rendered in
1051 accordance with s. 120.565, except that a final decision must be
1052 issued by the State Fire Marshal within 45 days after the
1053 division’s receipt of a petition seeking an expedited
1054 declaratory statement. The State Fire Marshal shall give notice
1055 of the petition and the expedited declaratory statement or the
1056 denial of the petition in the next available issue of the

360216

1057 Florida Administrative Register ~~Weekly~~ after the petition is
1058 filed and after the statement or denial is rendered.
1059 2. The petitioner must be the owner of the disputed project
1060 or the owner's representative.
1061 3. The petition for an expedited declaratory statement must
1062 be:
1063 a. Related to an active project that is under construction
1064 or must have been submitted for a permit.
1065 b. The subject of a written notice citing a specific
1066 provision of the Florida Fire Prevention Code which is in
1067 dispute.
1068 c. Limited to a single question that is capable of being
1069 answered with a "yes" or "no" response.
1070 (b) A petition for a declaratory statement which does not
1071 meet all of the requirements of this subsection must be denied
1072 without prejudice. This subsection does not affect the right of
1073 the petitioner as a substantially affected person to seek a
1074 declaratory statement under s. 633.104(6) ~~633.01(6)~~.
1075 (13) ~~(14)~~ A condominium, cooperative, or multifamily
1076 residential building that is less than four stories in height
1077 and has an exterior corridor providing a means of egress is
1078 exempt from installing a manual fire alarm system as required in
1079 s. 9.6 of the most recent edition of the Life Safety Code
1080 adopted in the Florida Fire Prevention Code. ~~This is intended to~~
1081 ~~clarify existing law.~~
1082 (14) ~~(15)~~ The Legislature finds that the electronic filing
1083 of construction plans will increase governmental efficiency,
1084 reduce costs, and increase timeliness of processing permits. If
1085 the fire code administrator or fire official provides for

360216

1086 electronic filing, any construction plans, drawings,
1087 specifications, reports, final documents, or documents prepared
1088 or issued by a licensee may be dated and electronically signed
1089 and sealed by the licensee in accordance with part I of chapter
1090 668, and may be transmitted electronically to the fire code
1091 administrator or fire official for approval.
1092 Section 22. Section 633.72, Florida Statutes, is
1093 transferred, renumbered as section 633.204, Florida Statutes,
1094 and amended to read:
1095 633.204 ~~633.72~~ Florida Fire Code Advisory Council.—
1096 (1) There is created within the department the Florida Fire
1097 Code Advisory Council with 11 members appointed by the State
1098 Fire Marshal. The council shall advise and recommend to the
1099 State Fire Marshal changes to and interpretation of the uniform
1100 firesafety standards adopted under s. 633.206 ~~633.022~~, the
1101 Florida Fire Prevention Code, and those portions of the Florida
1102 Fire Prevention Code that have the effect of conflicting with
1103 building construction standards that are adopted pursuant to ss.
1104 633.202 and 633.206 ~~633.0215 and 633.022~~. The members of the
1105 council shall represent the following groups and professions:
1106 (a) One member shall be the State Fire Marshal, or his or
1107 her designated appointee who shall be an administrative employee
1108 of the marshal.~~;~~
1109 (b) One member shall be an administrative officer from a
1110 fire department representing a municipality, ~~or~~ a county, or a
1111 special district selected from a list of persons submitted by
1112 the Florida Fire Chiefs Association.~~;~~
1113 (c) One member shall be an architect licensed in the state
1114 selected from a list of persons submitted by the Florida

360216

1115 Association/American Institute of Architects.~~;~~
1116 (d) One member shall be an engineer with fire protection
1117 design experience registered to practice in the state selected
1118 from a list of persons submitted by the Florida Engineering
1119 Society.~~;~~
1120 (e) One member shall be an administrative officer from a
1121 building department of a county or municipality selected from a
1122 list of persons submitted by the Building Officials Association
1123 of Florida.~~;~~
1124 (f) One member shall be a contractor licensed in the state
1125 selected from a list submitted by the Florida Home Builders
1126 Association.~~;~~
1127 (g) One member shall be a Florida ~~certified~~ firefighter
1128 selected from a list submitted by the Florida Professional
1129 Firefighters' Association.~~;~~
1130 (h) One member shall be a Florida certified firesafety
1131 ~~municipal fire~~ inspector selected from a list submitted by the
1132 Florida Fire Marshals' and Inspectors' ~~Marshal's~~ Association.~~;~~
1133 (i) One member shall be selected from a list submitted by
1134 the Department of Education.~~;~~
1135 (j) One member shall be selected from a list submitted by
1136 the Chancellor of the State University System.~~; and~~
1137 (k) One member shall be representative of the general
1138 public.
1139 (2) The State Fire Marshal and the Florida Building
1140 Commission shall coordinate efforts to provide consistency
1141 between the Florida Building Code and the Florida Fire
1142 Prevention Code ~~and the Life Safety Code~~.
1143 (3) The council shall meet at least semiannually to advise

360216

1144 the State Fire Marshal's Office on matters subject to this
1145 section.
1146 (4) The council may review proposed changes to the Florida
1147 Fire Prevention Code and the uniform fire safety standards
1148 pursuant to s. 633.202(4).
1149 (5) ~~(3)~~ The council and Florida Building Commission shall
1150 cooperate through joint representation and coordination of codes
1151 and standards to resolve conflicts in their development,
1152 updating, and interpretation.
1153 (6) ~~(4)~~ Each appointee shall serve a 4-year term. No member
1154 shall serve more than two consecutive terms. A ~~No~~ member of the
1155 council may not ~~shall~~ be paid a salary as such member, but each
1156 shall receive travel and expense reimbursement as provided in s.
1157 112.061.
1158 Section 23. Section 633.022, Florida Statutes, is
1159 transferred and renumbered as section 633.206, Florida Statutes,
1160 and subsection (1) and paragraph (a) of subsection (4) of that
1161 section are amended, to read:
1162 633.206 ~~633.022~~ Uniform firesafety standards.—The
1163 Legislature hereby determines that to protect the public health,
1164 safety, and welfare it is necessary to provide for firesafety
1165 standards governing the construction and utilization of certain
1166 buildings and structures. The Legislature further determines
1167 that certain buildings or structures, due to their specialized
1168 use or to the special characteristics of the person utilizing or
1169 occupying these buildings or structures, should be subject to
1170 firesafety standards reflecting these special needs as may be
1171 appropriate.
1172 (1) The department shall establish uniform firesafety

360216

1173 standards that apply to:
1174 (a) All new, existing, and proposed state-owned and state-
1175 leased buildings, including state universities as defined under
1176 s. 1000.21.
1177 (b) All new, existing, and proposed hospitals, nursing
1178 homes, assisted living facilities, adult family-care homes,
1179 correctional facilities, public schools, transient public
1180 lodging establishments, public food service establishments,
1181 elevators, migrant labor camps, mobile home parks, lodging
1182 parks, recreational vehicle parks, recreational camps,
1183 residential and nonresidential child care facilities, facilities
1184 for the developmentally disabled, motion picture and television
1185 special effects productions, tunnels, and self-service gasoline
1186 stations, of which standards the State Fire Marshal is the final
1187 administrative interpreting authority.
1188
1189 In the event there is a dispute between the owners of the
1190 buildings specified in paragraph (b) and a local authority
1191 requiring a more stringent uniform firesafety standard for
1192 sprinkler systems, the State Fire Marshal shall be the final
1193 administrative interpreting authority and the State Fire
1194 Marshal's interpretation regarding the uniform firesafety
1195 standards shall be considered final agency action.
1196 (4)(a) Notwithstanding any provision of law to the
1197 contrary, each nursing home licensed under part II of chapter
1198 400 shall be protected throughout by an approved, supervised
1199 automatic sprinkler system in accordance with s. 9 of National
1200 Fire Protection Association, Inc., Life Safety Code, no later
1201 than December 31, 2010. ~~A nursing home licensee shall submit~~

360216

1202 ~~complete sprinkler construction documents to the Agency for~~
1203 ~~Health Care Administration for review by December 31, 2008, and~~
1204 ~~the licensee must gain final approval to start construction from~~
1205 ~~the agency by June 30, 2009. The agency shall grant a 6-month~~
1206 ~~extension to a nursing home licensee if the completion and~~
1207 ~~submission of the sprinkler construction documents are~~
1208 ~~contingent upon the approval of the application for the loan~~
1209 ~~guarantee program authorized under s. 633.0245. In such case,~~
1210 ~~the agency may extend the deadline for final approval to begin~~
1211 ~~construction beyond June 30, 2009, but the deadline may not be~~
1212 ~~extended beyond December 31, 2009.~~
1213 Section 24. Section 633.025, Florida Statutes, is
1214 transferred, renumbered as section 633.208, Florida Statutes,
1215 and amended to read:
1216 633.208 ~~633.025~~ Minimum firesafety standards.—
1217 (1) The Florida Fire Prevention Code ~~and the Life Safety~~
1218 ~~Code~~ adopted by the State Fire Marshal, which shall operate in
1219 conjunction with the Florida Building Code, shall be deemed
1220 adopted by each municipality, county, and special district with
1221 firesafety responsibilities. The minimum firesafety codes do
1222 ~~shall~~ not apply to buildings and structures subject to the
1223 uniform firesafety standards under s. 633.206 ~~633.022~~ and
1224 buildings and structures subject to the minimum firesafety
1225 standards adopted pursuant to s. 394.879.
1226 (2) Pursuant to subsection (1), each municipality, county,
1227 and special district with firesafety responsibilities shall
1228 enforce the Florida Fire Prevention Code ~~and the Life Safety~~
1229 ~~Code~~ as the minimum firesafety code required by this section.
1230 ~~(3) The most current edition of the National Fire~~

360216

1231 ~~Protection Association (NFPA) 101, Life Safety Code, adopted by~~
1232 ~~the State Fire Marshal, shall be deemed to be adopted by each~~
1233 ~~municipality, county, and special district with firesafety~~
1234 ~~responsibilities as part of the minimum firesafety code.~~
1235 (3) ~~(4)~~ Such code ~~codes~~ shall be a minimum code ~~codes~~ and a
1236 municipality, county, or special district with firesafety
1237 responsibilities may adopt more stringent firesafety standards,
1238 subject to the requirements of this subsection. Such county,
1239 municipality, or special district may establish alternative
1240 requirements to those requirements which are required under the
1241 minimum firesafety standards on a case-by-case basis, in order
1242 to meet special situations arising from historic, geographic, or
1243 unusual conditions, if the alternative requirements result in a
1244 level of protection to life, safety, or property equal to or
1245 greater than the applicable minimum firesafety standards. For
1246 the purpose of this subsection, the term “historic” means that
1247 the building or structure is listed on the National Register of
1248 Historic Places of the United States Department of the Interior.
1249 (a) The local governing body shall determine, following a
1250 public hearing which has been advertised in a newspaper of
1251 general circulation at least 10 days before the hearing, if
1252 there is a need to strengthen the requirements of the minimum
1253 firesafety code adopted by such governing body. The
1254 determination must be based upon a review of local conditions by
1255 the local governing body, which review demonstrates that local
1256 conditions justify more stringent requirements than those
1257 specified in the minimum firesafety code for the protection of
1258 life and property or justify requirements that meet special
1259 situations arising from historic, geographic, or unusual

360216

1260 conditions.
1261 (b) Such additional requirements may ~~shall~~ not be
1262 discriminatory as to materials, products, or construction
1263 techniques of demonstrated capabilities.
1264 (c) Paragraphs (a) and (b) apply solely to the local
1265 enforcing agency's adoption of requirements more stringent than
1266 those specified in the Florida Fire Prevention Code and the Life
1267 Safety Code that have the effect of amending building
1268 construction standards. Upon request, the enforcing agency must
1269 ~~shall~~ provide a person making application for a building permit,
1270 or any state agency or board with construction-related
1271 regulation responsibilities, a listing of all such requirements
1272 and codes.
1273 (d) A local government which adopts amendments to the
1274 minimum firesafety code must provide a procedure by which the
1275 validity of such amendments may be challenged by any
1276 substantially affected party to test the amendment's compliance
1277 with ~~the provisions of~~ this section.
1278 1. Unless the local government agrees to stay enforcement
1279 of the amendment, or other good cause is shown, the challenging
1280 party shall be entitled to a hearing on the challenge within 45
1281 days.
1282 2. For purposes of such challenge, the burden of proof
1283 shall be on the challenging party, but the amendment may ~~shall~~
1284 not be presumed to be valid or invalid.
1285
1286 This subsection gives local government the authority to
1287 establish firesafety codes that exceed the Florida Fire
1288 Prevention Code ~~minimum firesafety codes and standards~~ adopted

360216

1289 by the State Fire Marshal. The Legislature intends that local
1290 government give proper public notice and hold public hearings
1291 before adopting more stringent firesafety codes ~~and standards~~. A
1292 substantially affected person may appeal, to the department, the
1293 local government's resolution of the challenge, and the
1294 department shall determine if the amendment complies with this
1295 section. Actions of the department are subject to judicial
1296 review pursuant to s. 120.68. The department shall consider
1297 reports of the Florida Building Commission, pursuant to part IV
1298 of chapter 553, when evaluating building code enforcement.
1299 (4) ~~(5)~~ The new building or structure provisions enumerated
1300 within the Florida Fire Prevention Code ~~firesafety code~~ adopted
1301 pursuant to this section shall apply only to buildings or
1302 structures for which the building permit is issued on or after
1303 the effective date of the current edition of the Florida Fire
1304 Prevention Code ~~this act~~. Subject to ~~the provisions of~~
1305 subsection (5) ~~(6)~~, the existing building or structure
1306 provisions enumerated within the firesafety code adopted
1307 pursuant to this section shall apply to buildings or structures
1308 for which the building permit was issued or the building or
1309 structure was constructed before ~~prior to~~ the effective date of
1310 this act.
1311 (5) ~~(6)~~ With regard to existing buildings, the Legislature
1312 recognizes that it is not always practical to apply any or all
1313 of the provisions of the Florida Fire Prevention Code ~~minimum~~
1314 ~~firesafety code~~ and that physical limitations may require
1315 disproportionate effort or expense with little increase in fire
1316 or life safety ~~lifesafety~~. ~~Prior to applying the minimum~~
1317 ~~firesafety code to an existing building, the local fire official~~

360216

1318 ~~shall determine that a threat to lifesafety or property exists.~~
1319 If a threat to lifesafety or property exists, the firesafety
1320 inspector ~~fire official~~ shall apply the applicable firesafety
1321 code for existing buildings to the extent practical to assure a
1322 reasonable degree of lifesafety and safety of property or the
1323 firesafety inspector ~~fire official~~ shall fashion a reasonable
1324 alternative which affords an equivalent degree of lifesafety and
1325 safety of property. The decision of the local firesafety
1326 inspector ~~fire official~~ may be appealed to the local
1327 administrative board described in s. 553.73.
1328 (6) ~~(7)~~ Nothing herein shall preclude a municipality,
1329 county, or special district from requiring a structure to be
1330 maintained in accordance with the Florida Fire Prevention Code
1331 ~~applicable firesafety code~~.
1332 (7) ~~(8)~~ Electrically operated single station smoke detectors
1333 required for residential buildings are not required to be
1334 interconnected within individual living units in all buildings
1335 having direct access to the outside from each living unit and
1336 having three stories or less. This subsection does not apply to
1337 any residential building required to have a manual or an
1338 automatic fire alarm system.
1339 (8) ~~(9)~~ The provisions of the Life Safety Code, as contained
1340 in the Florida Fire Prevention Code, do ~~shall~~ not apply to newly
1341 constructed one-family and two-family dwellings. However, fire
1342 sprinkler protection may be permitted by local government in
1343 lieu of other fire protection-related development requirements
1344 for such structures. While local governments may adopt fire
1345 sprinkler requirements for one- and two-family dwellings under
1346 this subsection, it is the intent of the Legislature that the

360216

1347 economic consequences of the fire sprinkler mandate on home
1348 owners be studied before the enactment of such a requirement.
1349 After the effective date of this act, any local government that
1350 desires to adopt a fire sprinkler requirement on one- or two-
1351 family dwellings must prepare an economic cost and benefit
1352 report that analyzes the application of fire sprinklers to one-
1353 or two-family dwellings or any proposed residential subdivision.
1354 The report must consider the tradeoffs and specific cost savings
1355 and benefits of fire sprinklers for future owners of property.
1356 The report must include an assessment of the cost savings from
1357 any reduced or eliminated impact fees if applicable, the
1358 reduction in special fire district tax, insurance fees, and
1359 other taxes or fees imposed, and the waiver of certain
1360 infrastructure requirements including the reduction of roadway
1361 widths, the reduction of water line sizes, increased fire
1362 hydrant spacing, increased dead-end roadway length and a
1363 reduction in cul-de-sac sizes relative to the costs from fire
1364 sprinkling. A failure to prepare an economic report shall result
1365 in the invalidation of the fire sprinkler requirement to any
1366 one- or two-family dwelling or any proposed subdivision. In
1367 addition, a local jurisdiction or utility may not charge any
1368 additional fee, above what is charged to a non-fire sprinklered
1369 dwelling, on the basis that a one- or two-family dwelling unit
1370 is protected by a fire sprinkler system.
1371 (9) ~~(10)~~ Before imposing a fire sprinkler requirement on any
1372 one- or two-family dwelling, a local government must provide the
1373 owner of any one- or two-family dwelling a letter documenting
1374 specific infrastructure or other tax or fee allowances and
1375 waivers that are listed in but not limited to those described in

360216

1376 subsection (8) ~~(9)~~ for the dwelling. The documentation must show
1377 that the cost savings reasonably approximate the cost of the
1378 purchase and installation of a fire protection system.
1379 (10) ~~(11)~~ Notwithstanding ~~the provisions of~~ subsection (8)
1380 ~~(9)~~, a property owner may ~~shall~~ not be required to install fire
1381 sprinklers in any residential property based upon the use of
1382 such property as a rental property or any change in or
1383 reclassification of the property's primary use to a rental
1384 property.
1385 Section 25. Section 633.026, Florida Statutes, is
1386 transferred, renumbered as section 633.212, Florida Statutes,
1387 and amended to read:
1388 633.212 ~~633.026~~ Legislative intent; informal
1389 interpretations of the Florida Fire Prevention Code.—It is the
1390 intent of the Legislature that the Florida Fire Prevention Code
1391 be interpreted by fire officials and local enforcement agencies
1392 in a manner that reasonably and cost-effectively protects the
1393 public safety, health, and welfare; ensures uniform
1394 interpretations throughout this state; and provides just and
1395 expeditious processes for resolving disputes regarding such
1396 interpretations. It is the further intent of the Legislature
1397 that such processes provide for the expeditious resolution of
1398 the issues presented and that the resulting interpretation of
1399 such issues be published on the website of the division ~~of State~~
1400 ~~Fire Marshal~~.
1401 (1) The division ~~of State Fire Marshal~~ shall by rule
1402 establish an informal process of rendering nonbinding
1403 interpretations of the Florida Fire Prevention Code. The
1404 division ~~of State Fire Marshal~~ may contract with and refer

360216

1405 interpretive issues to a third party, selected based upon cost
1406 effectiveness, quality of services to be performed, and other
1407 performance-based criteria, which has experience in interpreting
1408 and enforcing the Florida Fire Prevention Code. It is the intent
1409 of the Legislature that the division ~~of State Fire Marshal~~
1410 establish a Fire Code Interpretation Committee composed of seven
1411 persons and seven alternates, equally representing each area of
1412 the state, to which a party can pose questions regarding the
1413 interpretation of the Florida Fire Prevention Code provisions.
1414 (2) Each member and alternate member of the Fire Code
1415 Interpretation Committee must be certified as a firesafety
1416 inspector pursuant to s. 633.216(2) ~~633.081(2)~~ and must have a
1417 minimum of 5 years of experience interpreting and enforcing the
1418 Florida Fire Prevention Code ~~and the Life Safety Code~~. Each
1419 member and alternate member must be approved by the division ~~of~~
1420 ~~State Fire Marshal~~ and deemed by the division to have met these
1421 requirements for at least 30 days before participating in a
1422 review of a nonbinding interpretation.
1423 (3) Each nonbinding interpretation of code provisions must
1424 be provided within 10 business days after receipt of a request
1425 for interpretation. The response period established in this
1426 subsection may be waived only with the written consent of the
1427 party requesting the nonbinding interpretation and the division
1428 ~~of State Fire Marshal~~. Nonbinding interpretations shall be
1429 advisory only and nonbinding on the parties or the State Fire
1430 Marshal.
1431 (4) In order to administer this section, the division ~~of~~
1432 ~~State Fire Marshal~~ shall charge a fee for nonbinding
1433 interpretations. The fee may not exceed $150 for each request

360216

1434 for a review or interpretation. The division may authorize
1435 payment of fees directly to the nonprofit organization under
1436 contract pursuant to subsection (1).
1437 (5) A party requesting a nonbinding interpretation who
1438 disagrees with the interpretation issued under this section may
1439 apply for a declaratory statement ~~formal interpretation~~ from the
1440 State Fire Marshal pursuant to s. 633.104(6) ~~633.01(6)~~.
1441 (6) The division ~~of State Fire Marshal~~ shall issue or cause
1442 to be issued a nonbinding interpretation of the Florida Fire
1443 Prevention Code pursuant to this section when requested to do so
1444 upon submission of a petition by a fire official or by the owner
1445 or owner's representative or the contractor or contractor's
1446 representative of a project in dispute. The division shall adopt
1447 a petition form by rule, and the petition form must be published
1448 on the State Fire Marshal's website. The form must ~~shall~~, at a
1449 minimum, require:
1450 (a) The name and address of the local fire official,
1451 including the address of the county, municipality, or special
1452 district.
1453 (b) The name and address of the owner or owner's
1454 representative or the contractor or contractor's representative.
1455 (c) A statement of the specific sections of the Florida
1456 Fire Prevention Code being interpreted by the local fire
1457 official.
1458 (d) An explanation of how the petitioner's substantial
1459 interests are being affected by the local interpretation of the
1460 Florida Fire Prevention Code.
1461 (e) A statement of the interpretation of the specific
1462 sections of the Florida Fire Prevention Code by the local fire

360216

1463 official.
1464 (f) A statement of the interpretation that the petitioner
1465 contends should be given to the specific sections of the Florida
1466 Fire Prevention Code and a statement supporting the petitioner's
1467 interpretation.
1468 (7) Upon receipt of a petition that meets the requirements
1469 of subsection (6), the division ~~of State Fire Marshal~~ shall
1470 immediately provide copies of the petition to the Fire Code
1471 Interpretation Committee, and shall publish the petition and any
1472 response submitted by the local fire official on the State Fire
1473 Marshal's website.
1474 (8) The committee shall conduct proceedings as necessary to
1475 resolve the issues and give due regard to the petition, the
1476 facts of the matter at issue, specific code sections cited, and
1477 any statutory implications affecting the Florida Fire Prevention
1478 Code. The committee shall issue an interpretation regarding the
1479 provisions of the Florida Fire Prevention Code within 10 days
1480 after the filing of a petition. The committee shall issue an
1481 interpretation based upon the Florida Fire Prevention Code or,
1482 if the code is ambiguous, the intent of the code. The
1483 committee's interpretation shall be provided to the petitioner
1484 and shall include a notice that if the petitioner disagrees with
1485 the interpretation, the petitioner may file a request for a
1486 declaratory statement ~~formal interpretation~~ by the State Fire
1487 Marshal under s. 633.104(6) ~~633.01(6)~~. The committee's
1488 interpretation shall be provided to the State Fire Marshal, and
1489 the division shall publish the declaratory statement
1490 ~~interpretation~~ on the State Fire Marshal's website and in the
1491 Florida Administrative Register ~~Weekly~~.

360216

1492 Section 26. Section 633.052, Florida Statutes, is
1493 transferred and renumbered as section 633.214, Florida Statutes,
1494 and paragraphs (a) and (b) of subsection (1), paragraph (d) of
1495 subsection (2), and subsections (3) and (4) of that section are
1496 amended, to read:
1497 633.214 ~~633.052~~ Ordinances relating to firesafety;
1498 definitions; penalties.—
1499 (1) As used in this section:
1500 (a) A "firesafety inspector" is an individual certified by
1501 the division ~~of State Fire Marshal~~, officially assigned the
1502 duties of conducting firesafety inspections of buildings and
1503 facilities on a recurring or regular basis, investigating civil
1504 infractions relating to firesafety, and issuing citations
1505 pursuant to this section on behalf of the state or any county,
1506 municipality, or special district with firesafety
1507 responsibilities.
1508 (b) "Citation" means a written notice, issued only after a
1509 written warning has been previously issued and a minimum time
1510 period of 45 days, except for major structural changes, which
1511 may be corrected within an extended adequate period of time,
1512 from the date of the issuance of the warning whereby the party
1513 warned may correct the alleged violation, issued to a person by
1514 a firesafety inspector, that the firesafety inspector has
1515 probable cause to believe that the person has committed a civil
1516 infraction in violation of a duly enacted ordinance and that the
1517 county court will hear the charge. The citation must ~~shall~~
1518 contain:
1519 1. The date and time of issuance.
1520 2. The name and address of the person.

360216

1521 3. The date and time the civil infraction was committed.
1522 4. The facts constituting probable cause.
1523 5. The Florida Fire Prevention Code ordinance violated.
1524 6. The name and authority of the firesafety inspector
1525 ~~officer~~.
1526 7. The procedure for the person to follow in order to pay
1527 the civil penalty or to contest the citation.
1528 8. The applicable civil penalty if the person elects to
1529 contest the citation.
1530 9. The applicable civil penalty if the person elects not to
1531 contest the citation.
1532 10. A conspicuous statement that if the person fails to pay
1533 the civil penalty within the time allowed or fails to appear in
1534 court to contest the citation, then she or he shall be deemed to
1535 have waived her or his right to contest the citation and that,
1536 in such case, judgment may be entered against the person for an
1537 amount up to the maximum civil penalty.
1538 (2) A county or municipality that has created a code
1539 enforcement board or special magistrate system pursuant to
1540 chapter 162 may enforce firesafety code violations as provided
1541 in chapter 162. The governing body of a county or municipality
1542 which has not created a code enforcement board or special
1543 magistrate system for firesafety under chapter 162 may ~~is~~
1544 ~~authorized to~~ enact ordinances relating to firesafety codes,
1545 which ordinances shall provide:
1546 (d) For the issuance of a citation by an officer who has
1547 probable cause to believe that a person has committed a
1548 violation of an ordinance relating to firesafety or the Florida
1549 Fire Prevention Code.

360216

1550 (3) A person ~~Any person~~ who willfully refuses to sign and
1551 accept a citation issued by a firesafety inspector commits ~~shall~~
1552 ~~be guilty of~~ a misdemeanor of the second degree, punishable as
1553 provided in s. 775.082 or s. 775.083.
1554 (4) ~~Nothing contained in~~ This section does not ~~shall~~
1555 prevent any county, ~~or~~ municipality, or special district from
1556 enacting any ordinance relating to firesafety codes which is
1557 identical to ~~the provisions of~~ this chapter or any state law,
1558 except as to penalty; however, a ~~no~~ county, ~~or~~ municipal, or
1559 special district ordinance relating to firesafety codes may not
1560 ~~shall~~ conflict with ~~the provisions of~~ this chapter or any other
1561 state law.
1562 Section 27. Section 633.081, Florida Statutes, is
1563 transferred and renumbered as section 633.216, Florida Statutes,
1564 a new subsection (6) is added to that section, and present
1565 subsections (1) and (2), paragraph (c) of subsection (3), and
1566 subsections (4) through (9) of that section are amended, to
1567 read:
1568 633.216 ~~633.081~~ Inspection of buildings and equipment;
1569 orders; firesafety inspection training requirements;
1570 certification; disciplinary action.—The State Fire Marshal and
1571 her or his agents or persons authorized to enforce laws and
1572 rules of the State Fire Marshal shall, at any reasonable hour,
1573 when the State Fire Marshal has reasonable cause to believe that
1574 a violation of this chapter or s. 509.215, or a rule adopted
1575 ~~promulgated~~ thereunder, or a minimum firesafety code adopted by
1576 the State Fire Marshal or a local authority, may exist, inspect
1577 any and all buildings and structures which are subject to the
1578 requirements of this chapter or s. 509.215 and rules adopted

360216

1579 ~~promulgated~~ thereunder. The authority to inspect shall extend to
1580 all equipment, vehicles, and chemicals which are located on or
1581 within the premises of any such building or structure.
1582 (1) Each county, municipality, and special district that
1583 has firesafety enforcement responsibilities shall employ or
1584 contract with a firesafety inspector. Except as provided in s.
1585 633.312(2) and (3) ~~633.082(2)~~, the firesafety inspector must
1586 conduct all firesafety inspections that are required by law. The
1587 governing body of a county, municipality, or special district
1588 that has firesafety enforcement responsibilities may provide a
1589 schedule of fees to pay only the costs of inspections conducted
1590 pursuant to this subsection and related administrative expenses.
1591 Two or more counties, municipalities, or special districts that
1592 have firesafety enforcement responsibilities may jointly employ
1593 or contract with a firesafety inspector.
1594 (2) Except as provided in s. 633.312(2) ~~633.082(2)~~, every
1595 firesafety inspection conducted pursuant to state or local
1596 firesafety requirements shall be by a person certified as having
1597 met the inspection training requirements set by the State Fire
1598 Marshal. Such person shall meet the requirements of s.
1599 633.412(1)(a)-(d), and:
1600 (a) ~~Be a high school graduate or the equivalent as~~
1601 ~~determined by the department;~~
1602 ~~(b) Not have been found guilty of, or having pleaded guilty~~
1603 ~~or nolo contendere to, a felony or a crime punishable by~~
1604 ~~imprisonment of 1 year or more under the law of the United~~
1605 ~~States, or of any state thereof, which involves moral turpitude,~~
1606 ~~without regard to whether a judgment of conviction has been~~
1607 ~~entered by the court having jurisdiction of such cases;~~

360216

1608 ~~(c) Have her or his fingerprints on file with the~~
1609 ~~department or with an agency designated by the department;~~
1610 ~~(d) Have good moral character as determined by the~~
1611 ~~department;~~
1612 ~~(e) Be at least 18 years of age;~~
1613 ~~(f)~~ Have satisfactorily completed the firesafety inspector
1614 certification examination as prescribed by division rule ~~the~~
1615 ~~department~~; and
1616 (b)~~(g)~~1. Have satisfactorily completed, as determined by
1617 division rule ~~the department~~, a firesafety inspector training
1618 program of at least ~~not less than~~ 200 hours established by the
1619 department and administered by education or training providers
1620 ~~agencies and institutions~~ approved by the department for the
1621 purpose of providing basic certification training for firesafety
1622 inspectors; or
1623 2. Have received ~~in another state~~ training in another state
1624 which is determined by the division ~~department~~ to be at least
1625 equivalent to that required by the department for approved
1626 firesafety inspector education and training programs in this
1627 state.
1628 (3)
1629 (c)1. To be certified as a firesafety inspector under this
1630 section, a ~~any~~ person who:
1631 a. Is a special state firesafety inspector on July 1, 2011,
1632 and who does not have 5 years of experience as a special state
1633 firesafety inspector as of July 1, 2011; or
1634 b. Has 5 years of experience as a special state firesafety
1635 inspector but has failed the examination taken as provided in
1636 paragraph (2)(a) ~~(2)(f)~~, must take an additional 80 hours of the

360216

1637 courses described in paragraph (2)(b) ~~(2)(g)~~.
1638 2. After successfully completing the courses described in
1639 this paragraph, such person may take the firesafety inspection
1640 examination as provided in paragraph (2)(a) ~~(2)(f)~~, if such
1641 examination is taken before July 1, 2013.
1642 3. Upon passing the examination, the person shall be
1643 certified as a firesafety inspector as provided in this section.
1644 4. A person who fails the course of study or the
1645 examination described in this paragraph may not perform any
1646 firesafety inspection required by law on or after July 1, 2013.
1647 (4) A firefighter certified pursuant to s. 633.408 ~~633.35~~
1648 may conduct firesafety inspections, under the supervision of a
1649 certified firesafety inspector, while on duty as a member of a
1650 fire department company conducting inservice firesafety
1651 inspections without being certified as a firesafety inspector,
1652 if such firefighter has satisfactorily completed an inservice
1653 fire department company inspector training program of at least
1654 24 hours' duration as provided by rule of the department.
1655 (5) Every firesafety inspector certificate is valid for a
1656 period of 4 ~~3~~ years from the date of issuance. Renewal of
1657 certification is subject to the affected person's completing
1658 proper application for renewal and meeting all of the
1659 requirements for renewal as established under this chapter or by
1660 rule adopted under this chapter, which must ~~shall~~ include
1661 completion of at least 54 ~~40~~ hours during the preceding 4-year
1662 ~~3-year~~ period of continuing education as required by the rule of
1663 the department or, in lieu thereof, successful passage of an
1664 examination as established by the department.
1665 (6) A previously certified firesafety inspector whose

360216

1666 certification has lapsed for 8 years or more must repeat the
1667 fire safety inspector training as specified by the division.
1668 (7) ~~(6)~~ The State Fire Marshal may deny, refuse to renew,
1669 suspend, or revoke the certificate of a firesafety inspector if
1670 the State Fire Marshal finds that any of the following grounds
1671 exist:
1672 (a) Any cause for which issuance of a certificate could
1673 have been refused had it then existed and been known to the
1674 division ~~State Fire Marshal~~.
1675 (b) Violation of this chapter or any rule or order of the
1676 State Fire Marshal.
1677 (c) Falsification of records relating to the certificate.
1678 ~~(d) Having been found guilty of or having pleaded guilty or~~
1679 ~~nolo contendere to a felony, whether or not a judgment of~~
1680 ~~conviction has been entered.~~
1681 (d) ~~(e)~~ Failure to meet any of the renewal requirements.
1682 ~~(f) Having been convicted of a crime in any jurisdiction~~
1683 ~~which directly relates to the practice of fire code inspection,~~
1684 ~~plan review, or administration.~~
1685 (e) ~~(g)~~ Making or filing a report or record that the
1686 certificateholder knows to be false, or knowingly inducing
1687 another to file a false report or record, or knowingly failing
1688 to file a report or record required by state or local law, or
1689 knowingly impeding or obstructing such filing, or knowingly
1690 inducing another person to impede or obstruct such filing.
1691 (f) ~~(h)~~ Failing to properly enforce applicable fire codes or
1692 permit requirements within this state which the
1693 certificateholder knows are applicable by committing willful
1694 misconduct, gross negligence, gross misconduct, repeated

360216

1695 negligence, or negligence resulting in a significant danger to
1696 life or property.
1697 (g) ~~(i)~~ Accepting labor, services, or materials at no charge
1698 or at a noncompetitive rate from a ~~any~~ person who performs work
1699 that is under the enforcement authority of the certificateholder
1700 and who is not an immediate family member of the
1701 certificateholder. For the purpose of this paragraph, the term
1702 “immediate family member” means a spouse, child, parent,
1703 sibling, grandparent, aunt, uncle, or first cousin of the person
1704 or the person’s spouse or a ~~any~~ person who resides in the
1705 primary residence of the certificateholder.
1706 (8) ~~(7)~~ The division ~~of State Fire Marshal~~ and the Florida
1707 Building Code Administrators and Inspectors Board, established
1708 pursuant to s. 468.605, shall enter into a reciprocity agreement
1709 to facilitate joint recognition of continuing education
1710 recertification hours for certificateholders licensed under s.
1711 468.609 and firesafety inspectors certified under subsection
1712 (2).
1713 (9) ~~(8)~~ The State Fire Marshal shall develop by rule an
1714 advanced training and certification program for firesafety
1715 inspectors having fire code management responsibilities. The
1716 program must be consistent with the appropriate provisions of
1717 NFPA 1037, or similar standards adopted by the division, and
1718 establish minimum training, education, and experience levels for
1719 firesafety inspectors having fire code management
1720 responsibilities.
1721 (10) ~~(9)~~ The department shall provide by rule for the
1722 certification of firesafety inspectors and Fire Code
1723 Administrators.

360216

1724 Section 28. Section 633.085, Florida Statutes, is
1725 transferred and renumbered as section 633.218, Florida Statutes,
1726 paragraph (a) of subsection (1) and subsections (2) through (5)
1727 of that section are amended, and paragraphs (e) and (f) are
1728 added to subsection (1) of that section, to read:
1729 633.218 ~~633.085~~ Inspections of state buildings and
1730 premises; tests of firesafety equipment; building plans to be
1731 approved.—
1732 (1)(a) It is the duty of the State Fire Marshal and her or
1733 his agents to inspect, or cause to be inspected, each state-
1734 owned building on a recurring basis established by rule, and to
1735 ensure that high-hazard occupancies are inspected at least
1736 annually, for the purpose of ascertaining and causing to be
1737 corrected any conditions liable to cause fire or endanger life
1738 from fire and any violation of the firesafety standards for
1739 state-owned buildings, ~~the provisions of~~ this chapter, or the
1740 rules ~~or regulations~~ adopted ~~and promulgated~~ pursuant hereto.
1741 The State Fire Marshal shall, within 7 days following an
1742 inspection, submit a report of such inspection to the head of
1743 the ~~department of~~ state agency ~~government~~ responsible for the
1744 building.
1745 (e) For purposes of this section:
1746 1.a. The term "high-hazard occupancy" means any building or
1747 structure:
1748 (I) That contains combustible or explosive matter or
1749 flammable conditions dangerous to the safety of life or
1750 property;
1751 (II) At which persons receive educational instruction;
1752 (III) At which persons reside, excluding private dwellings;

360216

1753 or
1754 (IV) Containing three or more floor levels.
1755 b. As used in this subparagraph, the phrase "building or
1756 structure":
1757 (I) Includes, but is not limited to, all hospitals and
1758 residential health care facilities, nursing homes and other
1759 adult care facilities, correctional or detention facilities,
1760 public schools, public lodging establishments, migrant labor
1761 camps, residential child care facilities, and self-service
1762 gasoline stations.
1763 (II) Does not include any residential condominium where the
1764 declaration of condominium or the bylaws provide that the rental
1765 of units shall not be permitted for less than 90 days.
1766 2. The term "state-owned building," includes private
1767 correctional facilities as defined under s. 944.710(3) and state
1768 universities as defined under s. 1000.21(6).
1769 (f) A state-owned building or state-leased building or
1770 space shall be identified through use of the United States
1771 National Grid Coordinate System.
1772 (2) The State Fire Marshal and her or his agents may ~~shall~~
1773 conduct performance tests on any electronic fire warning and
1774 smoke detection system, and any pressurized air-handling unit,
1775 in any state-owned building or state-leased building or space on
1776 a recurring basis as provided in subsection (1). The State Fire
1777 Marshal and her or his agents shall also ensure that fire drills
1778 are conducted in all high-hazard state-owned buildings or high-
1779 hazard state-leased ~~high-hazard~~ occupancies at least annually.
1780 (3) All construction of any new state-owned building or
1781 state-leased building or space~~,~~ or any renovation, alteration,

360216

1782 or change of occupancy of any existing, state-owned building or
1783 state-leased building or space must ~~shall~~ comply with the
1784 uniform firesafety standards of the State Fire Marshal.
1785 (a) For all new construction or renovation, alteration, or
1786 change of occupancy of state-leased space, compliance with the
1787 uniform firesafety standards shall be determined by reviewing
1788 the plans for the proposed construction or occupancy submitted
1789 by the lessor to the division ~~of State Fire Marshal~~ for review
1790 and approval before ~~prior to~~ commencement of construction or
1791 occupancy, which review shall be completed within 10 working
1792 days after receipt of the plans by the division ~~of State Fire~~
1793 ~~Marshal~~.
1794 (b) The plans for all construction of any new, or
1795 renovation or alteration of any existing, state-owned building
1796 are subject to the review and approval of the division ~~of State~~
1797 ~~Fire Marshal~~ for compliance with the uniform firesafety
1798 standards before ~~prior to~~ commencement of construction or change
1799 of occupancy, which review shall be completed within 30 calendar
1800 days of receipt of the plans by the division ~~of State Fire~~
1801 ~~Marshal~~.
1802 (4) The division ~~of State Fire Marshal~~ may inspect state-
1803 owned buildings and space and state-leased buildings and space
1804 as necessary before ~~prior to~~ occupancy or during construction,
1805 renovation, or alteration to ascertain compliance with the
1806 uniform firesafety standards. Whenever the division ~~of State~~
1807 ~~Fire Marshal~~ determines by virtue of such inspection or by
1808 review of plans that construction, renovation, or alteration of
1809 state-owned buildings and state-leased buildings or space is not
1810 in compliance with the uniform firesafety standards, the

360216

1811 division ~~of State Fire Marshal~~ shall issue an order to cease
1812 construction, renovation, or alteration, or to preclude
1813 occupancy, of a building until compliance is obtained, except
1814 for those activities required to achieve such compliance.
1815 (5) The division ~~of State Fire Marshal~~ shall by rule
1816 provide a schedule of fees to pay for the costs of the
1817 inspections, whether recurring or high hazard, any firesafety
1818 review or plans for proposed construction, renovations, or
1819 occupancy, and related administrative expenses.
1820 Section 29. Section 633.027, Florida Statutes, is
1821 transferred and renumbered as section 633.222, Florida Statutes,
1822 and subsection (3) of that section is amended, to read:
1823 633.222 ~~633.027~~ Buildings with light-frame truss-type
1824 construction; notice requirements; enforcement.—
1825 (3) The State Fire Marshal, and local fire officials in
1826 accordance with s. 633.118 ~~633.121~~, shall enforce ~~the provisions~~
1827 ~~of~~ this section. An ~~Any~~ owner who fails to comply with the
1828 requirements of this section is subject to penalties as provided
1829 in s. 633.228 ~~633.161~~.
1830 Section 30. Section 633.60, Florida Statutes, is
1831 transferred and renumbered as section 633.224, Florida Statutes,
1832 and subsection (1) of that section is amended, to read:
1833 633.224 ~~633.60~~ Automatic fire sprinkler systems for one-
1834 family dwellings, two-family dwellings, and mobile homes.—
1835 (1) It is unlawful for a ~~any~~ person to engage in the
1836 business or act in the capacity of a contractor of automatic
1837 fire sprinkler systems for one-family dwellings, two-family
1838 dwellings, and mobile homes without having been duly certified
1839 and holding a current certificate as a Contractor I, Contractor

360216

1840 II, or Contractor IV as defined in s. 633.102 ~~633.021~~.
1841 Section 31. Section 633.557, Florida Statutes, is
1842 transferred and renumbered as section 633.226, Florida Statutes.
1843 Section 32. Section 633.161, Florida Statutes, is
1844 transferred and renumbered as section 633.228, Florida Statutes,
1845 and paragraphs (a) and (b) of subsection (1), paragraph (a) of
1846 subsection (2), and subsection (3) of that section are amended,
1847 to read:
1848 633.228 ~~633.161~~ Violations; orders to cease and desist,
1849 correct hazardous conditions, preclude occupancy, or vacate;
1850 enforcement; penalties.—
1851 (1) If it is determined by the department that a violation
1852 specified in this subsection exists, the State Fire Marshal or
1853 her or his deputy may issue and deliver to the person committing
1854 the violation an order to cease and desist from such violation,
1855 to correct any hazardous condition, to preclude occupancy of the
1856 affected building or structure, or to vacate the premises of the
1857 affected building or structure. Such violations are:
1858 (a) Except as set forth in paragraph (b), a violation of
1859 any provision of this chapter, of any rule adopted pursuant
1860 thereto, of any applicable uniform firesafety standard adopted
1861 pursuant to s. 633.206 ~~633.022~~ which is not adequately addressed
1862 by any alternative requirements adopted on a local level, or of
1863 any minimum firesafety standard adopted pursuant to s. 394.879.
1864 (b) A substantial violation of an applicable minimum
1865 firesafety standard adopted pursuant to s. 633.208 ~~633.025~~ which
1866 is not reasonably addressed by any alternative requirement
1867 imposed at the local level, or an unreasonable interpretation of
1868 an applicable minimum firesafety standard, and which violation

360216

1869 or interpretation clearly constitutes a danger to lifesafety.
1870 (2)(a) If, during the conduct of a firesafety inspection
1871 authorized by ss. 633.216 and 633.218 ~~633.081 and 633.085~~, it is
1872 determined that a violation described in this section exists
1873 which poses an immediate danger to the public health, safety, or
1874 welfare, the State Fire Marshal may issue an order to vacate the
1875 building in question, which order shall be immediately effective
1876 and shall be an immediate final order under s. 120.569(2)(n).
1877 With respect to a facility under the jurisdiction of a district
1878 school board or community college board of trustees, the order
1879 to vacate shall be issued jointly by the district superintendent
1880 or college president and the State Fire Marshal.
1881 (3) A ~~Any~~ person who violates or fails to comply with any
1882 order under subsection (1) or subsection (2) commits ~~is guilty~~
1883 ~~of~~ a misdemeanor, punishable as provided in s. 633.124 ~~633.171~~.
1884 Section 33. The Division of Law Revision and Information is
1885 directed to create part III of chapter 633, Florida Statutes,
1886 consisting of sections 633.302, 633.304, 633.306, 633.308,
1887 633.312, 633.314, 633.316, 633.318, 633.322, 633.324, 633.326,
1888 633.328, 633.332, 633.334, 633.336, 633.338, 633.342, 633.344,
1889 633.346, 633.348, and 633.3482, Florida Statutes, to be entitled
1890 "Fire Protection and Suppression."
1891 Section 34. Section 633.511, Florida Statutes, is
1892 transferred, renumbered as section 633.302, Florida Statutes,
1893 and amended to read:
1894 633.302 ~~633.511~~ Florida Fire Safety Board; membership;
1895 duties; meetings; officers; quorum; compensation; seal.—
1896 (1) The Florida Fire Safety Board is created consisting of
1897 seven members who are ~~citizens and~~ residents of this state. One

360216

1898 shall be the State Fire Marshal, or her or his designee
1899 ~~designated appointee~~ who shall be an administrative employee of
1900 the marshal; one shall be an administrative officer from a
1901 building department representing an incorporated municipality or
1902 a county; one shall be an administrative officer from a fire
1903 department representing an incorporated municipality or a
1904 county; two shall be contractors licensed pursuant to s. 633.318
1905 ~~633.521~~; and two shall be persons who hold valid licenses under
1906 s. 633.304 ~~633.061~~.
1907 (2)(a) To be eligible for appointment, each contractor must
1908 ~~shall~~ personally hold a current certificate of competency and a
1909 current license issued by the division ~~State Fire Marshal~~,
1910 together with an unexpired occupational license to operate as a
1911 contractor issued by an incorporated municipality or a county;
1912 be actively engaged in such business and have been so engaged
1913 for a period of not less than 5 consecutive years before the
1914 date of her or his appointment; and be a ~~citizen and~~ resident of
1915 the state.
1916 (b) To be eligible for appointment, each fire equipment
1917 dealer must ~~shall~~ personally hold a current Class A, B, or C and
1918 Class D fire equipment dealer license issued by the division
1919 ~~State Fire Marshal~~, together with an unexpired occupational
1920 license to operate as a fire equipment dealer issued by an
1921 incorporated municipality or a county; must ~~shall~~ be actively
1922 engaged in such business and have been so engaged for a period
1923 of not less than 5 consecutive years before the date of
1924 appointment; and must ~~shall~~ be a ~~citizen and~~ resident of this
1925 state.
1926 (3) The State Fire Marshal’s term on the board, or that of

360216

1927 her or his designee ~~designated administrative employee~~, shall
1928 coincide with the State Fire Marshal's term of office. Of the
1929 other six members of the board, one member shall be appointed
1930 for a term of 1 year, one member for a term of 2 years, two
1931 members for terms of 3 years, and two members for terms of 4
1932 years. All terms expire on June 30 of the last year of the term.
1933 When ~~Effective July 1, 1997, as~~ the term of a ~~each~~ member
1934 expires, the State Fire Marshal shall appoint a member to fill
1935 the vacancy for a term of 4 years. The State Fire Marshal may
1936 remove any appointed member for cause. A vacancy in the
1937 membership of the board for any cause shall be filled by
1938 appointment by the State Fire Marshal for the balance of the
1939 unexpired term.
1940 (4) The board shall act in an advisory capacity to the
1941 State Fire Marshal and shall meet regularly as the need presents
1942 itself. The board shall have the authority to review complaints
1943 and disputed administrative action and make recommendations for
1944 disciplinary action to the division at the request of the
1945 licenseholder, permitholder, or certificateholder. The board
1946 will serve in an advisory capacity to the division regarding
1947 rules, codes, standards, interpretations, and training. As soon
1948 as practicable after July 1, 2013, the board shall meet to elect
1949 officers from its membership, whose terms shall expire on June
1950 30 and annually thereafter. A majority of the board shall
1951 constitute a quorum. A member of the advisory board may not be
1952 paid a salary as such member, but shall be reimbursed for
1953 necessary expenses while attending advisory board meetings,
1954 including travel in the performance of her or his duties, as
1955 provided in s. 112.061.

360216

1956 (5) The board shall adopt a seal for its use containing the
1957 words "Florida Fire Safety Board."
1958 Section 35. Section 633.061, Florida Statutes, is
1959 transferred and renumbered as section 633.304, Florida Statutes,
1960 and subsections (1) through (4) and subsection (9) of that
1961 section are amended, to read:
1962 633.304 ~~633.061~~ Fire suppression equipment; license to
1963 install or maintain.—
1964 (1) It is unlawful for any organization or individual to
1965 engage in the business of servicing, repairing, recharging,
1966 testing, marking, inspecting, installing, or hydrotesting any
1967 fire extinguisher or preengineered system in this state except
1968 in conformity with ~~the provisions of~~ this chapter. Each
1969 organization or individual that engages in such activity must
1970 possess a valid and subsisting license issued by the division
1971 ~~State Fire Marshal~~. All fire extinguishers and preengineered
1972 systems required by statute or by rule must be serviced by an
1973 organization or individual licensed under ~~the provisions of~~ this
1974 chapter. A licensee who receives appropriate training shall not
1975 be prohibited by a manufacturer from servicing any particular
1976 brand of fire extinguisher or preengineered system. The licensee
1977 is legally qualified to act for the business organization in all
1978 matters connected with its business, and the licensee must
1979 supervise all activities undertaken by such business
1980 organization. Each licensee shall maintain a specific business
1981 location. A further requirement, in the case of multiple
1982 locations where such servicing or recharging is taking place, is
1983 that each licensee who maintains more than one place of business
1984 where actual work is carried on must possess an additional

360216

1985 license, as set forth in this section, for each location, except
1986 that a licensed individual may not qualify for more than five
1987 locations. A licensee is limited to a specific type of work
1988 performed depending upon the class of license held. Licenses ~~and~~
1989 ~~license fees~~ are required for the following:
1990 (a) Class A: ~~— $250~~
1991 To service, recharge, repair, install, or inspect all types of
1992 fire extinguishers and to conduct hydrostatic tests on all types
1993 of fire extinguishers.
1994 (b) Class B: ~~— $150~~
1995 To service, recharge, repair, install, or inspect all types of
1996 fire extinguishers, including recharging carbon dioxide units
1997 and conducting hydrostatic tests on all types of fire
1998 extinguishers, except carbon dioxide units.
1999 (c) Class C: ~~— $150~~
2000 To service, recharge, repair, install, or inspect all types of
2001 fire extinguishers, except recharging carbon dioxide units, and
2002 to conduct hydrostatic tests on all types of fire extinguishers,
2003 except carbon dioxide units.
2004 (d) Class D: ~~— $200~~
2005 To service, repair, recharge, hydrotest, install, or inspect all
2006 types of preengineered fire extinguishing systems.
2007 ~~(e) Licenses issued as duplicates or to reflect a change of~~
2008 ~~address — $10~~
2009
2010 Any fire equipment dealer licensed pursuant to this subsection
2011 who does not want to engage in the business of servicing,
2012 inspecting, recharging, repairing, hydrotesting, or installing
2013 halon equipment must file an affidavit on a form provided by the

360216

2014 division so stating. Licenses will be issued by the division to
2015 show ~~reflect~~ the work authorized thereunder. It is unlawful,
2016 unlicensed activity for a ~~any~~ person or firm to falsely hold
2017 himself or herself or a business organization out to perform any
2018 service, inspection, recharge, repair, hydrotest, or
2019 installation except as specifically described in the license. A
2020 fire equipment dealer licensed pursuant to this subsection who
2021 wishes to withdraw a previously filed halon equipment exemption
2022 affidavit and engage in the business of servicing, inspecting,
2023 recharging, repairing, hydrotesting, or installing halon
2024 equipment must submit a written statement requesting the
2025 withdrawal to the division. The dealer must also submit to an
2026 inspection by the State Fire Marshal or her or his designee in
2027 order to determine that the dealer possesses the equipment
2028 required to service, inspect, recharge, repair, hydrotest, or
2029 install halon equipment.
2030 (2) A person who holds a valid fire equipment dealer
2031 license may maintain such license in an inactive status during
2032 which time he or she may not engage in any work under the
2033 definition of the license held. An inactive status license shall
2034 be void after 4 ~~2~~ years or when ~~at the time~~ that the license is
2035 renewed, whichever comes first. ~~The biennial renewal fee for an~~
2036 ~~inactive status license shall be $75.~~ An inactive status license
2037 may not be reactivated unless the continuing education
2038 requirements of this chapter have been fulfilled.
2039 (3) Each individual actually performing the work of
2040 servicing, recharging, repairing, hydrotesting, installing,
2041 testing, or inspecting fire extinguishers or preengineered
2042 systems must possess a valid and subsisting permit issued by the

360216

2043 division ~~State Fire Marshal~~. Permittees are limited as to
2044 specific type of work performed to allow work no more extensive
2045 than the class of license held by the licensee under whom the
2046 permittee is working. Permits will be issued by the division ~~and~~
2047 ~~the fees required are~~ as follows:
2048 (a) Portable permit: ~~$90~~ "Portable permittee" means a
2049 person who is limited to performing work no more extensive than
2050 the employing licensee in the servicing, recharging, repairing,
2051 installing, or inspecting all types of portable fire
2052 extinguishers.
2053 (b) Preengineered permit: ~~$120~~ "Preengineered
2054 permittee" means a person who is limited to the servicing,
2055 recharging, repairing, installing, or inspecting of all types of
2056 preengineered fire extinguishing systems.
2057 ~~(c) Permits issued as duplicates or to reflect a change of~~
2058 ~~address - $10~~
2059
2060 Any fire equipment permittee licensed pursuant to this
2061 subsection who does not want to engage in servicing, inspecting,
2062 recharging, repairing, hydrotesting, or installing halon
2063 equipment must file an affidavit on a form provided by the
2064 division so stating. Permits will be issued by the division to
2065 show ~~reflect~~ the work authorized thereunder. It is unlawful,
2066 unlicensed activity for a ~~any~~ person or firm to falsely hold
2067 himself or herself out to perform any service, inspection,
2068 recharge, repair, hydrotest, or installation except as
2069 specifically described in the permit.
2070 (4)(a) Such licenses and permits shall be issued by the
2071 division ~~State Fire Marshal~~ for 2 years beginning January 1,

360216

2072 2000, and each 2-year period thereafter and expiring December 31
2073 of the second year. All licenses or permits issued will expire
2074 on December 31 of each odd-numbered year. The failure to renew a
2075 license or permit by December 31 of the second year will cause
2076 the license or permit to become inoperative. The holder of an
2077 inoperative license or permit may ~~shall~~ not engage in any
2078 activities for which a license or permit is required by this
2079 section. A license or permit which is inoperative because of the
2080 failure to renew it shall be restored upon payment of the
2081 applicable fee plus a penalty equal to the applicable fee, if
2082 the application for renewal is filed no later than the following
2083 March 31. If the application for restoration is not made before
2084 the March 31st deadline, the fee for restoration shall be equal
2085 to the original application fee and the penalty provided for
2086 herein, and, in addition, the State Fire Marshal shall require
2087 reexamination of the applicant. The fee for a license or permit
2088 issued for 1 year or less shall be prorated at 50 percent of the
2089 applicable fee for a biennial license or permit.
2090 (b) After initial licensure, each licensee or permittee
2091 must successfully complete a course or courses of continuing
2092 education for fire equipment technicians of at least 16 hours. A
2093 license or permit may not be renewed unless the licensee or
2094 permittee produces documentation of the completion of at least
2095 16 hours of continuing education for fire equipment technicians
2096 during the biennial licensure period. A person who is both a
2097 licensee and a permittee shall be required to complete 16 hours
2098 of continuing education during each renewal period. Each
2099 licensee shall ensure that all permittees in his or her
2100 employment meet their continuing education requirements. The

360216

2101 State Fire Marshal shall adopt rules describing the continuing
2102 education requirements and shall have the authority upon
2103 reasonable belief, to audit a fire equipment dealer to determine
2104 compliance with continuing education requirements.
2105 (c) ~~(b)~~ The forms of such licenses and permits and
2106 applications therefor shall be prescribed by the State Fire
2107 Marshal; in addition to such other information and data as that
2108 officer determines is appropriate and required for such forms,
2109 there shall be included in such forms the following matters.
2110 Each such application must ~~shall~~ be in such form as to provide
2111 that the data and other information set forth therein shall be
2112 sworn to by the applicant or, if a corporation, by an officer
2113 thereof. An application for a permit must ~~shall~~ include the name
2114 of the licensee employing such permittee, and the permit issued
2115 in pursuance of such application must ~~shall~~ also set forth the
2116 name of such licensee. A permit is valid solely for use by the
2117 holder thereof in his or her employment by the licensee named in
2118 the permit.
2119 (d) ~~(c)~~ A license of any class may ~~shall~~ not be issued or
2120 renewed by the division ~~State Fire Marshal~~ and a license of any
2121 class does ~~shall~~ not remain operative unless:
2122 1. The applicant has submitted to the State Fire Marshal
2123 evidence of registration as a Florida corporation or evidence of
2124 compliance with s. 865.09.
2125 2. The State Fire Marshal or his or her designee has by
2126 inspection determined that the applicant possesses the equipment
2127 required for the class of license sought. The State Fire Marshal
2128 shall give an applicant a reasonable opportunity to correct any
2129 deficiencies discovered by inspection. To obtain such

360216

2130 inspection, an applicant with facilities located outside this
2131 state must:
2132 a. Provide a notarized statement from a professional
2133 engineer licensed by the applicant's state of domicile
2134 certifying that the applicant possesses the equipment required
2135 for the class of license sought and that all such equipment is
2136 operable; or
2137 b. Allow the State Fire Marshal or her or his designee to
2138 inspect the facility. All costs associated with the State Fire
2139 Marshal's inspection shall be paid by the applicant. The State
2140 Fire Marshal, in accordance with s. 120.54, may adopt rules to
2141 establish standards for the calculation and establishment of the
2142 amount of costs associated with any inspection conducted by the
2143 State Fire Marshal under this section. Such rules shall include
2144 procedures for invoicing and receiving funds in advance of the
2145 inspection ~~A fee of $50, payable to the State Fire Marshal,~~
2146 ~~shall be required for any subsequent reinspection~~.
2147 3. The applicant has submitted to the State Fire Marshal
2148 proof of insurance providing coverage for comprehensive general
2149 liability for bodily injury and property damage, products
2150 liability, completed operations, and contractual liability. The
2151 State Fire Marshal shall adopt rules providing for the amounts
2152 of such coverage, but such amounts shall not be less than
2153 $300,000 for Class A or Class D licenses, $200,000 for Class B
2154 licenses, and $100,000 for Class C licenses; and the total
2155 coverage for any class of license held in conjunction with a
2156 Class D license may ~~shall~~ not be less than $300,000. The State
2157 Fire Marshal may, at any time after the issuance of a license or
2158 its renewal, require upon demand, and in no event more than 30

360216

2159 days after notice of such demand, the licensee to provide proof
2160 of insurance, on a form provided by the State Fire Marshal,
2161 containing confirmation of insurance coverage as required by
2162 this chapter. Failure, for any length of time, to provide proof
2163 of insurance coverage as required shall result in the immediate
2164 suspension of the license until proof of proper insurance is
2165 provided to the State Fire Marshal. An insurer which provides
2166 such coverage shall notify the State Fire Marshal of any change
2167 in coverage or of any termination, cancellation, or nonrenewal
2168 of any coverage.
2169 4. The applicant applies to the State Fire Marshal,
2170 provides proof of experience, and successfully completes a
2171 prescribed training course offered by the State Fire College or
2172 an equivalent course approved by the State Fire Marshal. This
2173 subparagraph does not apply to any holder of or applicant for a
2174 permit under paragraph (g) ~~(f)~~ or to a business organization or
2175 a governmental entity seeking initial licensure or renewal of an
2176 existing license solely for the purpose of inspecting,
2177 servicing, repairing, marking, recharging, and maintaining fire
2178 extinguishers used and located on the premises of and owned by
2179 such organization or entity.
2180 5. The applicant has a current retestor identification
2181 number that is appropriate for the license for which the
2182 applicant is applying and that is listed with the United States
2183 Department of Transportation.
2184 6. The applicant has passed, with a grade of at least 70
2185 percent, a written examination testing his or her knowledge of
2186 the rules and statutes governing ~~regulating~~ the activities
2187 authorized by the license and demonstrating his or her knowledge

360216

2188 and ability to perform those tasks in a competent, lawful, and
2189 safe manner. Such examination shall be developed and
2190 administered by the State Fire Marshal, or his or her designee
2191 in accordance with policies and procedures of the State Fire
2192 Marshal. An applicant shall pay a nonrefundable examination fee
2193 of $50 for each examination or reexamination scheduled. A ~~No~~
2194 reexamination may not ~~shall~~ be scheduled sooner than 30 days
2195 after any administration of an examination to an applicant. An
2196 ~~No~~ applicant may not ~~shall~~ be permitted to take an examination
2197 for any level of license more than a total of four times during
2198 1 year, regardless of the number of applications submitted. As a
2199 prerequisite to licensure of the applicant, he or she:
2200 a. Must be at least 18 years of age.
2201 b. Must have 4 years of proven experience as a fire
2202 equipment permittee at a level equal to or greater than the
2203 level of license applied for or have a combination of education
2204 and experience determined to be equivalent thereto by the State
2205 Fire Marshal. Having held a permit at the appropriate level for
2206 the required period constitutes the required experience.
2207 c. Must not have been convicted of a felony or a crime
2208 punishable by imprisonment of 1 year or more under the law of
2209 the United States or of any state thereof or under the law of
2210 any other country~~, or pled nolo contendere to, any felony~~.
2211 "Convicted" means a finding of guilt or the acceptance of a plea
2212 of guilty or nolo contendere in any federal or state court or a
2213 court in any other country, without regard to whether a judgment
2214 of conviction has been entered by the court having jurisdiction
2215 of the case. If an applicant has been convicted of any such
2216 felony, the applicant shall be excluded from licensure for a

360216

2217 period of 4 years after expiration of sentence or final release
2218 by the Parole Commission unless the applicant, before the
2219 expiration of the 4-year period, has received a full pardon or
2220 has had her or his civil rights restored ~~must comply with s.~~
2221 ~~112.011(1)(b)~~.
2222
2223 This subparagraph does not apply to any holder of or applicant
2224 for a permit under paragraph (g) ~~(f)~~ or to a business
2225 organization or a governmental entity seeking initial licensure
2226 or renewal of an existing license solely for the purpose of
2227 inspecting, servicing, repairing, marking, recharging,
2228 hydrotesting, and maintaining fire extinguishers used and
2229 located on the premises of and owned by such organization or
2230 entity.
2231 ~~(d) An applicant who fails the examination may take it~~
2232 ~~three more times during the 1-year period after he or she~~
2233 ~~originally filed an application for the examination. If the~~
2234 ~~applicant fails the examination within 1 year after the~~
2235 ~~application date and seeks to retake the examination, he or she~~
2236 ~~must file a new application, pay the application and examination~~
2237 ~~fees, and successfully complete a prescribed training course~~
2238 ~~approved by the State Fire College or an equivalent course~~
2239 ~~approved by the State Fire Marshal. An applicant may not submit~~
2240 ~~a new application within 6 months after the date of his or her~~
2241 ~~last reexamination.~~
2242 (e) A fire equipment dealer licensed under this section may
2243 apply to convert ~~upgrade~~ the license currently held to a higher
2244 licensing category, if the licensed dealer:
2245 1. Submits an application for the license on a form in

360216

2246 conformance with paragraph (c) ~~(b)~~. The application must be
2247 accompanied by a fee as prescribed in s. 633.132 ~~subsection (1)~~
2248 for the type of license requested.
2249 2. Provides evidence of 2 years' experience as a licensed
2250 dealer and meets such relevant educational requirements as are
2251 established by rule by the State Fire Marshal for purposes of
2252 upgrading a license.
2253 3. Meets the requirements of paragraph (d) ~~(c)~~.
2254 (f) A fire equipment dealer licensed under this section may
2255 apply to convert the license currently held to a lower licensing
2256 category, if the licensed dealer:
2257 1. Submits an application for the license on a form in
2258 conformance with paragraph (c). The application must be
2259 accompanied by a fee as prescribed in s. 633.132 for the type of
2260 license requested.
2261 2. Submits proof of insurance providing coverage meeting
2262 the requirements prescribed in subparagraph (d)3.
2263 3. Submits to an inspection of the facility to ensure all
2264 equipment associated with the higher class of license has been
2265 removed and submits the required reinspection fee.
2266 (g) A ~~No~~ permit of any class may not ~~shall~~ be issued or
2267 renewed to a person by the division ~~State Fire Marshal~~, and a ~~no~~
2268 permit of any class does not ~~shall~~ remain operative, unless the
2269 person has:
2270 1. Submitted a nonrefundable examination fee in the amount
2271 of $50.~~;~~
2272 2. Successfully completed a training course offered by the
2273 State Fire College or an equivalent course approved by the State
2274 Fire Marshal.~~; and~~

360216

2275 3. Passed, with a grade of at least 70 percent, a written
2276 examination testing his or her knowledge of the rules and
2277 statutes governing ~~regulating~~ the activities authorized by the
2278 permit and demonstrating his or her knowledge and ability to
2279 perform those tasks in a competent, lawful, and safe manner.
2280 Such examination must ~~shall~~ be developed and administered by the
2281 State Fire Marshal in accordance with the policies and
2282 procedures of the State Fire Marshal. An examination fee must
2283 ~~shall~~ be paid for each examination scheduled. A ~~No~~ reexamination
2284 may not ~~shall~~ be scheduled sooner than 30 days after any
2285 administration of an examination to an applicant. An ~~No~~
2286 applicant may not ~~shall~~ be permitted to take an examination for
2287 any level of permit more than four times during 1 year,
2288 regardless of the number of applications submitted. As a
2289 prerequisite to taking the permit examination, the applicant
2290 must be at least 16 years of age.
2291 (h) ~~(g)~~ An applicant for a license or permit under this
2292 section who fails the examination may take it three more times
2293 during the 1-year period after he or she originally filed an
2294 application for the examination. If the applicant fails the
2295 examination within 1 year after the application date and he or
2296 she seeks to retake the examination, he or she must file a new
2297 application, pay the application and examination fees, and
2298 successfully complete a prescribed training course offered by
2299 the State Fire College or an equivalent course approved by the
2300 State Fire Marshal. The applicant may not submit a new
2301 application within 6 months after the date of his or her fourth
2302 ~~last~~ reexamination. An applicant who passes the examination but
2303 does not meet the remaining qualifications prescribed by law and

360216

2304 rule within 1 year after the application date must file a new
2305 application, pay the application and examination fee,
2306 successfully complete a prescribed training course approved by
2307 the State Fire College or an equivalent course approved by the
2308 State Fire Marshal, and pass the written examination.
2309 (9) ~~The provisions of~~ This section does ~~chapter do~~ not
2310 apply to inspections by fire chiefs, fire inspectors, fire
2311 marshals, or insurance company inspectors.
2312 Section 36. Section 633.065, Florida Statutes, is
2313 transferred and renumbered as section 633.306, Florida Statutes,
2314 and paragraph (a) of subsection (1) of that section is amended,
2315 to read:
2316 633.306 ~~633.065~~ Requirements for installation, inspection,
2317 and maintenance of fire suppression equipment.—
2318 (1) The requirements for installation of fire extinguishers
2319 and preengineered systems are as follows:
2320 (a) Fire equipment dealers shall be licensed under s.
2321 633.304 ~~633.061~~.
2322 Section 37. Section 633.071, Florida Statutes, is
2323 transferred and renumbered as section 633.308, Florida Statutes,
2324 and subsection (2) of that section is amended, to read:
2325 633.308 ~~633.071~~ Standard service tag required on all fire
2326 extinguishers and preengineered systems; serial number required
2327 on all portable fire extinguishers; standard inspection tags
2328 required on all fire protection systems.—
2329 (2) All portable fire extinguishers required by statute or
2330 by rule must ~~shall~~ be listed by Underwriters Laboratories, Inc.,
2331 or approved by Factory Mutual Laboratories, Inc., or listed by a
2332 nationally recognized testing laboratory in accordance with

360216

2333 procedures adopted pursuant to s. 633.314(2) ~~633.083(2)~~, and
2334 carry an Underwriters Laboratories, Inc., or manufacturer's
2335 serial number. These listings, approvals, and serial numbers may
2336 be stamped on the manufacturer's identification and instructions
2337 plate or on a separate Underwriters Laboratories, Inc., or
2338 Factory Mutual Laboratories, Inc., plate soldered or attached to
2339 the extinguisher shell in some permanent manner.
2340 Section 38. Section 633.082, Florida Statutes, is
2341 transferred and renumbered as section 633.312, Florida Statutes,
2342 and subsections (2) and (3) of that section are amended, to
2343 read:
2344 633.312 ~~633.082~~ Inspection of fire control systems, fire
2345 hydrants, and fire protection systems.—
2346 (2) Fire hydrants and fire protection systems installed in
2347 public and private properties, except one-family or two-family
2348 dwellings, shall be inspected following procedures established
2349 in the nationally recognized inspection, testing, and
2350 maintenance standards publications NFPA-24 and NFPA-25 as set
2351 forth in the edition adopted by the State Fire Marshal.
2352 Quarterly, annual, 3-year, and 5-year inspections consistent
2353 with the contractual provisions with the owner shall be
2354 conducted by the certificateholder or permittees employed by the
2355 certificateholder pursuant to s. 633.318 ~~633.521~~, except that:
2356 (a) Public fire hydrants owned by a governmental entity
2357 shall be inspected following procedures established in the
2358 inspection, testing, and maintenance standards adopted by the
2359 State Fire Marshal or equivalent standards such as those
2360 contained in the latest edition of the American Water Works
2361 Association's Manual M17, "Installation, Field Testing, and

360216

2362 Maintenance of Fire Hydrants.”
2363 (b) County, municipal, and special district utilities may
2364 perform fire hydrant inspections required by this section using
2365 designated employees. Such designated employees need not be
2366 certified under this chapter. However, counties, municipalities,
2367 or special districts that use designated employees are
2368 responsible for ensuring that the designated employees are
2369 qualified to perform such inspections.
2370 (3) The inspecting contractor shall provide to the building
2371 owner or hydrant owner and the local authority having
2372 jurisdiction a copy of the applicable inspection report
2373 established under this chapter. The maintenance of fire hydrant
2374 and fire protection systems as well as corrective actions on
2375 deficient systems is the responsibility of the owner of the
2376 system or hydrant. Equipment requiring periodic testing or
2377 operation to ensure its maintenance shall be tested or operated
2378 as specified in the Fire Prevention Code, Life Safety Code,
2379 National Fire Protection Association standards, or as directed
2380 by the appropriate authority ~~agency having jurisdiction~~,
2381 provided that such appropriate authority may ~~agency shall~~ not
2382 require a sprinkler system not required by the Fire Prevention
2383 Code, Life Safety Code, or National Fire Protection Association
2384 standards to be removed regardless of its condition. This
2385 section does not prohibit governmental entities from inspecting
2386 and enforcing firesafety codes.
2387 Section 39. Section 633.083, Florida Statutes, is
2388 transferred and renumbered as section 633.314, Florida Statutes,
2389 and subsection (3) of that section is amended, to read:
2390 633.314 ~~633.083~~ Sale or use of certain types of fire

360216

2391 extinguishers prohibited; penalty.—
2392 (3) A person who violates ~~any of the provisions of~~ this
2393 section commits ~~is guilty of~~ a misdemeanor of the second degree,
2394 punishable as provided in s. 775.082 or s. 775.083.
2395 Section 40. Section 633.162, Florida Statutes, is
2396 transferred and renumbered as section 633.316, Florida Statutes,
2397 and subsection (1) and paragraph (e) of subsection (4) of that
2398 section are amended, to read:
2399 633.316 ~~633.162~~ Fire suppression system contractors;
2400 disciplinary action.—
2401 (1) The violation of any provision of this chapter or any
2402 rule adopted and adopted ~~promulgated~~ pursuant hereto or the
2403 failure or refusal to comply with any notice or order to correct
2404 a violation or any cease and desist order by a ~~any~~ person who
2405 possesses a license or permit issued pursuant to s. 633.304
2406 ~~633.061~~ is cause for denial, nonrenewal, revocation, or
2407 suspension of such license or permit by the State Fire Marshal
2408 after such officer has determined that the person committed ~~is~~
2409 ~~guilty of~~ such violation. An order of suspension must ~~shall~~
2410 state the period ~~of time~~ of such suspension, which period may
2411 not be in excess of 2 years from the date of such order. An
2412 order of revocation may be entered for a period not exceeding 5
2413 years. Such orders shall effect suspension or revocation of all
2414 licenses or permits issued by the division to ~~then held by~~ the
2415 person, and during such period a ~~of time no~~ license or permit
2416 may not ~~shall~~ be issued by the division to such person. During
2417 the suspension or revocation of any license or permit, the
2418 former licensee or permittee may ~~shall~~ not engage in or attempt
2419 or profess to engage in any transaction or business for which a

360216

2420 license or permit is required under this chapter or directly or
2421 indirectly own, control, or be employed in any manner by any
2422 firm, business, or corporation for which a license or permit
2423 under this chapter is required. If, during the period between
2424 the beginning of proceedings and the entry of an order of
2425 suspension or revocation by the State Fire Marshal, a new
2426 license or permit has been issued by the division to the person
2427 so charged, the order of suspension or revocation shall operate
2428 to suspend or revoke such new license or permit held by such
2429 person.
2430 (4) In addition to the grounds set forth in subsection (1),
2431 it is cause for denial, nonrenewal, revocation, or suspension of
2432 a license or permit by the State Fire Marshal if she or he
2433 determines that the licensee or permittee has:
2434 (e) Failed to provide proof of insurance to the State Fire
2435 Marshal or failed to maintain in force the insurance coverage
2436 required by s. 633.304 ~~633.061~~.
2437 Section 41. Section 633.521, Florida Statutes, is
2438 transferred and renumbered as section 633.318, Florida Statutes,
2439 and subsection (1), paragraph (a) of subsection (2), paragraphs
2440 (c) and (g) of subsection (3), and subsections (4), (8), and
2441 (11) of that section are amended, to read:
2442 633.318 ~~633.521~~ Certificate application and issuance;
2443 permit issuance; examination and investigation of applicant.—
2444 (1) To obtain a fire protection system contractor's
2445 certificate, an applicant shall submit to the division ~~State~~
2446 ~~Fire Marshal~~ an application in writing, on a form provided by
2447 the division ~~State Fire Marshal~~ containing the information
2448 prescribed, which shall be accompanied by the fee fixed herein,

360216

2449 containing a statement that the applicant desires the issuance
2450 of a certificate and stating the class of certificate requested.
2451 (2)(a) Examinations shall be administered by the division
2452 ~~State Fire Marshal~~ and held at times and places within the state
2453 as the division ~~State Fire Marshal~~ determines, but there shall
2454 be at least two examinations a year. Each applicant shall take
2455 and pass an objective, written examination of her or his fitness
2456 for a certificate in the class for which the application is
2457 requested. There shall be a type of examination for each class
2458 of certificate for contractors as ~~of the classes of certificates~~
2459 defined in s. 633.102 ~~633.021(5)~~. The examination must ~~shall~~
2460 test the applicant's ability to lay out, fabricate, install,
2461 alter, repair, and inspect fire protection systems and their
2462 appurtenances and must ~~shall~~ test the applicant's fitness in
2463 business and financial management. The test must ~~shall~~ be based
2464 on applicable standards of the National Fire Protection
2465 Association and on relevant Florida and federal laws pertaining
2466 to the construction industry, safety standards, administrative
2467 procedures, and pertinent technical data.
2468 (3)
2469 (c) Required education and experience for certification as
2470 a Contractor I, Contractor II, Contractor III, or Contractor IV
2471 includes training and experience in both installation and system
2472 layout as defined in s. 633.102 ~~633.021~~.
2473 (g) Within 30 days after the date of the examination, the
2474 division ~~State Fire Marshal~~ shall inform the applicant in
2475 writing whether she or he has qualified or not and, if the
2476 applicant has qualified, that she or he is eligible ~~ready~~ to be
2477 issued ~~issue~~ a certificate of competency, subject to compliance

360216

2478 with the requirements of subsection (4).
2479 (4) As a prerequisite to issuance of a certificate, the
2480 division must ~~State Fire Marshal shall~~ require the applicant to
2481 submit satisfactory evidence that she or he has obtained
2482 insurance providing coverage for comprehensive general liability
2483 for bodily injury and property damages, products liability,
2484 completed operations, and contractual liability. The division
2485 ~~State Fire Marshal~~ may adopt rules providing for the amount of
2486 insurance, but such amount shall not be less than $500,000 for a
2487 Contractor I, Contractor II, Contractor III, or Contractor V and
2488 shall not be less than $250,000 for a Contractor IV. An insurer
2489 which provides such coverage shall notify ~~within 30 days~~ the
2490 division within 30 days ~~State Fire Marshal~~ of any material
2491 change in coverage or any termination, cancellation, or
2492 nonrenewal of such coverage. An insurer which fails to so notify
2493 the division ~~State Fire Marshal's office~~ shall be subject to the
2494 penalties provided under s. 624.4211.
2495 (8) An individual employed by a Contractor I or Contractor
2496 II certificateholder, as established in this section, who will
2497 be inspecting water-based fire protection systems as required
2498 under s. 633.312 ~~633.082~~, must be issued a permit by the
2499 division ~~State Fire Marshal~~ to conduct such work. The permit is
2500 valid solely for use by the holder thereof in his or her
2501 employment by the certificateholder named in the permit. A
2502 permittee must have a valid and subsisting permit upon his or
2503 her person at all times while engaging in inspecting fire
2504 protection systems, and a permitholder must be able to produce
2505 such a permit upon demand. In addition, a permittee shall, at
2506 all times while performing inspections, carry an identification

360216

2507 card containing his or her photograph and other identifying
2508 information as prescribed by the State Fire Marshal, and the
2509 permittee must produce the identification card and information
2510 upon demand. The permit and the identification may be one and
2511 the same. A permittee is limited as to the specific type of work
2512 performed, depending upon the class of certificate held by the
2513 certificateholder under whom the permittee is working. The
2514 permit class shall be known as a Water-Based Fire Protection
2515 Inspector whose permit allows the holder to inspect water
2516 sprinkler systems, water spray systems, foam-water sprinkler
2517 systems, foam-water spray systems, standpipes, combination
2518 standpipes and sprinkler systems, all piping that is an integral
2519 part of the system beginning at the point where the piping is
2520 used exclusively for fire protection, sprinkler tank heaters,
2521 air lines, thermal systems used in connection with sprinklers,
2522 and tanks and pumps connected thereto, excluding preengineered
2523 systems.
2524 (11) It is intended that a certificateholder, or a
2525 permitholder who is employed by a certificateholder, conduct
2526 inspections required by this chapter. It is understood that
2527 after July 1, 2008, employee turnover may result in a depletion
2528 of personnel who are certified under the NICET Sub-field of
2529 Inspection and Testing of Fire Protection Systems Level II or
2530 equivalent training and education as required by the division ~~of~~
2531 ~~State Fire Marshal~~. A certificateholder may obtain a provisional
2532 permit with an endorsement for inspection, testing, and
2533 maintenance of water-based fire extinguishing systems for an
2534 employee if the employee has initiated procedures for obtaining
2535 Level II certification from the National Institute for

360216

2536 Certification in Engineering Technologies Sub-field of
2537 Inspection and Testing of Fire Protection Systems and achieved
2538 Level I certification or an equivalent level as determined by
2539 the State Fire Marshal through verification of experience,
2540 training, and examination. The division ~~State Fire Marshal~~ may
2541 establish rules to administer this subsection. After 2 years of
2542 provisional certification, the employee must have achieved NICET
2543 Level II certification or obtain equivalent training and
2544 education as determined by the division, or cease performing
2545 inspections requiring Level II certification. The provisional
2546 permit is valid only for the 2 calendar years after the date of
2547 issuance, may not be extended, and is not renewable. After the
2548 initial 2-year provisional permit expires, the certificateholder
2549 must wait 2 additional years before a new provisional permit may
2550 be issued. The intent is to prohibit the certificateholder from
2551 using employees who never reach NICET Level II status, or
2552 equivalent training and education as determined by the division,
2553 by continuously obtaining provisional permits.
2554 Section 42. Section 633.551, Florida Statutes, is
2555 transferred and renumbered as section 633.322, Florida Statutes,
2556 and subsections (1) through (3) of that section are amended, to
2557 read:
2558 633.322 ~~633.551~~ County, ~~and~~ municipal, and special district
2559 powers; effect of ch. 75-240.—
2560 (1) ~~Nothing in~~ This chapter does not limit ~~act limits~~ the
2561 power of a municipality, ~~or~~ county, or special district to
2562 regulate the quality and character of work performed by
2563 contractors through a system of permits, fees, and inspections
2564 which are designed to secure compliance with, and aid in the

360216

2565 implementation of, state and local building laws or to enforce
2566 other local laws for the protection of the public health and
2567 safety.
2568 (2) ~~Nothing in~~ This chapter does not limit ~~act limits~~ the
2569 power of a municipality, ~~or~~ county, or special district to adopt
2570 any system of permits requiring submission to and approval by
2571 the municipality, ~~or~~ county, or special district of plans and
2572 specifications for work to be performed by contractors before
2573 commencement of the work, except that a ~~no~~ municipality, ~~or~~
2574 county, or special district may not ~~shall~~ require a fire
2575 protection system contractor's shop drawings to be sealed by a
2576 professional engineer.
2577 (3) An ~~Any~~ official authorized to issue building or other
2578 related permits shall ascertain that the applicant contractor is
2579 duly certified before issuing the permit. The evidence shall
2580 consist only of the exhibition to him or her of ~~current~~ evidence
2581 of current certification.
2582 Section 43. Section 633.527, Florida Statutes, is
2583 transferred and renumbered as section 633.324, Florida Statutes.
2584 Section 44. Section 633.531, Florida Statutes, is
2585 transferred and renumbered as section 633.326, Florida Statutes.
2586 Section 45. Section 633.534, Florida Statutes, is
2587 transferred and renumbered as section 633.328, Florida Statutes,
2588 and subsection (4) of that section is amended, to read:
2589 633.328 ~~633.534~~ Issuance of certificate to individuals and
2590 business organizations.—
2591 (4) If ~~When~~ the certified business organization makes
2592 application for an occupational license in any municipality or
2593 county of this state, the application must ~~shall~~ be made with

360216

2594 the tax collector in the name of the business organization, and
2595 the license, when issued, shall be issued to the business
2596 organization upon payment of the appropriate licensing fee and
2597 exhibition to the tax collector of a valid certificate issued by
2598 the division ~~State Fire Marshal~~.
2599 Section 46. Section 633.537, Florida Statutes, is
2600 transferred and renumbered as section 633.332, Florida Statutes,
2601 and subsections (1) and (2) and paragraph (a) of subsection (3)
2602 of that section are amended, to read:
2603 633.332 ~~633.537~~ Certificate; expiration; renewal; inactive
2604 certificate; continuing education.—
2605 (1) Certificates shall expire every 2 years at midnight on
2606 June 30. ~~Effective with the June 30, 1998, renewal,~~ All
2607 certificates must be renewed every 2 years. The failure to renew
2608 a certificate before ~~during~~ June 30, shall cause the certificate
2609 to become inoperative, and it is unlawful thereafter for a ~~any~~
2610 person to engage, offer to engage, or hold herself or himself
2611 out as engaging in contracting under the certificate unless the
2612 certificate is restored or reissued. A certificate which is
2613 inoperative because of failure to renew shall be restored on
2614 payment of the proper renewal fee if the application for
2615 restoration is made within 90 days after June 30. If the
2616 application for restoration is not made within the 90-day
2617 period, the fee for restoration must ~~shall~~ be equal to the
2618 original application fee, and, in addition, the State Fire
2619 Marshal must ~~shall~~ require examination or reexamination of the
2620 applicant.
2621 (2) A person who holds a valid certificate may maintain
2622 such certificate in an inactive status during which time she or

360216

2623 he may not engage in contracting. An inactive status certificate
2624 shall be void after a 2-year period. ~~The biennial renewal fee~~
2625 ~~for an inactive status certificate shall be $75.~~ An inactive
2626 status certificate may be reactivated upon application to the
2627 State Fire Marshal and payment of the initial application fee.
2628 (3)(a) A certificate for the Contractor I, II, and III
2629 classifications as defined in this chapter may ~~shall~~ not be
2630 renewed unless the certificateholder produces documentation of
2631 at least 32 contact hours of continuing education in the fire
2632 protection discipline during the biennial licensure period.
2633 Holders of Contractor IV certificates are required to obtain 14
2634 contact hours of continuing education encompassing the
2635 appropriate National Fire Protection Association fire sprinkler
2636 documents before ~~prior to~~ renewal. Holders of Contractor V
2637 certificates are required to obtain 14 contact hours of
2638 continuing education before ~~prior to~~ renewal, at least 1 hour of
2639 which is in the fire protection discipline. Any continuing
2640 education hours approved pursuant to chapter 489 by the
2641 Construction Industry Licensing Board for underground utility
2642 and excavation contractors shall be considered as also approved
2643 to comply with Contractor V continuing education requirements. A
2644 Contractor V certificateholder shall provide to the State Fire
2645 Marshal evidence of approval of such coursework by the
2646 Construction Industry Licensing Board.
2647 Section 47. Section 633.539, Florida Statutes, is
2648 transferred and renumbered as section 633.334, Florida Statutes,
2649 and paragraph (a) of subsection (1) and subsections (2) and (4)
2650 of that section are amended, to read:
2651 633.334 ~~633.539~~ Requirements for installation, inspection,

360216

2652 and maintenance of fire protection systems.—
2653 (1) The requirements for installation of fire protection
2654 systems are as follows:
2655 (a) Contractors of fire protection systems shall be
2656 certified under s. 633.318 ~~633.521~~.
2657 (2) Equipment shall be inspected, serviced, and maintained
2658 in accordance with the manufacturer's maintenance procedures and
2659 with applicable National Fire Protection Association standards.
2660 The inspection of fire protection systems shall be conducted by
2661 a certificateholder or holder of a permit issued by the division
2662 ~~State Fire Marshal~~. The permitholder may perform inspections on
2663 fire protection systems only while employed by the
2664 certificateholder. This section does not prohibit the authority
2665 having jurisdiction or insurance company representatives from
2666 reviewing the system in accordance with acceptable oversight
2667 standards.
2668 (4) The Contractor V may install the cross-connection
2669 backflow prevention device as defined in this chapter on new
2670 installations following the engineer of record's direction on
2671 the type and size of the device. The retrofitting of a backflow
2672 device on an existing fire protection system will cause a
2673 reduction in available water pressure and probable system
2674 malfunction. The development of aboveground fire protection
2675 system hydraulic calculations is a task of the Contractor I and
2676 II, as defined in this chapter. Accordingly, a Contractor V is
2677 expressly prohibited from retrofitting cross-connection backflow
2678 prevention devices on an existing fire protection system, and
2679 only a Contractor I or Contractor II who is tasked to
2680 recalculate the system and take corrective actions to ensure

360216

2681 that the system will function with the available water supply
2682 may retroactively install these backflow devices on existing
2683 fire protection systems.
2684 Section 48. Section 633.541, Florida Statutes, is
2685 transferred and renumbered as section 633.336, Florida Statutes,
2686 and subsections (1), (3), and (4) of that section are amended,
2687 to read:
2688 633.336 ~~633.541~~ Contracting without certificate prohibited;
2689 violations; penalty.—
2690 (1) It is unlawful for any organization or individual to
2691 engage in the business of layout, fabrication, installation,
2692 inspection, alteration, repair, or service of a fire protection
2693 system, other than a preengineered system, act in the capacity
2694 of a fire protection contractor, or advertise itself as being a
2695 fire protection contractor without having been duly certified
2696 and holding a valid and existing certificate, except as
2697 hereinafter provided. The holder of a certificate used to
2698 qualify an organization must be a full-time employee of the
2699 qualified organization or business. A certificateholder who is
2700 employed by more than one fire protection contractor during the
2701 same ~~period of~~ time is deemed not to be a full-time employee of
2702 either contractor. The State Fire Marshal shall revoke, for a
2703 period ~~of time~~ determined by the State Fire Marshal, the
2704 certificate of a certificateholder who allows the use of the
2705 certificate to qualify a company of which the certificateholder
2706 is not a full-time employee. A contractor who maintains more
2707 than one place of business must employ a certificateholder at
2708 each location. ~~Nothing in~~ This subsection does not prohibit
2709 ~~prohibits~~ an employee acting on behalf of governmental entities

360216

2710 from inspecting and enforcing firesafety codes, provided such
2711 employee is certified under s. 633.216 ~~633.081~~.
2712 (3) A ~~Any~~ person who violates any provision of this act or
2713 commits any of the acts constituting cause for disciplinary
2714 action as herein set forth commits ~~is guilty of~~ a misdemeanor of
2715 the second degree, punishable as provided in s. 775.082 or s.
2716 775.083.
2717 (4) In addition to the penalties provided in subsection
2718 (3), a fire protection contractor certified under this chapter
2719 who violates any provision of this section or who commits any
2720 act constituting cause for disciplinary action is subject to
2721 suspension or revocation of the certificate and administrative
2722 fines pursuant to s. 633.338 ~~633.547~~.
2723 Section 49. Section 633.547, Florida Statutes, is
2724 transferred and renumbered as section 633.338, Florida Statutes,
2725 and paragraphs (d) and (h) of subsection (2) and subsection (3)
2726 of that section are amended, to read:
2727 633.338 ~~633.547~~ Disciplinary action; fire protection system
2728 contractors; grounds for denial, nonrenewal, suspension, or
2729 revocation of certificate or permit.—
2730 (2) The following acts constitute cause for disciplinary
2731 action:
2732 (d) Disciplinary action by any municipality, ~~or~~ county, or
2733 special district, which action shall be reviewed by the State
2734 Fire Marshal before taking any disciplinary action.
2735 (h) Failing to provide proof of insurance to the State Fire
2736 Marshal or failing to maintain in force the insurance coverage
2737 required by s. 633.318 ~~633.521~~.
2738 (3) The State Fire Marshal ~~is authorized to take the~~

360216

2739 ~~following disciplinary action:~~
2740 ~~(a) She or he~~ may suspend the contractor's certificate
2741 ~~certificateholder~~ for a period of up to ~~not to exceed~~ 2 years.
2742 During that period, the contractor must cease all operations as
2743 a contractor, but the State Fire Marshal may authorize the
2744 certificateholder ~~from all operations as a contractor during the~~
2745 ~~period fixed by the State Fire Marshal, but she or he may permit~~
2746 ~~the certificateholder~~ to complete any contracts then incomplete.
2747 ~~(b) She or he may revoke a certificate for a period not to~~
2748 ~~exceed 5 years.~~
2749 Section 50. Section 633.549, Florida Statutes, is
2750 transferred, renumbered as section 633.342, Florida Statutes,
2751 and amended to read:
2752 633.342 ~~633.549~~ Violations subject to injunction.~~—~~A ~~Any~~
2753 person who operates as a contractor without a current
2754 certificate or who violates any part of this chapter or any
2755 rule, decision, order, direction, demand, or requirement of the
2756 State Fire Marshal in relation thereto, or any part or provision
2757 thereof, may be enjoined by the courts of the state from any
2758 such violation or such unauthorized or unlawful contracting at
2759 the request ~~instance~~ of the State Fire Marshal, the board, or
2760 any resident ~~citizen~~ or taxpayer of the state.
2761 Section 51. Section 633.554, Florida Statutes, is
2762 transferred and renumbered as section 633.344, Florida Statutes.
2763 Section 52. Section 633.70, Florida Statutes, is
2764 transferred and renumbered as section 633.346, Florida Statutes,
2765 and subsection (1) of that section is amended, to read:
2766 633.346 ~~633.70~~ Jurisdiction of State Fire Marshal over
2767 alarm system contractors and certified unlimited electrical

360216

2768 contractors.—
2769 (1) If ~~When~~ the State Fire Marshal, in the course of its
2770 activities pursuant to s. 633.104(2) ~~633.01(2)~~, determines that
2771 an alarm system contractor or a certified unlimited electrical
2772 contractor working with an alarm system has violated any
2773 provision of this chapter or the rules of the State Fire
2774 Marshal, the State Fire Marshal shall have jurisdiction,
2775 notwithstanding any other provision of this chapter, to order
2776 corrective action by the alarm system contractor or the
2777 certified unlimited electrical contractor to bring the alarm
2778 system into compliance with applicable standards set forth in
2779 this chapter and the rules of the State Fire Marshal.
2780 Section 53. Section 633.701, Florida Statutes, is
2781 transferred and renumbered as section 633.348, Florida Statutes.
2782 Section 54. Section 633.702, Florida Statutes, is
2783 transferred and renumbered as section 633.3482, Florida
2784 Statutes, and subsection (2) and paragraph (c) of subsection (3)
2785 of that section are amended, to read:
2786 633.3482 ~~633.702~~ Prohibited acts regarding alarm system
2787 contractors or certified unlimited electrical contractors;
2788 penalties.—
2789 (2) A ~~Any~~ person who violates this section commits ~~is~~
2790 ~~guilty of~~ a misdemeanor of the second degree, punishable as
2791 provided in s. 775.082 or s. 775.083.
2792 (3) It is a misdemeanor of the first degree, punishable as
2793 provided in s. 775.082 or s. 775.083, for any fire alarm system
2794 contractor or certified unlimited electrical contractor to
2795 intentionally or willfully:
2796 (c) Knowingly combine ~~combining~~ or conspire ~~conspiring~~ with

360216

2797 a ~~any~~ person by allowing one's certificate to be used by an ~~any~~
2798 uncertified person with intent to evade ~~the provisions of~~ this
2799 act. When a licensee allows his or her license to be used by one
2800 or more companies without having any active participation in the
2801 operation or management of the ~~said~~ companies, such act
2802 constitutes prima facie evidence of any intent to evade ~~the~~
2803 ~~provisions of~~ this chapter ~~act~~.
2804 Section 55. The Division of Law Revision and Information is
2805 directed to create part IV of chapter 633, Florida Statutes,
2806 consisting of sections 633.402, 633.404, 633.406, 633.408,
2807 633.412, 633.414, 633.416, 633.418, 633.422, 633.424, 633.426,
2808 633.428, 633.432, 633.434, 633.436, 633.438, 633.442, 633.444,
2809 and 633.446, Florida Statutes, to be entitled "Fire Standards
2810 and Training."
2811 Section 56. Section 633.31, Florida Statutes, is
2812 transferred and renumbered as section 633.402, Florida Statutes,
2813 subsection (1) of that section is amended, and new subsections
2814 (5) through (9) are added to that section, to read:
2815 633.402 ~~633.31~~ Firefighters Employment, Standards, and
2816 Training Council; organization; meetings; quorum; compensation;
2817 seal; special powers; firefighter training.—
2818 (1) There is created within the department a Firefighters
2819 Employment, Standards, and Training Council of 14 ~~13~~ members.
2820 (a) The members shall be appointed as follows:
2821 1. Two ~~members shall be~~ fire chiefs appointed by the
2822 Florida Fire Chiefs Association.~~,~~
2823 2. Two ~~members shall be~~ firefighters, who are not officers,
2824 appointed by the Florida Professional Firefighters Association.~~,~~
2825 3. Two ~~members shall be~~ firefighter officers, who are not

360216

2826 fire chiefs, appointed by the State Fire Marshal.~~,~~
2827 4. One individual ~~member~~ appointed by the Florida League of
2828 Cities.~~,~~
2829 5. One individual ~~member~~ appointed by the Florida
2830 Association of Counties.~~,~~
2831 6. One individual ~~member~~ appointed by the Florida
2832 Association of Special Districts.~~,~~
2833 7. One individual ~~member~~ appointed by the Florida Fire
2834 Marshals' and Inspectors' ~~Marshal's~~ Association.~~, and~~
2835 8. One employee of the Florida Forest Service of the
2836 Department of Agriculture and Consumer Services appointed by the
2837 director of the Florida Forest Service.
2838 9. One individual ~~member~~ appointed by the State Fire
2839 Marshal.~~, and~~
2840 10. One ~~member shall be a~~ director or instructor of a
2841 state-certified firefighting training facility appointed by the
2842 State Fire Marshal.
2843 11. The remaining member, who shall be appointed by the
2844 State Fire Marshal, may not be a member or representative of the
2845 firefighting profession or of any local government.
2846 (b) To be eligible for appointment as a member under
2847 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
2848 subparagraph (a)8., or subparagraph (a)10. ~~fire chief member,~~
2849 ~~firefighter officer member, firefighter member, or a director or~~
2850 ~~instructor of a state-certified firefighting facility~~, a person
2851 must ~~shall~~ have had at least 4 years' experience in the
2852 firefighting profession. ~~The remaining member, who shall be~~
2853 ~~appointed by the State Fire Marshal, shall not be a member or~~
2854 ~~representative of the firefighting profession or of any local~~

360216

2855 ~~government.~~ Members shall serve only as long as they continue to
2856 meet the criteria under which they were appointed, or unless a
2857 member has failed to appear at three consecutive and properly
2858 noticed meetings unless excused by the chair.
2859 (5) The council shall elect to 1-year terms a chair and a
2860 vice chair. A person may not serve more than two consecutive
2861 terms in either office.
2862 (6) The council shall meet at the call of the chair, at the
2863 request of a majority of its membership, at the request of the
2864 department, or at such times as are prescribed by its rules, and
2865 a majority of the council shall constitute a quorum.
2866 (7) Members of the council shall serve without compensation
2867 but shall be entitled to be reimbursed for per diem and travel
2868 expenses as provided by s. 112.061.
2869 (8) The council may adopt a seal for its use containing the
2870 words "Firefighters Employment, Standards, and Training
2871 Council."
2872 (9) The council shall have special powers in connection
2873 with the employment and training of firefighters to:
2874 (a) Recommend, for adoption by the division, uniform
2875 minimum standards for the employment and training of
2876 firefighters and training of volunteer firefighters.
2877 (b) Recommend, for adoption by the division, minimum
2878 curriculum requirements for schools operated by or for any fire
2879 service provider for the specific purpose of training
2880 firefighter trainees, firefighters, and volunteer firefighters.
2881 (c) Recommend, for adoption by the division, on matters
2882 relating to the funding, general operation, and administration
2883 of the Bureau of Fire Standards and Training (Florida State Fire

360216

2884 College), including, but not limited to, all standards,
2885 training, curriculum, and the issuance of any certificate of
2886 competency required by this chapter.
2887 (d) Make or support studies on any aspect of firefighting
2888 employment, education, and training or recruitment.
2889 (e) Make recommendations concerning any matter within its
2890 purview pursuant to this section.
2891 Section 57. Section 633.42, Florida Statutes, is
2892 transferred, renumbered as 633.404, Florida Statutes, and
2893 amended to read:
2894 633.404 ~~633.42~~ Additional standards authorized.—Nothing
2895 herein shall be construed to preclude a fire service provider ~~an~~
2896 ~~employing agency~~ from establishing qualifications and standards
2897 for hiring, training, or promoting firefighters that exceed the
2898 minimum set by the division ~~department~~.
2899 Section 58. Section 633.406, Florida Statutes, is created
2900 to read:
2901 633.406 Classes of certification.—
2902 (1) The division may award one or more of the following
2903 certificates:
2904 (a) *Firefighter Certificate of Compliance.*—A Firefighter
2905 Certificate of Compliance may be awarded to a person who meets
2906 the requirements established in s. 633.408(4).
2907 (b) *Fire Safety Inspector Certificate of Compliance.*—A Fire
2908 Safety Inspector Certificate of Compliance may be awarded to a
2909 person who meets the requirements established in s. 633.216(2).
2910 (c) *Special Certificate of Compliance.*—A Special
2911 Certificate of Compliance may be awarded to a person who
2912 qualifies under s. 633.408(6).

360216

2913 (d) *Forestry Certificate of Compliance.*—A Forestry
2914 Certificate of Compliance may be awarded to a person who has
2915 satisfactorily complied with a training program and successfully
2916 passed an examination as prescribed by rule, and who possesses
2917 the qualifications established in s. 590.02(1)(e).
2918 (e) *Fire Service Instructor Certificate.*—A Fire Service
2919 Instructor Certificate may be awarded to a person who
2920 demonstrates general or specialized knowledge, skills, and
2921 abilities in firefighting service and meets the qualification
2922 requirements prescribed by rule.
2923 (f) *Certificate of Competency.*—A Certificate of Competency
2924 may be awarded to a person who meets the experience, training,
2925 advanced education, or examination requirements as prescribed by
2926 rule, and is especially qualified for particular aspects of
2927 firefighting service.
2928 (g) *Volunteer Firefighter Certificate of Completion.*—A Fire
2929 Service Instructor Certificate may be awarded to a person who
2930 has satisfactorily completed the training requirements as
2931 prescribed by rule for a volunteer firefighter.
2932 (2) The division may establish by rule certificates, in
2933 addition to those provided in subsection (1), that the division
2934 may award in recognition of special training or education
2935 received by an individual, authorizing that individual to
2936 perform specialized firefighting services or provide specialized
2937 firefighting instruction, such as hazardous materials and urban
2938 search and rescue.
2939 Section 59. Section 633.35, Florida Statutes, is
2940 transferred, renumbered as section 633.408, Florida Statutes,
2941 and amended to read:

360216

2942 633.408 ~~633.35~~ Firefighter and volunteer firefighter
2943 training and certification.—
2944 (1) The division shall establish by rule:
2945 (a) A Minimum Standards Course and course examination to
2946 provide the training required to obtain a Firefighter
2947 Certificate of Compliance.
2948 (b) Courses and course examinations to provide training
2949 required to obtain a Volunteer Firefighter Certificate of
2950 Completion or a Special Certificate of Compliance.
2951 (c) Courses to provide continuing training for firefighters
2952 and volunteer firefighters.
2953 (2) Courses under subsection (1) may only be administered
2954 by education or training providers approved by the division
2955 pursuant to s. 633.128(1)(c) and taught by instructors certified
2956 pursuant to s. 633.128(1)(d) ~~a firefighter training program of~~
2957 ~~not less than 360 hours, administered by such agencies and~~
2958 ~~institutions as it approves for the purpose of providing basic~~
2959 ~~employment training for firefighters~~.
2960 (3)(a) Nothing herein shall require a fire service provider
2961 ~~public employer~~ to pay the cost of such training.
2962 (b) A fire service provider may pay part or all of the
2963 costs of tuition for attendance at approved courses.
2964 (4)~~(2)~~ The division shall issue a firefighter certificate
2965 of compliance to any individual who:
2966 (a) ~~person~~ Satisfactorily completes ~~complying with~~ the
2967 Minimum Standards Course or who has satisfactorily completed
2968 training for firefighters in another state which has been
2969 determined by the division to be at least the equivalent of the
2970 training required for the Minimum Standards Course.

360216

2971 (b) Passes the minimum standards course examination.
2972 ~~training program established in subsection (1), who has~~
2973 ~~successfully passed an examination as prescribed by the~~
2974 ~~division, and~~
2975 (c) ~~who~~ Possesses the qualifications ~~for employment~~ in s.
2976 633.412 ~~633.34, except s. 633.34(5)~~.
2977 (5) The division shall issue a Volunteer Firefighter
2978 Certificate of Completion to any individual who satisfactorily
2979 completes the course established under paragraph (1)(b) ~~No~~
2980 ~~person may be employed as a regular or permanent firefighter by~~
2981 ~~an employing agency, or by a private entity under contract with~~
2982 ~~the state or any political subdivision of the state, including~~
2983 ~~authorities and special districts, for a period of time in~~
2984 ~~excess of 1 year from the date of initial employment until he or~~
2985 ~~she has obtained such certificate of compliance~~. ~~A person who~~
2986 ~~does not hold a certificate of compliance and is employed under~~
2987 ~~this section may not directly engage in hazardous operations,~~
2988 ~~such as interior structural firefighting and hazardous-~~
2989 ~~materials-incident mitigation, requiring the knowledge and~~
2990 ~~skills taught in a training program established in subsection~~
2991 ~~(1). However, a person who has served as a volunteer firefighter~~
2992 ~~with the state or any political subdivision of the state,~~
2993 ~~including authorities and special districts, who is then~~
2994 ~~employed as a regular or permanent firefighter may function,~~
2995 ~~during this period, in the same capacity in which he or she~~
2996 ~~acted as a volunteer firefighter, provided that he or she has~~
2997 ~~completed all training required by the volunteer organization.~~
2998 ~~(3) The division may issue a certificate to any person who~~
2999 ~~has received basic employment training for firefighters in~~

360216

3000 ~~another state when the division has determined that such~~
3001 ~~training was at least equivalent to that required by the~~
3002 ~~division for approved firefighter education and training~~
3003 ~~programs in this state and when such person has satisfactorily~~
3004 ~~complied with all other requirements of this section.~~
3005 (6)(a) The division may ~~also~~ issue a Special Certificate of
3006 Compliance to an individual ~~a person~~ who:
3007 1. Satisfactorily completes the course established in
3008 paragraph (1)(b) to obtain a Special Certificate of Compliance.
3009 2. Passes the examination established in paragraph (1)(b),
3010 to obtain a Special Certificate of Compliance.
3011 3. Possesses the qualifications in s. 633.412 ~~is otherwise~~
3012 ~~qualified under this section and who is employed as the~~
3013 ~~administrative and command head of a fire/rescue/emergency~~
3014 ~~services organization, based on the acknowledgment that such~~
3015 ~~person is less likely to need physical dexterity and more likely~~
3016 ~~to need advanced knowledge of firefighting and supervisory~~
3017 ~~skills~~.
3018 (b) A special ~~The~~ certificate of compliance ~~is valid~~ only
3019 authorizes an individual to serve ~~while the person is serving in~~
3020 ~~a position~~ as an administrative and command head of a fire
3021 service provider ~~fire/rescue/emergency services organization~~.
3022 (7)~~(4)~~ An individual ~~A person~~ who fails an examination
3023 given under this section may retake the examination once within
3024 6 months after the original examination date. If the individual
3025 ~~An applicant who~~ does not retake the examination or fails the
3026 reexamination within such time, the individual must take the
3027 Minimum Standards Course for a Firefighter Certificate of
3028 Compliance or the course established under paragraph (1)(b) for

360216

3029 a Special Certificate of Compliance~~, pursuant to subsection (1),~~
3030 before being reexamined. The division may grant an extension of
3031 the 6-month period based upon documented medical necessity and
3032 may establish reasonable preregistration deadlines for ~~such~~
3033 reexaminations.
3034 (8)~~(5)~~ Pursuant to s. 590.02(1)(e), the division shall
3035 establish a structural fire training program of not less than
3036 206 ~~40~~ hours. The division shall issue to a ~~any~~ person
3037 satisfactorily complying with this training program and who has
3038 successfully passed an examination as prescribed by the division
3039 and who has met the requirements of s. 590.02(1)(e), a Forestry
3040 Certificate of Compliance ~~Certificate of Forestry Firefighter~~.
3041 ~~(6)~~ An individual who holds a current and valid Forestry
3042 Certificate of Compliance ~~A certified forestry firefighter~~ is
3043 entitled to the same rights, privileges, and benefits provided
3044 for by law as a ~~certified~~ firefighter.
3045 Section 60. Section 633.34, Florida Statutes, is
3046 transferred, renumbered as section 633.412, Florida Statutes,
3047 and amended to read:
3048 633.412 ~~633.34~~ Firefighters; qualifications for
3049 certification ~~employment~~.~~—~~
3050 (1) A ~~Any~~ person applying for certification ~~employment~~ as a
3051 firefighter must:
3052 (a)~~(1)~~ Be a high school graduate or the equivalent, as the
3053 term may be determined by the division, and at least 18 years of
3054 age.
3055 (b)~~(2)~~ Not ~~Neither~~ have been convicted of a misdemeanor
3056 relating to the certification or to perjury or false statements,
3057 or a felony or a crime punishable by imprisonment of 1 year or

360216

3058 more under the law of the United States or of any state thereof
3059 or under the law of any other country, or dishonorably
3060 discharged from any of the Armed Forces of the United States.
3061 "Convicted" means a finding of guilt or the acceptance of a plea
3062 of guilty or nolo contendere, in any federal or state court or a
3063 court in any other country, without regard to whether a judgment
3064 of conviction has been entered by the court having jurisdiction
3065 of the case ~~felony or of a misdemeanor directly related to the~~
3066 ~~position of employment sought, nor have pled nolo contendere to~~
3067 ~~any charge of a felony~~. ~~If an applicant has been convicted of a~~
3068 ~~felony, such applicant must be in compliance with s.~~
3069 ~~112.011(2)(b). If an applicant has been convicted of a~~
3070 ~~misdemeanor directly related to the position of employment~~
3071 ~~sought, such applicant shall be excluded from employment for a~~
3072 ~~period of 4 years after expiration of sentence. If the sentence~~
3073 ~~is suspended or adjudication is withheld in a felony charge or~~
3074 ~~in a misdemeanor directly related to the position or employment~~
3075 ~~sought and a period of probation is imposed, the applicant must~~
3076 ~~have been released from probation.~~
3077 (c) ~~(3)~~ Submit fingerprints ~~a fingerprint card~~ to the
3078 division with a current processing fee. The fingerprints
3079 ~~fingerprint card~~ will be forwarded to the Department of Law
3080 Enforcement for state processing, and forwarded by the
3081 Department of Law Enforcement to ~~and/or~~ the Federal Bureau of
3082 Investigation for national processing.
3083 (d) ~~(4)~~ Have a good moral character as determined by
3084 investigation under procedure established by the division.
3085 (e) ~~(5)~~ Be in good physical condition as determined by a
3086 medical examination given by a physician, surgeon, or physician

360216

3087 assistant licensed to practice in the state pursuant to chapter
3088 458; an osteopathic physician, surgeon, or physician assistant
3089 licensed to practice in the state pursuant to chapter 459; or an
3090 advanced registered nurse practitioner licensed to practice in
3091 the state pursuant to chapter 464. Such examination may include,
3092 but need not be limited to, ~~provisions of~~ the National Fire
3093 Protection Association Standard 1582. A medical examination
3094 evidencing good physical condition shall be submitted to the
3095 division, on a form as provided by rule, before an individual is
3096 eligible for admission into a course under ~~firefighter training~~
3097 ~~program as defined in~~ s. 633.408 ~~633.35~~.
3098 (f) ~~(6)~~ Be a nonuser of tobacco or tobacco products for at
3099 least 1 year immediately preceding application, as evidenced by
3100 the sworn affidavit of the applicant.
3101 (2) If the division suspends or revokes an individual's
3102 certificate, the division must suspend or revoke all other
3103 certificates issued by the division pursuant to this part.
3104 Section 61. Section 633.352, Florida Statutes, is
3105 transferred, renumbered as section 633.414, Florida Statutes,
3106 and amended to read:
3107 633.414 ~~633.352~~ Retention of firefighter certification.—
3108 (1) In order for a firefighter to retain her or his
3109 Firefighter Certificate of Compliance, every 4 years he or she
3110 must:
3111 (a) Be ~~Any certified firefighter who has not been~~ active as
3112 a firefighter~~, or as a volunteer firefighter with an organized~~
3113 ~~fire department, for a period of 3 years shall be required to~~
3114 ~~retake the practical portion of the minimum standards state~~
3115 ~~examination specified in rule 69A-37.056(6)(b), Florida~~

360216

3116 ~~Administrative Code, in order to maintain her or his~~
3117 ~~certification as a firefighter~~;
3118 (b) Maintain a current and valid fire service instructor
3119 certificate, instruct at least 40 hours during the 4-year
3120 period, and provide proof of such instruction to the division,
3121 which proof must be registered in an electronic database
3122 designated by the division;
3123 (c) Successfully complete a refresher course consisting of
3124 a minimum of 40 hours of training to be prescribed by rule; or
3125 (d) Within 6 months before the 4-year period expires,
3126 successfully retake and pass the Minimum Standards Course
3127 examination.
3128 (2) In order for a volunteer firefighter to retain her or
3129 his Volunteer Firefighter Certificate of Completion, every 4
3130 years he or she must:
3131 (a) Be active as a volunteer firefighter; or
3132 (b) Successfully complete a refresher course consisting of
3133 a minimum of 40 hours of training to be prescribed by rule.
3134 (3) Subsection (1) ~~however, this requirement~~ does not apply
3135 to state-certified firefighters who are certified and employed
3136 ~~as~~ full-time, as determined by the fire service provider, as
3137 firesafety inspectors or fire investigators ~~firesafety~~
3138 ~~instructors~~, regardless of her or his ~~the firefighter's~~
3139 employment status as a firefighter.
3140 (4) For the purposes of this section, the term "active"
3141 means being employed as a firefighter or providing service as a
3142 volunteer firefighter for a cumulative 6 months within a 4-year
3143 period.
3144 (5) The 4-year ~~3-year~~ period begins:

360216

3145 (a) If the individual is certified on or after July 1,
3146 2013, on the date the certificate ~~of compliance~~ is issued or
3147 upon termination of employment or service with a ~~an organized~~
3148 fire department.
3149 (b) If the individual is certified before July 1, 2013, on
3150 July 1, 2014, or upon termination of employment or service
3151 thereafter.
3152 Section 62. Section 633.41, Florida Statutes, is
3153 transferred, renumbered as section 633.416, Florida Statutes,
3154 and amended to read:
3155 633.416 ~~633.41~~ Firefighter employment and volunteer
3156 firefighter service; saving clause.—
3157 (1) A fire service provider may not employ an individual
3158 to:
3159 (a) Extinguish fires for the protection of life or property
3160 or to supervise individuals who perform such services unless the
3161 individual holds a current and valid Firefighter Certificate of
3162 Compliance; or
3163 (b) Serve as the administrative and command head of a fire
3164 service provider for a period in excess of 1 year unless the
3165 individual holds a current and valid Firefighter Certificate of
3166 Compliance or Special Certificate of Compliance.
3167 (2) A fire service provider may not retain the services of
3168 an individual volunteering to extinguish fires for the
3169 protection of life or property or to supervise individuals who
3170 perform such services unless the individual holds a current and
3171 valid Volunteer Firefighter Certificate of Completion.
3172 (3)(a) A fire service provider must make a diligent effort
3173 to determine whether the individual has a current and valid

360216

3174 certificate before employing or retaining an individual for the
3175 services under subsection (1) or subsection (2), including
3176 making a determination of whether the requirements set forth in
3177 s. 633.414 have been fulfilled.
3178 (b) For the purposes of this subsection, the term "diligent
3179 effort" means contacting at least three of the individual's
3180 previous employers to obtain her or his dates of employment and
3181 contacting the division to determine the certification status of
3182 the individual.
3183 (4)(a) A fire service provider must notify the division
3184 electronically, as directed by rule by the division, within 10
3185 days after:
3186 1. The hiring of a firefighter.
3187 2. The retention of a volunteer firefighter.
3188 3. The cessation of employment of a firefighter.
3189 4. A decision not to retain a volunteer firefighter.
3190 (b) Notification under paragraph (a) must include:
3191 1. The individual's name.
3192 2. The date on which he or she was hired or retained.
3193 3. The last date of employment or retention before leaving
3194 the fire service provider.
3195 4. Any other information deemed necessary by the division
3196 to determine compliance with ss. 633.414 and 633.426.
3197 (5) If the fire service provider makes a determination that
3198 an individual has not met the requirements set forth in s.
3199 633.414(1), the fire service provider must notify the division
3200 in writing within 10 days after making that determination.
3201 (6) The division may conduct site visits to fire
3202 departments to monitor compliance with this section.

360216

3203 (7) For purposes of this section, the term "employ" means
3204 to pay an individual a salary, wage, or other compensation for
3205 the performance of work. The term does not include the payment
3206 of expenses, reasonable benefits, a nominal fee, or a
3207 combination thereof to a volunteer for a public or private fire
3208 service provider who is only paid in a manner that would be
3209 authorized for a volunteer under the federal Fair Labor
3210 Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.,
3211 and its implementing rules.
3212 (8) Firefighters employed on July 5, 1969, are not required
3213 to meet the provisions of ss. 633.412 and 633.408 ~~633.34 and~~
3214 ~~633.35~~ as a condition of tenure or continued employment, and~~;~~
3215 ~~nor shall~~ their failure to fulfill such requirements does not
3216 make them ineligible for any promotional examination for which
3217 they are otherwise eligible or affect in any way any pension
3218 rights to which they may be entitled on July 5, 1969.
3219 Section 63. Section 633.38, Florida Statutes, is
3220 transferred, renumbered as section 633.418, Florida Statutes,
3221 and amended to read:
3222 633.418 ~~633.38~~ Inservice training and promotion;
3223 participation.—
3224 (1)(a) The division shall by rule ~~rules and regulations~~
3225 prescribe curricula and standards for advanced and specialized
3226 training courses and education ~~training~~ in addition to those
3227 prescribed in ss. 633.412 and 633.408 ~~633.34 and 633.35~~.
3228 (b) The standards provided by this section do ~~shall~~ not
3229 bind any fire service provider ~~employing agency~~ as to the
3230 requirements it may have for promoting personnel.
3231 (2) A fire service provider ~~departments or any fire service~~

360216

3232 participating under ~~the provisions of~~ this section shall adhere
3233 to the standards and procedures established by the division.
3234 Section 64. Section 633.382, Florida Statutes, is
3235 transferred, renumbered as section 633.422, Florida Statutes,
3236 and amended to read:
3237 633.422 ~~633.382~~ Firefighters; supplemental compensation.—
3238 ~~(1) DEFINITIONS.—As used in this section, the term:~~
3239 ~~(a) "Employing agency" means any municipality or any~~
3240 ~~county, the state, or any political subdivision of the state,~~
3241 ~~including authorities and special districts employing~~
3242 ~~firefighters.~~
3243 ~~(b) "Firefighter" means any person who meets the definition~~
3244 ~~of the term "firefighter" in s. 633.30(1) who is certified in~~
3245 ~~compliance with s. 633.35 and who is employed solely within the~~
3246 ~~fire department of the employing agency or is employed by the~~
3247 ~~division.~~
3248 (1) ~~(2)~~ QUALIFICATIONS FOR SUPPLEMENTAL COMPENSATION.—The
3249 Legislature recognizes the need for supplemental compensation
3250 for firefighters who pursue higher educational opportunities
3251 that directly relate to the improvement of the health, safety,
3252 and welfare of firefighters and those who firefighters protect.
3253 The State Fire Marshal shall determine, and adopt by rule, the
3254 course work or degrees that represent the best practices toward
3255 this goal in the field of firefighting.
3256 (a) In addition to the compensation now paid by a fire
3257 service provider ~~an employing agency~~ to any firefighter, every
3258 firefighter shall be paid supplemental compensation by the fire
3259 service provider ~~employing agency~~ when such firefighter is a
3260 full-time employee, as determined by the employing fire service

360216

3261 provider, and has complied with one of the following criteria:
3262 1. A ~~Any~~ firefighter who receives an associate degree from
3263 an accredited ~~a~~ college, which degree is directly applicable to
3264 fire department duties, as outlined in policy guidelines adopted
3265 by rule by ~~of~~ the division, shall be additionally compensated as
3266 outlined in paragraph (2)(a) ~~(3)(a)~~.
3267 2. A ~~Any~~ firefighter, regardless of whether or not she or
3268 he earned an associate degree earlier, who receives from an
3269 accredited college or university a bachelor's degree, which
3270 bachelor's degree is directly applicable to fire department
3271 duties, as outlined in policy guidelines adopted by rule by ~~of~~
3272 the division, shall receive compensation as outlined in
3273 paragraph (2)(b) ~~(3)(b)~~.
3274 (b) If ~~Whenever~~ any question arises as to the eligibility
3275 of any firefighter to receive supplemental compensation as
3276 provided in this section, the question, together with all facts
3277 relating thereto, must ~~shall~~ be submitted to the division for
3278 determination, and the decision of the division with regard to
3279 determination of eligibility shall be final, subject to ~~the~~
3280 ~~provisions of~~ chapter 120.
3281 (2)~~(3)~~ SUPPLEMENTAL COMPENSATION.—Supplemental compensation
3282 shall be determined as follows:
3283 (a) Fifty dollars shall be paid monthly to each firefighter
3284 who qualifies under ~~the provisions of~~ subparagraph (1)(a)1
3285 ~~(2)(a)1~~.
3286 (b) One hundred and ten dollars shall be paid monthly to
3287 each firefighter who qualifies under ~~the provisions of~~
3288 subparagraph (1)(a)2 ~~(2)(a)2~~.
3289 (3)~~(4)~~ FUNDING.—

360216

3290 (a) The fire service provider ~~employing agency~~ is
3291 responsible for the correct payment of firefighters pursuant to
3292 ~~the provisions of~~ this section. The division may review, in a
3293 postaudit capacity, any action taken by an agency in
3294 administering the educational incentive program. The fire
3295 service provider ~~employing agency~~ shall take appropriate action
3296 when a postaudit shows that an action taken by the fire service
3297 provider ~~employing agency~~ was in error.
3298 (b) Each fire service provider ~~agency~~ employing
3299 firefighters who are eligible for this compensation shall submit
3300 reports containing information relating to compensation paid as
3301 a result of this section to the division on March 31, June 30,
3302 September 30, and December 31 of each year.
3303 (c) There is appropriated from the Police and Firefighter's
3304 Premium Tax Trust Fund to the Firefighters' Supplemental
3305 Compensation Trust Fund, which is ~~hereby~~ created under the
3306 Department of Revenue, all moneys which have not been
3307 distributed to municipalities and special fire control districts
3308 in accordance with s. 175.121 as a result of the limitation
3309 contained in s. 175.122 on the disbursement of revenues
3310 collected pursuant to chapter 175 or as a result of any
3311 municipality or special fire control district not having
3312 qualified in any given year, or portion thereof, for
3313 participation in the distribution of the revenues collected
3314 pursuant to chapter 175. The total required annual distribution
3315 from the Firefighters' Supplemental Compensation Trust Fund
3316 shall equal the amount necessary to pay supplemental
3317 compensation as provided in this section, provided that:
3318 1. Any deficit in the total required annual distribution

360216

3319 shall be made up from accrued surplus funds existing in the
3320 Firefighters' Supplemental Compensation Trust Fund on June 30,
3321 1990, for as long as such funds last. If the accrued surplus is
3322 insufficient to cure the deficit in any given year, the
3323 proration of the appropriation among the counties,
3324 municipalities, and special fire service taxing districts shall
3325 equal the ratio of compensation paid in the prior year to
3326 county, municipal, and special fire service taxing district
3327 firefighters pursuant to this section. This ratio shall be
3328 provided annually to the Department of Revenue by the division
3329 ~~of State Fire Marshal~~. Surplus funds that have accrued or accrue
3330 on or after July 1, 1990, shall be redistributed to
3331 municipalities and special fire control districts as provided in
3332 subparagraph 2.
3333 2. By October 1 of each year, any funds that have accrued
3334 or accrue on or after July 1, 1990, and remain in the
3335 Firefighters' Supplemental Compensation Trust Fund following the
3336 required annual distribution shall be redistributed by the
3337 Department of Revenue pro rata to those municipalities and
3338 special fire control districts identified by the Department of
3339 Management Services as being eligible for additional funds
3340 pursuant to s. 175.121(3)(b).
3341 (d) Salary incentive payments to firefighters shall
3342 commence in the first full calendar month following the initial
3343 date of certification of eligibility by the division ~~of State~~
3344 ~~Fire Marshal~~.
3345 (e) Special fire service taxing districts are authorized
3346 ~~and empowered~~ to spend ~~expend~~ the funds necessary to ensure
3347 correct payment to firefighters.

360216

3348 (4) ~~(5)~~ LEGISLATIVE FINDINGS.—The payment of supplemental
3349 compensation and expenses of the administration provided by this
3350 section is found to serve a state, county, district, and
3351 municipal purpose and to provide benefit to the state and to its
3352 counties, municipalities, and districts.
3353 (5) APPLICABILITY.—For the purposes of this section, the
3354 division shall be considered a fire service provider responsible
3355 for the payment of supplemental compensation in accordance with
3356 this section to firefighters employed full-time by the division.
3357 Section 65. Section 633.353, Florida Statutes, is
3358 transferred, renumbered as section 633.424, Florida Statutes,
3359 and amended to read:
3360 633.424 ~~633.353~~ Falsification of qualifications.—An
3361 individual ~~Any person~~ who willfully and knowingly falsifies her
3362 or his ~~the~~ qualifications ~~of a new employee~~ to the Bureau of
3363 Fire Standards and Training of the division commits ~~is guilty of~~
3364 a misdemeanor of the second degree, punishable as provided in s.
3365 775.082 or s. 775.083.
3366 Section 66. Section 633.351, Florida Statutes, is
3367 transferred, renumbered as section 633.426, Florida Statutes,
3368 and amended to read:
3369 633.426 ~~633.351~~ Disciplinary action; ~~firefighters;~~
3370 standards for revocation of certification.—
3371 (1) For purposes of this section, the term:
3372 (a) "Certificate" means any of the certificates issued
3373 under s. 633.406.
3374 (b) "Certification" or "certified" means the act of holding
3375 a current and valid certificate.
3376 (c) "Convicted" means a finding of guilt, or the acceptance

360216

3377 of a plea of guilty or nolo contendere, in any federal or state
3378 court or a court in any other country, without regard to whether
3379 a judgment of conviction has been entered by the court having
3380 jurisdiction of the case.
3381 (2) An individual is ineligible to apply for certification
3382 if the individual has, at any time, been:
3383 (a) Convicted of a misdemeanor relating to the
3384 certification or to perjury or false statements.
3385 (b) Convicted of a felony or a crime punishable by
3386 imprisonment of 1 year or more under the law of the United
3387 States or of any state thereof, or under the law of any other
3388 country.
3389 (c) Dishonorably discharged from any of the Armed Forces of
3390 the United States.
3391 (3)(a) The certification of an individual shall be
3392 permanently revoked if the individual is:
3393 1. Convicted of a misdemeanor relating to perjury or false
3394 statement.
3395 2. Convicted of a felony or a crime punishable by
3396 imprisonment of 1 year or more under the law of the United
3397 States or of any state thereof, or under the law of any other
3398 country.
3399 3. Dishonorably discharged from any of the Armed Forces of
3400 the United States.
3401 (b) For individuals who are certified before July 1, 2013:
3402 1. This subsection applies prospectively to convictions or
3403 dishonorable discharges entered on or after July 1, 2013.
3404 2. Section 633.351 as it existed before July 1, 2013,
3405 applies to convictions entered before July 1, 2013.

360216

3406 (4) The certification of an individual ~~a firefighter~~ shall
3407 be revoked if evidence is found which demonstrates that the
3408 certification was improperly issued by the division or ~~if~~
3409 ~~evidence is found that the certification~~ was issued on the basis
3410 of false, incorrect, incomplete, or misleading information, or
3411 that the individual has demonstrated a lack of moral fitness or
3412 trustworthiness to carry out the responsibilities under the
3413 individual's certification.
3414 (5) After investigation, if the division has reason to
3415 believe that an individual who is certified may have been
3416 convicted of a felony or of a misdemeanor related to perjury or
3417 false statement in this state or any other state or
3418 jurisdiction, the division may require the individual to submit
3419 fingerprints to the division with a current processing fee. The
3420 fingerprints shall be forwarded by the division to the
3421 Department of Law Enforcement for state processing and shall be
3422 forwarded by the Department of Law Enforcement to the Federal
3423 Bureau of Investigation for national processing.
3424 ~~(2) The certification of a firefighter who is convicted of~~
3425 ~~a felony, or who is convicted of a misdemeanor relating to~~
3426 ~~misleading or false statements, or who pleads nolo contendere to~~
3427 ~~any charge of a felony shall be revoked until the firefighter~~
3428 ~~complies with s. 112.011(2)(b). However, if sentence upon such~~
3429 ~~felony or such misdemeanor charge is suspended or adjudication~~
3430 ~~is withheld, the firefighter's certification shall be revoked~~
3431 ~~until she or he completes any probation.~~
3432 Section 67. Section 633.43, Florida Statutes, is
3433 transferred, renumbered as section 633.428, Florida Statutes,
3434 and amended to read:

360216

3435 633.428 ~~633.43~~ Florida State Fire College established.—
3436 There is ~~hereby~~ established a state institution to be known as
3437 the Florida State Fire College, to be located at or near Ocala,
3438 Marion County. The institution shall be operated by the division
3439 ~~of State Fire Marshal of the department~~.
3440 Section 68. Section 633.44, Florida Statutes, is
3441 transferred, renumbered as section 633.432, Florida Statutes,
3442 and amended to read:
3443 633.432 ~~633.44~~ Purpose of fire college.—The purposes of
3444 part IV ~~ss. 633.43-633.49~~ and of the Florida State Fire College
3445 are ~~shall be~~:
3446 (1) To provide professional and volunteer firefighters with
3447 needful professional instruction and training in subjects,
3448 including, but not limited to, firefighting, fire prevention,
3449 hazardous materials, urban search and rescue, and emergency
3450 operations, at a minimum of cost to them and to their employers.
3451 (2) To ensure the professionalism and competence of those
3452 performing firefighting, fire prevention, and associated fire
3453 protection functions by administering a system of certification
3454 and licensing.
3455 (3) ~~(2)~~ To develop new methods and practices of firefighting
3456 and fire prevention.
3457 (4) ~~(3)~~ To assist the state and county, municipal, and other
3458 local governments of this state and their agencies and officers
3459 in their investigation and determination of the causes of fires.
3460 (5) ~~(4)~~ To provide testing facilities for testing
3461 firefighting equipment.
3462 (6) ~~(5)~~ To disseminate useful information on fires,
3463 firefighting and fire prevention and other related subjects, to

360216

3464 fire departments and others interested in such information.
3465 (7) ~~(6)~~ To do such other needful or useful things necessary
3466 to the promotion of public safety in the field of fire hazards
3467 and fire prevention work.
3468
3469 It is ~~hereby~~ declared by the Legislature that the above purposes
3470 are legitimate state functions and are designed to promote
3471 public safety.
3472 Section 69. Section 633.48, Florida Statutes, is
3473 transferred, renumbered as section 633.434, Florida Statutes,
3474 and amended to read:
3475 633.434 ~~633.48~~ Superintendent of college.—The division may
3476 employ a superintendent for the Florida State Fire College, who
3477 must ~~shall~~ be especially trained and qualified in firefighting,
3478 fire prevention and fire experimental work, and may employ on
3479 the recommendations of the ~~said~~ superintendent such other
3480 instructors, experimental helpers and laborers as may be
3481 necessary to the proper conduct of the ~~said~~ institution; and may
3482 proceed with the erection and detailed operation of the ~~said~~
3483 institution under ss. 633.428-633.444 ~~633.43-633.49~~.
3484 Section 70. Section 633.461, Florida Statutes, is
3485 transferred, renumbered as section 633.436, Florida Statutes,
3486 and amended to read:
3487 633.436 ~~633.461~~ Use of Insurance Regulatory Trust Fund.—The
3488 funds received from the Insurance Regulatory Trust Fund shall be
3489 used by the staff of the Florida State Fire College to provide
3490 all necessary services, training, equipment, and supplies to
3491 carry out the college's responsibilities, including, but not
3492 limited to, ~~the State Fire Marshal Scholarship Grant Program and~~

360216

3493 the procurement of training resources and ~~films, videotapes,~~
3494 ~~audiovisual~~ equipment~~,~~ and other useful information on fire,
3495 firefighting, and fire prevention, including public fire service
3496 information packages.
3497 Section 71. Section 633.47, Florida Statutes, is
3498 transferred and renumbered as section 633.438, Florida Statutes.
3499 Section 72. Section 633.49, Florida Statutes, is
3500 transferred, renumbered as section 633.442, Florida Statutes,
3501 and amended to read:
3502 633.442 ~~633.49~~ Buildings, equipment, and other facilities;
3503 use.—The division shall have the power to prescribe and shall
3504 make the necessary rules ~~and regulations~~ for the use of
3505 buildings, equipment, and other facilities of the Florida State
3506 Fire College when they are not in use for the purposes set forth
3507 in part IV ~~ss. 633.43-633.49~~.
3508 Section 73. Section 633.50, Florida Statutes, is
3509 transferred, renumbered as section 633.444, Florida Statutes,
3510 and amended to read:
3511 633.444 ~~633.50~~ Division powers and duties; Florida State
3512 Fire College.—
3513 (1) The division, in performing its duties related to the
3514 Florida State Fire College, specified in part IV ~~ss. 633.43-~~
3515 ~~633.49~~, shall:
3516 (a) Enter into agreements with public or private school
3517 districts, community colleges, junior colleges, or state
3518 universities to carry out its duties and responsibilities.
3519 (b) Review and approve budget requests for the fire college
3520 educational program.
3521 (c) Prepare the legislative budget request for the Florida

360216

3522 State Fire College education program. The superintendent is
3523 responsible for all expenditures pursuant to appropriations.
3524 (d) Implement procedures to obtain appropriate entitlement
3525 funds from federal and state grants to supplement the annual
3526 legislative appropriation. Such funds must be used expressly for
3527 the fire college educational programs.
3528 (e) Develop a staffing and funding formula for the Florida
3529 State Fire College. The formula must ~~shall~~ include differential
3530 funding levels for various types of programs, must ~~shall~~ be
3531 based on the number of full-time equivalent students and
3532 information obtained from scheduled attendance counts taken the
3533 first day of each program, and must ~~shall~~ provide the basis for
3534 the legislative budget request. As used in this section, a full-
3535 time equivalent student is equal to a minimum of 900 hours in a
3536 technical certificate program and 400 hours in a degree-seeking
3537 program. The funding formula must ~~shall~~ be as prescribed
3538 pursuant to s. 1011.62, must ~~shall~~ include procedures to
3539 document daily attendance, and must ~~shall~~ require that
3540 attendance records be retained for audit purposes.
3541 (f) Approve and register in an electronic database an
3542 education or training provider, designated by the division,
3543 before the education or training provider may offer any course
3544 to fulfill any education or training requirement under this
3545 chapter. The division shall establish criteria, by rule, for the
3546 approval of such education or training providers, including
3547 courses taught. Only approved and registered education or
3548 training providers are eligible to provide instruction or
3549 training that will be recognized by the division as fulfilling
3550 any education or training requirement under this chapter.

360216

3551 (g) Recognize only courses offered by approved and
3552 registered training or education providers as fulfilling the
3553 education or training requirements under this chapter.
3554 (2) Funds generated by the formula per full-time equivalent
3555 student may not exceed the level of state funding per full-time
3556 equivalent student generated through the Florida Education
3557 Finance Program or the State Community College Program Fund for
3558 students enrolled in comparable education programs provided by
3559 public school districts and community colleges. Funds
3560 appropriated for education and operational costs shall be
3561 deposited in the Insurance Regulatory Trust Fund to be used
3562 solely for purposes specified in s. 633.436 ~~633.461~~ and may not
3563 be transferred to any other budget entity for purposes other
3564 than education.
3565 Section 74. Section 633.46, Florida Statues, is transferred
3566 and renumbered as section 633.446, Florida Statutes.
3567 Section 75. The Division of Law Revision and Information is
3568 directed to create part V of chapter 633, Florida Statutes,
3569 consisting of sections 633.502, 633.504, 633.506, 633.508,
3570 633.512, 633.516, 633.518, 633.520, 633.522, 633.526, 633.528,
3571 633.532, 633.534, and 633.536, Florida Statutes, to be entitled
3572 "Florida Firefighters Occupational Safety and Health Act."
3573 Section 76. Section 633.801, Florida Statutes, is
3574 transferred, renumbered as section 633.502, Florida Statutes,
3575 and amended to read:
3576 633.502 ~~633.801~~ Short title.—Sections 633.502-633.536,
3577 ~~633.801-633.821~~ may be cited as the "Florida Firefighters
3578 Occupational Safety and Health Act."
3579 Section 77. Section 633.802, Florida Statutes, is

360216

3580 transferred and renumbered as section 633.504, Florida Statutes,
3581 and subsections (1), (2), and (4) of that section are amended,
3582 to read:
3583 633.504 ~~633.802~~ Definitions.—As used in this part, the term
3584 ~~Unless the context clearly requires otherwise, the following~~
3585 ~~definitions shall apply to ss. 633.801-633.821~~:
3586 (1) "Firefighter employee" means a firefighter, volunteer
3587 firefighter, or individual providing support services who is ~~any~~
3588 ~~person~~ engaged in any employment, public or private, ~~as a~~
3589 ~~firefighter~~ under any appointment or contract of hire or
3590 apprenticeship, express or implied, oral or written, whether
3591 lawfully or unlawfully employed, responding to or assisting with
3592 fire or medical emergencies, regardless of whether ~~or not the~~
3593 ~~firefighter is~~ on duty, except those appointed under s.
3594 590.02(1)(d).
3595 (2) "Firefighter employer" means the state and all
3596 political subdivisions of this state, all public and quasi-
3597 public corporations in this state, and a ~~every~~ person carrying
3598 on any employment for this state, political subdivisions of this
3599 state, and public and quasi-public corporations in this state
3600 which employs firefighter employees ~~firefighters~~, except those
3601 appointed under s. 590.02(1)(d).
3602 (4) "Firefighter place of employment" or "place of
3603 employment" means the physical location at which the firefighter
3604 employee is employed or deployed.
3605 Section 78. Section 633.803, Florida Statutes, is
3606 transferred, renumbered as section 633.506, Florida Statutes,
3607 and amended to read:
3608 633.506 ~~633.803~~ Legislative intent.—It is the intent of the

360216

3609 Legislature to enhance firefighter occupational safety and
3610 health in the state through the implementation and maintenance
3611 of policies, procedures, practices, rules, and standards that
3612 reduce the incidence of firefighter employee accidents,
3613 firefighter employee occupational diseases, and firefighter
3614 employee fatalities compensable under chapter 440 or otherwise.
3615 The Legislature further intends that the division develop a
3616 means by which the division can identify individual firefighter
3617 employers with a high frequency or severity of work-related
3618 injuries, conduct safety inspections of those firefighter
3619 employers, and assist those firefighter employers in the
3620 development and implementation of firefighter employee safety
3621 and health programs. In addition, it is the intent of the
3622 Legislature that the division administer and enforce this part
3623 ~~the provisions of ss. 633.801-633.821~~; provide assistance to
3624 firefighter employers, firefighter employees, and insurers; and
3625 enforce the policies, rules, and standards set forth in this
3626 part ~~ss. 633.801-633.821~~.
3627 Section 79. Section 633.821, Florida Statutes, is
3628 transferred and renumbered as section 633.508, Florida Statutes,
3629 subsections (2), (3), (5), and (6) of that section are amended,
3630 and subsection (7) is added to that section, to read:
3631 633.508 ~~633.821~~ Workplace safety; rulemaking authority;
3632 division authority.—
3633 (2) The division shall have the authority to adopt rules
3634 for the purpose of ensuring safe working conditions for all
3635 firefighter employees by authorizing the enforcement of
3636 effective standards, by assisting and encouraging firefighter
3637 employers to maintain safe working conditions, and by providing

360216

3638 for education and training in the field of safety. Specifically,
3639 the division may by rule adopt the most current edition of all
3640 or any part of subparts C through T and subpart Z of 29 C.F.R.
3641 s. 1910~~, as revised April 8, 1998; the National Fire Protection~~
3642 ~~Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert~~
3643 ~~Safety System) (1992 edition)~~; the National Fire Protection
3644 Association, Inc., Publication 1403, Standard on Live Fire
3645 Training Evolutions ~~(latest edition)~~, as limited by subsection
3646 (6); and ANSI A 10.4~~-1990~~.
3647 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the two
3648 individuals located outside the immediately dangerous to life
3649 and health atmosphere may be assigned to an additional role,
3650 such as incident commander, pumper operator, engineer, or
3651 driver, so long as such individual can ~~is able to~~ immediately
3652 perform assistance or rescue activities without jeopardizing the
3653 safety or health of any firefighter employee working at an
3654 incident. ~~Also with respect to 29 C.F.R. s. 1910.134(g)(4):~~
3655 ~~(a) Each county, municipality, and special district shall~~
3656 ~~implement such provision by April 1, 2002, except as provided in~~
3657 ~~paragraphs (b) and (c).~~
3658 ~~(b) If any county, municipality, or special district is~~
3659 ~~unable to implement such provision by April 1, 2002, without~~
3660 ~~adding additional personnel to its firefighting staff or~~
3661 ~~expending significant additional funds, such county,~~
3662 ~~municipality, or special district shall have an additional 6~~
3663 ~~months within which to implement such provision. Such county,~~
3664 ~~municipality, or special district shall notify the division that~~
3665 ~~the 6-month extension to implement such provision is in effect~~
3666 ~~in such county, municipality, or special district within 30 days~~

360216

3667 ~~after its decision to extend the time for the additional 6~~
3668 ~~months. The decision to extend the time for implementation shall~~
3669 ~~be made prior to April 1, 2002.~~
3670 ~~(c) If, after the extension granted in paragraph (b), the~~
3671 ~~county, municipality, or special district, after having worked~~
3672 ~~with and cooperated fully with the division and the Firefighters~~
3673 ~~Employment, Standards, and Training Council, is still unable to~~
3674 ~~implement such provisions without adding additional personnel to~~
3675 ~~its firefighting staff or expending significant additional~~
3676 ~~funds, such municipality, county, or special district shall be~~
3677 ~~exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4).~~
3678 ~~However, each year thereafter the division shall review each~~
3679 ~~such county, municipality, or special district to determine if~~
3680 ~~such county, municipality, or special district has the ability~~
3681 ~~to implement such provision without adding additional personnel~~
3682 ~~to its firefighting staff or expending significant additional~~
3683 ~~funds. If the division determines that any county, municipality,~~
3684 ~~or special district has the ability to implement such provision~~
3685 ~~without adding additional personnel to its firefighting staff or~~
3686 ~~expending significant additional funds, the division shall~~
3687 ~~require such county, municipality, or special district to~~
3688 ~~implement such provision. Such requirement by the division under~~
3689 ~~this paragraph constitutes final agency action subject to~~
3690 ~~chapter 120.~~
3691 (5) The division may adopt any rule necessary to implement,
3692 interpret, and make specific the provisions of this section,
3693 provided the division may not adopt by rule any other standard
3694 or standards of the Occupational Safety and Health
3695 Administration or the National Fire Protection Association

360216

3696 relating solely to this part ~~ss. 633.801-633.821~~ and firefighter
3697 employment safety without specific legislative authority.
3698 (6)(a) The division shall adopt rules for live fire
3699 training that all firefighter employees ~~firefighters~~ subject to
3700 this chapter must complete. The division shall also adopt rules
3701 for a training and certification process for live fire training
3702 instructors.
3703 (b) Such rules for training must ~~shall~~ include:
3704 1. Sections of the most current edition of the National
3705 Fire Protection Association, Inc., Publication 1402, Guide to
3706 Building Fire Service Training Centers, relating to establishing
3707 policies and procedures for effective use of such permanent
3708 facilities or structures.
3709 2. Sections of the most current edition of the National
3710 Fire Protection Association, Inc., Publication 1403, Standard on
3711 Live Fire Training Evolutions, excluding, however:
3712 a. Any chapter entitled “Referenced Publications.”
3713 b. References to the National Fire Protection Association,
3714 Inc., Publication 1975, Station Uniform.
3715 c. Provisions of the National Fire Protection Association,
3716 Inc., Publication 1001, not adopted under rule 69A-37 ~~or any~~
3717 ~~references to such publication in the National Fire Protection~~
3718 ~~Association, Inc., Publication 1975~~.
3719 d. Any reference to an authority having jurisdiction in the
3720 National Fire Protection Association, Inc., Publication 1403,
3721 defined as the organization, office, or individual responsible
3722 for approving equipment, materials, installations, and
3723 procedures.
3724 3. A 40-hour training program for live fire training

360216

3725 instructors, including:
3726 a. Live fire instructional techniques.
3727 b. Training safety in acquired or permanent facilities or
3728 props.
3729 c. Personnel safety.
3730 d. Exterior props, including, but not limited to, liquid
3731 petroleum gas, other liquid fuels, and similar props.
3732 ~~(c) The rules, excluding those pertaining to live fire~~
3733 ~~training instructor certification, shall take effect no later~~
3734 ~~than January 1, 2006.~~
3735 (c) ~~(d)~~ Each live fire training instructor is required to be
3736 a state certified fire safety instructor. All live fire training
3737 ~~commenced on and after January 1, 2007,~~ must be conducted by a
3738 certified live fire training instructor.
3739 (d) ~~(e)~~ This subsection does not apply to wildland or
3740 prescribed live fire training exercises sanctioned by the
3741 Florida Forest Service of the Department of Agriculture and
3742 Consumer Services or the National Wildfire Coordinating Group.
3743 (7) The division shall:
3744 (a) Investigate and prescribe by rule what safety devices,
3745 safeguards, or other means of protection must be adopted for the
3746 prevention of accidents and injuries in every firefighter
3747 employee place of employment or at any fire scene; determine
3748 what suitable devices, safeguards, or other means of protection
3749 for the prevention of occupational diseases must be adopted or
3750 followed in any or all such firefighter places of employment or
3751 at any emergency fire scene; and adopt reasonable rules for the
3752 prevention of accidents, the safety, protection, and security of
3753 firefighter employees engaged in interior firefighting, and the

360216

3754 prevention of occupational diseases.
3755 (b) Ascertain, fix, and order such reasonable standards and
3756 rules for the construction, repair, and maintenance of
3757 firefighter employee places of employment so as to render them
3758 safe. Such rules and standards shall be adopted in accordance
3759 with chapter 120.
3760 (c) Adopt rules prescribing recordkeeping responsibilities
3761 for firefighter employers, which may include maintaining a log
3762 and summary of occupational injuries, diseases, and illnesses,
3763 for producing on request a notice of injury and firefighter
3764 employee accident investigation records, and prescribing a
3765 retention schedule for such records.
3766 Section 80. Section 633.817, Florida Statutes, is
3767 transferred, renumbered as section 633.512, Florida Statutes,
3768 and amended to read:
3769 633.512 ~~633.817~~ Compliance.—Failure of a firefighter
3770 employer or an insurer to comply with this part ~~ss. 633.801-~~
3771 ~~633.821~~, or with any rules adopted under this part ~~ss. 633.801-~~
3772 ~~633.821~~, constitutes grounds for the division to seek remedies,
3773 including injunctive relief, by making appropriate filings with
3774 the circuit court.
3775 Section 81. Section 633.805, Florida Statutes, is
3776 transferred and renumbered as section 633.516, Florida Statutes.
3777 Section 82. Section 633.806, Florida Statutes, is
3778 transferred, renumbered as section 633.518, Florida Statutes,
3779 and amended to read:
3780 633.518 ~~633.806~~ Studies, investigations, inspections, or
3781 inquiries by the division; refusal to admit; penalty.—
3782 (1) The division shall make studies, ~~and~~ investigations,

360216

3783 inspections, or inquiries with respect to compliance with this
3784 part or any rules authorized under this part ~~safety provisions~~
3785 and the causes of firefighter employee injuries, illnesses,
3786 safety-based complaints, or Line of Duty Deaths (LODD) as
3787 defined in rule in firefighter employee places of employment and
3788 shall make such recommendations to the Legislature and
3789 firefighter employers and insurers as the division considers
3790 proper ~~as~~ to prevent or reduce future occurrences ~~the best means~~
3791 ~~of preventing firefighter injuries~~. In making such studies, ~~and~~
3792 investigations, inspections, or inquiries, the division may
3793 cooperate with any agency of the United States charged with the
3794 duty of enforcing any law securing safety against injury in any
3795 place of firefighter employment covered by this part ~~ss.~~
3796 ~~633.801-633.821~~ or any agency or department of the state engaged
3797 in enforcing any law to ensure safety for firefighter employees.
3798 (2) The division by rule may adopt procedures for
3799 conducting investigations, inspections, or inquiries of
3800 firefighter employers under this part ~~ss. 633.801-633.821~~.
3801 (3) The division and authorized representatives of the
3802 division may enter and inspect any firefighter employee's place
3803 of employment at any reasonable time for the purpose of
3804 investigating compliance with this part and conducting
3805 inspections for the proper enforcement of this part. A
3806 firefighter employer who refuses to admit any member of the
3807 division or authorized representative of the division to any
3808 place of employment or to allow investigation and inspection
3809 pursuant to this section commits a misdemeanor of the second
3810 degree, punishable as provided in s. 775.082 or s. 775.083.
3811 Section 83. Section 633.807, Florida Statutes, is

360216

3812 transferred, renumbered as section 633.520, Florida Statutes,
3813 and amended to read:
3814 633.520 ~~633.807~~ Safety; firefighter employer
3815 responsibilities.—Every firefighter employer shall furnish and
3816 use safety devices and safeguards, adopt and use methods and
3817 processes reasonably adequate to render such an employment and
3818 place of employment safe, and do every other thing reasonably
3819 necessary to protect the lives, health, and safety of such
3820 firefighter employees. As used in this section, the terms "safe"
3821 and "safety," as applied to any employment or place of
3822 ~~firefighter~~ employment, mean such freedom from danger as is
3823 reasonably necessary for the protection of the lives, health,
3824 and safety of firefighter employees, including conditions and
3825 methods of sanitation and hygiene. Safety devices and safeguards
3826 required to be furnished by the firefighter employer by this
3827 section or by the division under authority of this section do
3828 ~~shall~~ not include personal apparel and protective devices that
3829 replace personal apparel normally worn by firefighter employees
3830 during regular working hours.
3831 Section 84. Section 633.809, Florida Statutes, is
3832 transferred, renumbered as section 633.522, Florida Statutes,
3833 and amended to read:
3834 633.522 ~~633.809~~ Firefighter employers; ~~whose firefighter~~
3835 ~~employees have a~~ high frequency of work-related injuries;
3836 corrective plans; workplace safety committees and coordinators;
3837 failure to implement a safety and health program; cancellation.—
3838 (1) The division shall develop a means to ~~by which the~~
3839 ~~division may~~ identify individual firefighter employers with
3840 ~~whose firefighter employees have~~ a high frequency ~~or severity~~ of

360216

3841 firefighter employee work-related injuries. ~~The division shall~~
3842 ~~carry out safety inspections of the facilities and operations of~~
3843 ~~those firefighter employers in order to assist them in reducing~~
3844 ~~the frequency and severity of work-related injuries. The~~
3845 ~~division shall develop safety and health programs for those~~
3846 ~~firefighter employers. Insurers shall distribute such safety and~~
3847 ~~health programs to the firefighter employers so identified by~~
3848 ~~the division. Those firefighter employers identified by the~~
3849 ~~division as having a high frequency or severity of work-related~~
3850 ~~injuries shall implement a safety and health program developed~~
3851 ~~by the division.~~ The division shall conduct ~~carry out~~ safety
3852 inspections of those firefighter employers so identified to
3853 ensure compliance with this part or the division's rules and
3854 make recommendations based upon current ~~the~~ safety and health
3855 practices ~~program~~ and to assist such firefighter employers in
3856 reducing the number of work-related injuries. The division may
3857 not assess penalties as a result of such inspections~~, except as~~
3858 ~~provided by s. 633.813~~. Copies of any report made as the result
3859 of such an inspection shall be provided to the firefighter
3860 employer and its insurer. Firefighter employers shall ~~may~~ submit
3861 a plan for the correction of any noncompliance issues ~~their own~~
3862 ~~safety and health programs~~ to the division for approval in
3863 accordance with division rule ~~lieu of using the safety and~~
3864 ~~health program developed by the division~~. The division shall
3865 promptly review the plan ~~program~~ submitted and approve or
3866 disapprove the plan ~~program~~ within 60 days or such plan ~~program~~
3867 shall be deemed approved. Upon approval by the division, the
3868 plan ~~program~~ shall be implemented by the firefighter employer.
3869 If the plan ~~program~~ is not submitted, does not provide

360216

3870 corrective actions for all deficiencies, is not complete, or is
3871 not implemented, the fire service provider shall be subject to
3872 s. 633.526 ~~approved or if a program is not submitted, the~~
3873 ~~firefighter employer shall implement the program developed by~~
3874 ~~the division. The division shall adopt rules setting forth the~~
3875 ~~criteria for safety and health programs, as such rules relate to~~
3876 ~~this section~~.
3877 (2) In order to promote health and safety in firefighter
3878 employee places of employment in this state:
3879 (a) Each firefighter employer of 20 or more firefighter
3880 employees shall establish and administer a workplace safety
3881 committee in accordance with rules adopted under this section.
3882 (b) Each firefighter employer of fewer than 20 firefighter
3883 employees with a high frequency or high severity of work-related
3884 injuries, as identified by the division, shall establish and
3885 administer a workplace safety committee or designate a workplace
3886 safety coordinator who shall establish and administer workplace
3887 safety activities in accordance with rules adopted under this
3888 section.
3889 (3) The division shall adopt rules:
3890 (a) Prescribing the membership of the workplace safety
3891 committees so as to ensure an equal number of firefighter
3892 employee representatives who are volunteers or are elected by
3893 their peers and firefighter employer representatives, and
3894 specifying the frequency of meetings.
3895 (b) Requiring firefighter employers to make adequate
3896 records of each meeting and to file and to maintain the records
3897 subject to inspection by the division.
3898 (c) Prescribing the duties and functions of the workplace

360216

3899 safety committee and workplace safety coordinator which include,
3900 but are not limited to:
3901 1. Establishing procedures for workplace safety inspections
3902 by the committee.
3903 2. Establishing procedures for investigating all workplace
3904 accidents, safety-related incidents, illnesses, and deaths.
3905 3. Evaluating accident prevention and illness prevention
3906 programs.
3907 4. Prescribing guidelines for the training of safety
3908 committee members.
3909 (4) The composition, selection, and function of workplace
3910 safety committees shall be a mandatory topic of negotiations
3911 with any certified collective bargaining agent for firefighter
3912 employers that operate under a collective bargaining agreement.
3913 Firefighter employers that operate under a collective bargaining
3914 agreement that contains provisions governing the formation and
3915 operation of workplace safety committees that meet or exceed the
3916 minimum requirements contained in this section, or firefighter
3917 employers who otherwise have existing workplace safety
3918 committees that meet or exceed the minimum requirements
3919 established by this section, are in compliance with this
3920 section.
3921 (5) Firefighter employees shall be compensated their
3922 regular hourly wage while engaged in workplace safety committee
3923 or workplace safety coordinator training, meetings, or other
3924 duties prescribed under this section.
3925 (6) If a firefighter employer fails to implement a
3926 corrective plan, the insurer or self-insurer’s fund that is
3927 providing coverage for the firefighter employer may cancel the

360216

3928 contract for insurance with the firefighter employer. In the
3929 alternative, the insurer or fund may terminate any discount or
3930 deviation granted to the firefighter employer for the remainder
3931 of the term of the policy. If the contract is canceled or the
3932 discount or deviation is terminated, the insurer must make such
3933 reports as are required by law.
3934 Section 85. Section 633.811, Florida Statutes, is
3935 transferred, renumbered as section 633.526, Florida Statutes,
3936 and amended to read:
3937 633.526 ~~633.811~~ Firefighter employer penalties.—If any
3938 firefighter employer violates or fails or refuses to comply with
3939 this part ~~ss. 633.801-633.821~~, or with any rule adopted by the
3940 division under such sections in accordance with chapter 120 for
3941 the prevention of injuries, accidents, or occupational diseases
3942 or with any lawful order of the division in connection with this
3943 part ~~ss. 633.801-633.821~~, or fails or refuses to furnish or
3944 adopt any safety device, safeguard, or other means of protection
3945 prescribed by division rule under this part ~~ss. 633.801-633.821~~
3946 for the prevention of accidents or occupational diseases, the
3947 division may:
3948 (1) Issue an administrative cease and desist order,
3949 enforceable in the circuit court in the jurisdiction where the
3950 violation is occurring or has occurred.
3951 (2) Assess an administrative fine against a firefighter
3952 employer of not less than $100 or more than $1,000 for each
3953 violation and each day a violation is committed.
3954 (3) Assess against the firefighter employer a civil penalty
3955 of not less than $100 nor more than $5,000 for each day the
3956 violation, omission, failure, or refusal continues after the

360216

3957 firefighter employer has been given written notice of such
3958 violation, omission, failure, or refusal. The total penalty for
3959 each violation shall not exceed $50,000. The division shall
3960 adopt rules requiring penalties commensurate with the frequency
3961 or severity of safety violations. Hearings requested under this
3962 section shall be conducted in Tallahassee ~~A hearing shall be~~
3963 ~~held in the county in which the violation, omission, failure, or~~
3964 ~~refusal is alleged to have occurred, unless otherwise agreed to~~
3965 ~~by the firefighter employer and authorized by the division~~. All
3966 penalties assessed and collected under this section shall be
3967 deposited in the Insurance Regulatory Trust Fund.
3968 Section 86. Section 633.812, Florida Statutes, is
3969 transferred and renumbered as section 633.528, Florida Statutes,
3970 and subsections (2) and (3) of that section are amended, to
3971 read:
3972 633.528 ~~633.812~~ Division cooperation with Federal
3973 Government; exemption from requirements for private firefighter
3974 employers.—
3975 (2) ~~Except as provided in this section,~~ A private
3976 firefighter employer is not subject to the requirements set
3977 forth in part IV and part V ~~of the division~~ if the private
3978 firefighter employer meets the requirements of this part and:
3979 (a) The private firefighter employer is subject to the
3980 federal regulations in 29 C.F.R. ss. 1910 and 1926.
3981 (b) The private firefighter employer has adopted and
3982 implemented a written safety program that conforms to the
3983 requirements of 29 C.F.R. ss. 1910 and 1926.
3984 ~~(c) A private firefighter employer with 20 or more full-~~
3985 ~~time firefighter employees shall include provisions for a safety~~

360216

3986 ~~committee in the safety program. The safety committee shall~~
3987 ~~include firefighter employee representation and shall meet at~~
3988 ~~least once each calendar quarter. The private firefighter~~
3989 ~~employer shall make adequate records of each meeting and~~
3990 ~~maintain the records subject to inspections under subsection~~
3991 ~~(3). The safety committee shall, if appropriate, make~~
3992 ~~recommendations regarding improvements to the safety program and~~
3993 ~~corrections of hazards affecting workplace safety.~~
3994 (c) ~~(d)~~ The private firefighter employer provides the
3995 division with a written statement that certifies compliance with
3996 this subsection.
3997 (3) The division may enter at any reasonable time any place
3998 of private firefighter employment for the purpose of verifying
3999 the accuracy of the written certification. If the division
4000 determines that the private firefighter employer has not
4001 complied with the requirements of subsection (2), the private
4002 firefighter employer shall be subject to the rules of the
4003 division until the private firefighter employer complies with
4004 subsection (2), which must be verified by a reinspection by ~~and~~
4005 ~~recertifies that fact to~~ the division.
4006 Section 87. Section 633.816, Florida Statutes, is
4007 transferred, renumbered as section 633.532, Florida Statutes,
4008 and amended to read:
4009 633.532 ~~633.816~~ Firefighter employee rights and
4010 responsibilities.—
4011 (1) Each firefighter employee of a firefighter employer
4012 covered under this part ~~ss. 633.801-633.821~~ shall comply with
4013 rules adopted by the division and with reasonable workplace
4014 safety and health standards, rules, policies, procedures, and

360216

4015 work practices established by the firefighter employer and the
4016 workplace safety committee. A firefighter employee who knowingly
4017 fails to comply with this subsection may be disciplined or
4018 discharged by the firefighter employer.
4019 (2) A firefighter employer may not discharge, threaten to
4020 discharge, cause to be discharged, intimidate, coerce, otherwise
4021 discipline, or in any manner discriminate against a firefighter
4022 employee for any of the following reasons:
4023 (a) The firefighter employee has testified or is about to
4024 testify, on her or his own behalf or on behalf of others, in any
4025 proceeding instituted under this part ~~ss. 633.801-633.821~~;
4026 (b) The firefighter employee has exercised any other right
4027 given ~~afforded~~ under this part ~~ss. 633.801-633.821~~; or
4028 (c) The firefighter employee is engaged in activities
4029 relating to the workplace safety committee.
4030 (3) ~~No~~ Pay, a position, seniority, or any other benefit may
4031 not be lost for exercising any right under, or for seeking
4032 compliance with any requirement of, this part ~~ss. 633.801-~~
4033 ~~633.821~~.
4034 Section 88. Section 633.818, Florida Statutes, is
4035 transferred, renumbered as section 633.534, Florida Statutes,
4036 and amended to read:
4037 633.534 ~~633.818~~ False, fictitious, or fraudulent acts,
4038 statements, and representations prohibited; penalty; statute of
4039 limitations ~~to insurers~~.—
4040 (1) A firefighter employer who knowingly and willfully
4041 falsifies or conceals a material fact, who makes a false,
4042 fictitious, or fraudulent statement or representation, or who
4043 makes or uses any false document knowing the document to contain

360216

4044 any false, fictitious, or fraudulent entry or statement to an
4045 insurer of workers' compensation insurance under this part ~~ss.~~
4046 ~~633.801-633.821~~ commits a misdemeanor of the second degree,
4047 punishable as provided in s. 775.082 or s. 775.083.
4048 (2) A person may not, in any matter within the jurisdiction
4049 of the division, knowingly and willfully falsify or conceal a
4050 material fact; make any false, fictitious, or fraudulent
4051 statement or representation; or make or use any false document,
4052 knowing the same to contain any false, fictitious, or fraudulent
4053 statement or entry. A person who violates this section commits a
4054 misdemeanor of the second degree, punishable as provided in s.
4055 775.082 or s. 775.083. The statute of limitations for
4056 prosecution of an act committed in violation of this section is
4057 5 years after the date the act was committed or, if not
4058 discovered within 30 days after the act was committed, 5 years
4059 after the date the act was discovered.
4060 Section 89. Section 633.814, Florida Statutes, is
4061 transferred, renumbered as section 633.536, Florida Statutes,
4062 and amended to read:
4063 633.536 ~~633.814~~ Expenses of administration.—The amounts
4064 that are needed to administer this part ~~ss. 633.801-633.821~~
4065 shall be disbursed from the Insurance Regulatory Trust Fund.
4066 Section 90. Paragraph (b) of subsection (2) of section
4067 112.011, Florida Statutes, is amended to read:
4068 112.011 Disqualification from licensing and public
4069 employment based on criminal conviction.—
4070 (2)
4071 (b) This section does not apply to the employment practices
4072 of any fire department relating to the hiring of firefighters.

360216

4073 ~~An applicant for employment with any fire department who has a~~
4074 ~~prior felony conviction shall be excluded from employment for a~~
4075 ~~period of 4 years after expiration of sentence or final release~~
4076 ~~by the Parole Commission unless the applicant, before the~~
4077 ~~expiration of the 4-year period, has received a full pardon or~~
4078 ~~has had his or her civil rights restored.~~
4079 Section 91. Paragraph (i) of subsection (2) of section
4080 112.191, Florida Statutes, is amended, and paragraphs (a), (b),
4081 and (c) of subsection (2) of that section are reenacted, to
4082 read:
4083 112.191 Firefighters; death benefits.—
4084 (2)(a) The sum of $50,000, as adjusted pursuant to
4085 paragraph (i), shall be paid as provided in this section when a
4086 firefighter, while engaged in the performance of his or her
4087 firefighter duties, is accidentally killed or receives
4088 accidental bodily injury which subsequently results in the loss
4089 of the firefighter’s life, provided that such killing is not the
4090 result of suicide and that such bodily injury is not
4091 intentionally self-inflicted. Notwithstanding any other
4092 provision of law, in no case shall the amount payable under this
4093 subsection be less than the actual amount stated therein.
4094 (b) The sum of $50,000, as adjusted pursuant to paragraph
4095 (i), shall be paid as provided in this section if a firefighter
4096 is accidentally killed as specified in paragraph (a) and the
4097 accidental death occurs as a result of the firefighter’s
4098 response to what is reasonably believed to be an emergency
4099 involving the protection of life or property or the
4100 firefighter’s participation in a training exercise. This sum is
4101 in addition to any sum provided in paragraph (a).

360216

4102 Notwithstanding any other provision of law, the amount payable
4103 under this subsection may not be less than the actual amount
4104 stated therein.
4105 (c) If a firefighter, while engaged in the performance of
4106 his or her firefighter duties, is unlawfully and intentionally
4107 killed, is injured by an unlawful and intentional act of another
4108 person and dies as a result of such injury, dies as a result of
4109 a fire which has been determined to have been caused by an act
4110 of arson, or subsequently dies as a result of injuries sustained
4111 therefrom, the sum of $150,000, as adjusted pursuant to
4112 paragraph (i), shall be paid as provided in this section.
4113 Notwithstanding any other provision of law, the amount payable
4114 under this subsection may not be less than the actual amount
4115 stated therein.
4116 (i) Any payments made pursuant to paragraph (a), paragraph
4117 (b), or paragraph (c) shall consist of the statutory amount
4118 adjusted to show ~~reflect~~ price level changes in the Consumer
4119 Price Index for All Urban Consumers published by the United
4120 States Department of Labor since July 1, 2002 ~~the effective date~~
4121 ~~of the act~~. The Division of State Fire Marshal, using the most
4122 recent month for which Consumer Price Index data is available,
4123 shall, on June 15 of each year, calculate and publish on the
4124 division's internet website the amount resulting from the
4125 adjustments to ~~by rule adjust~~ the statutory amounts ~~amount based~~
4126 ~~on the Consumer Price Index for All Urban Consumers published by~~
4127 ~~the United States Department of Labor~~. The adjusted statutory
4128 amounts ~~Adjustment~~ shall be effective on ~~made~~ July 1 of each
4129 year ~~using the most recent month for which data are available at~~
4130 ~~the time of the adjustment~~.

360216

4131 Section 92. Subsection (4) of section 120.541, Florida
4132 Statutes, as amended by section 1 of chapter 2011-222, 2011 Laws
4133 of Florida, is amended to read:
4134 120.541 Statement of estimated regulatory costs.—
4135 (4) Subsection (3) does not apply to the adoption of:
4136 (a) Federal standards pursuant to s. 120.54(6).
4137 (b) Triennial updates of and amendments to the Florida
4138 Building Code which are expressly authorized by s. 553.73.
4139 (c) Triennial updates of and amendments to the Florida Fire
4140 Prevention Code which are expressly authorized by s. 633.202 ~~s.~~
4141 ~~633.0215~~.
4142 Section 93. Paragraph (c) of subsection (6) of section
4143 196.081, Florida Statutes, as amended by section 2 of chapter
4144 2012-54, 2012 Laws of Florida, and section 19 of chapter 2012-
4145 193, 2012 Laws of Florida, is amended to read:
4146 196.081 Exemption for certain permanently and totally
4147 disabled veterans and for surviving spouses of veterans;
4148 exemption for surviving spouses of first responders who die in
4149 the line of duty.—
4150 (6) Any real estate that is owned and used as a homestead
4151 by the surviving spouse of a first responder who died in the
4152 line of duty while employed by the state or any political
4153 subdivision of the state, including authorities and special
4154 districts, and for whom a letter from the state or appropriate
4155 political subdivision of the state, or other authority or
4156 special district, has been issued which legally recognizes and
4157 certifies that the first responder died in the line of duty
4158 while employed as a first responder is exempt from taxation if
4159 the first responder and his or her surviving spouse were

360216

4160 permanent residents of this state on January 1 of the year in
4161 which the first responder died.
4162 (c) As used in this subsection only, and not applicable to
4163 the payment of benefits under s. 112.19 or s. 112.191, the term:
4164 1. “First responder” means a law enforcement officer or
4165 correctional officer as defined in s. 943.10, a firefighter as
4166 defined in s. 633.102 ~~s. 633.30~~, or an emergency medical
4167 technician or paramedic as defined in s. 401.23 who is a full-
4168 time paid employee, part-time paid employee, or unpaid
4169 volunteer.
4170 2. “In the line of duty” means:
4171 a. While engaging in law enforcement;
4172 b. While performing an activity relating to fire
4173 suppression and prevention;
4174 c. While responding to a hazardous material emergency;
4175 d. While performing rescue activity;
4176 e. While providing emergency medical services;
4177 f. While performing disaster relief activity;
4178 g. While otherwise engaging in emergency response activity;
4179 or
4180 h. While engaging in a training exercise related to any of
4181 the events or activities enumerated in this subparagraph if the
4182 training has been authorized by the employing entity.
4183
4184 A heart attack or stroke that causes death or causes an injury
4185 resulting in death must occur within 24 hours after an event or
4186 activity enumerated in this subparagraph and must be directly
4187 and proximately caused by the event or activity in order to be
4188 considered as having occurred in the line of duty.

360216

4189 Section 94. Section 633.167, Florida Statutes, is amended
4190 to read:
4191 633.167 Probation.—
4192 ~~(1)~~ If the State Fire Marshal finds that one or more
4193 grounds exist for the suspension, revocation, or refusal to
4194 issue, renew, or continue any license, certification, or permit
4195 issued under this chapter, the State Fire Marshal may, in her or
4196 his discretion, except when an administrative fine is not
4197 permissible under this chapter or when the suspension,
4198 revocation, or refusal is mandatory, in lieu of suspension,
4199 revocation, or refusal to issue, renew, or continue or, in
4200 connection with any administrative fine imposed, place the
4201 offending licensee, certificateholder, or permittee on probation
4202 for a period not to exceed 2 years, as specified by the State
4203 Fire Marshal in her or his order.
4204 ~~(2) As a condition to probation or in connection therewith,~~
4205 ~~the State Fire Marshal may specify in her or his order~~
4206 ~~reasonable terms and conditions to be fulfilled by the~~
4207 ~~probationer during the probation period. If during the probation~~
4208 ~~period the State Fire Marshal has good cause to believe that the~~
4209 ~~probationer has violated any of the terms and conditions, she or~~
4210 ~~he shall suspend, revoke, or refuse to issue, renew, or continue~~
4211 ~~the license, certificate, or permit of the probationer, as upon~~
4212 ~~the original ground or grounds referred to in subsection (1).~~
4213 Section 95. Section 633.517, Florida Statutes, is amended
4214 to read:
4215 633.517 Authority of State Fire Marshal to adopt rules~~,~~
4216 ~~administer oaths, and take testimony~~.—
4217 ~~(1)~~ The State Fire Marshal may ~~is authorized~~, with the

360216

4218 advice of the board, ~~to~~ adopt rules pursuant to ss. 120.536(1)
4219 and 120.54 to implement ~~the provisions of~~ this act.
4220 ~~(2) The State Fire Marshal or her or his duly appointed~~
4221 ~~hearing officer may administer oaths and take testimony about~~
4222 ~~all matters within the jurisdiction of this act. Chapter 120~~
4223 ~~governs hearings conducted by or on behalf of the State Fire~~
4224 ~~Marshal.~~
4225 Section 96. Section 791.012, Florida Statutes, is amended
4226 to read:
4227 791.012 Minimum fireworks safety standards.—The outdoor
4228 display of fireworks in this state shall be governed by the
4229 National Fire Protection Association (NFPA) 1123, Code for
4230 Fireworks Display, as adopted in the Florida Fire Prevention
4231 Code ~~1995 Edition, approved by the American National Standards~~
4232 ~~Institute~~. A ~~Any~~ state, county, or municipal law, rule, or
4233 ordinance may provide for more stringent rules ~~regulations~~ for
4234 the outdoor display of fireworks, but ~~in no event may~~ any such
4235 law, rule, or ordinance may not provide for less stringent rules
4236 ~~regulations~~ for the outdoor display of fireworks. The division
4237 shall adopt ~~promulgate~~ rules to carry out ~~the provisions of~~ this
4238 section. The Code for Fireworks Display shall not govern the
4239 display of any fireworks on private, residential property and
4240 shall not govern the display of those items included under s.
4241 791.01(4)(b) and (c) and authorized for sale thereunder.
4242 Section 97. Subsection (1) and paragraph (a) of subsection
4243 (3) of section 791.015, Florida Statutes, are amended to read:
4244 791.015 Registration of manufacturers, distributors,
4245 wholesalers, and retailers of sparklers.—
4246 (1) REGISTRATION REQUIREMENTS.—A ~~Any~~ manufacturer,

360216

4247 distributor, wholesaler, retailer, or seasonal retailer of
4248 sparklers who wishes to do business in this state or to
4249 otherwise sell, ship, or assign for sale its products in this
4250 state must register annually with the division on forms
4251 prescribed by the division. A ~~Any~~ retailer or seasonal retailer
4252 who sells sparklers at more than one retail location may submit
4253 one registration form for all such locations but must provide
4254 the address of each location with the registration form;
4255 however, any retailer or seasonal retailer may submit multiple
4256 registration forms.
4257 (3) FEES.—
4258 (a) Each manufacturer, distributor, or wholesaler must pay
4259 an annual registration fee to be set by the division not to
4260 exceed $1,000. Each seasonal retailer must pay an annual
4261 registration fee to be set by the division not to exceed $200
4262 per each retail location registered. Each retailer shall pay an
4263 annual registration fee to be set by the division not to exceed
4264 $15 for each retail location registered. Each certificateholder
4265 wishing to have a duplicate certificate issued for one which is
4266 lost or to show ~~reflect~~ a change of address shall request such
4267 duplicate in writing and shall pay a fee of $5.
4268 Section 98. Section 633.024, Florida Statutes, is repealed.
4269 Section 99. Section 633.0245, Florida Statutes, is
4270 repealed.
4271 Section 100. Section 633.03, Florida Statutes, is repealed.
4272 Section 101. Section 633.0421, Florida Statutes, is
4273 repealed.
4274 Section 102. Section 633.13, Florida Statutes, is repealed.
4275 Section 103. Section 633.18, Florida Statutes, is repealed.

360216

4276 Section 104. Section 633.30, Florida Statutes, is repealed.
4277 Section 105. Section 633.32, Florida Statutes, is repealed.
4278 Section 106. Section 633.33, Florida Statutes, is repealed.
4279 Section 107. Section 633.37, Florida Statutes, is repealed.
4280 Section 108. Section 633.445, Florida Statutes, is
4281 repealed.
4282 Section 109. Section 633.46, Florida Statutes, is repealed.
4283 Section 110. Section 633.514, Florida Statutes, is
4284 repealed.
4285 Section 111. Section 633.524, Florida Statutes, is
4286 repealed.
4287 Section 112. Section 633.804, Florida Statutes, is
4288 repealed.
4289 Section 113. Section 633.808, Florida Statutes, is
4290 repealed.
4291 Section 114. Section 633.810, Florida Statutes, is
4292 repealed.
4293 Section 115. Section 633.813, Florida Statutes, is
4294 repealed.
4295 Section 116. Section 633.815, Florida Statutes, is
4296 repealed.
4297 Section 117. Section 633.819, Florida Statutes, is
4298 repealed.
4299 Section 118. Section 633.820, Florida Statutes, is
4300 repealed.
4301 Section 119. Subsection (1) of section 112.1815, Florida
4302 Statutes, is amended to read:
4303 112.1815 Firefighters, paramedics, emergency medical
4304 technicians, and law enforcement officers; special provisions

360216

4305 for employment-related accidents and injuries.—
4306 (1) The term "first responder" as used in this section
4307 means a law enforcement officer as defined in s. 943.10, a
4308 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency
4309 medical technician or paramedic as defined in s. 401.23 employed
4310 by state or local government. A volunteer law enforcement
4311 officer, firefighter, or emergency medical technician or
4312 paramedic engaged by the state or a local government is also
4313 considered a first responder of the state or local government
4314 for purposes of this section.
4315 Section 120. Paragraph (b) of subsection (1) of section
4316 112.191, Florida Statutes, is amended to read:
4317 112.191 Firefighters; death benefits.—
4318 (1) Whenever used in this act:
4319 (b) The term "firefighter" means any full-time duly
4320 employed uniformed firefighter employed by an employer, whose
4321 primary duty is the prevention and extinguishing of fires, the
4322 protection of life and property therefrom, the enforcement of
4323 municipal, county, and state fire prevention codes, as well as
4324 the enforcement of any law pertaining to the prevention and
4325 control of fires, who is certified pursuant to s. 633.408
4326 ~~633.35,~~ and who is a member of a duly constituted fire
4327 department of such employer or who is a volunteer firefighter.
4328 Section 121. Subsection (1) of section 112.81, Florida
4329 Statutes, is amended to read:
4330 112.81 Definitions.—As used in this part:
4331 (1) "Firefighter" means a ~~any~~ person who is certified in
4332 compliance with s. 633.408 ~~633.35~~ and who is employed solely
4333 within the fire department or public safety department of an

360216

4334 employing agency as a full-time firefighter whose primary
4335 responsibility is the prevention and extinguishment of fires;
4336 the protection of life and property; and the enforcement of
4337 municipal, county, and state fire prevention codes and laws
4338 pertaining to the prevention and control of fires.
4339 Section 122. Paragraph (d) of subsection (4) of section
4340 119.071, Florida Statutes, is amended to read:
4341 119.071 General exemptions from inspection or copying of
4342 public records.—
4343 (4) AGENCY PERSONNEL INFORMATION.—
4344 (d)1. For purposes of this paragraph, the term "telephone
4345 numbers" includes home telephone numbers, personal cellular
4346 telephone numbers, personal pager telephone numbers, and
4347 telephone numbers associated with personal communications
4348 devices.
4349 2.a. The home addresses, telephone numbers, social security
4350 numbers, dates of birth, and photographs of active or former
4351 sworn or civilian law enforcement personnel, including
4352 correctional and correctional probation officers, personnel of
4353 the Department of Children and Family Services whose duties
4354 include the investigation of abuse, neglect, exploitation,
4355 fraud, theft, or other criminal activities, personnel of the
4356 Department of Health whose duties are to support the
4357 investigation of child abuse or neglect, and personnel of the
4358 Department of Revenue or local governments whose
4359 responsibilities include revenue collection and enforcement or
4360 child support enforcement; the home addresses, telephone
4361 numbers, social security numbers, photographs, dates of birth,
4362 and places of employment of the spouses and children of such

360216

4363 personnel; and the names and locations of schools and day care
4364 facilities attended by the children of such personnel are exempt
4365 from s. 119.07(1).
4366 b. The home addresses, telephone numbers, dates of birth,
4367 and photographs of firefighters certified in compliance with s.
4368 633.408 ~~633.35~~; the home addresses, telephone numbers,
4369 photographs, dates of birth, and places of employment of the
4370 spouses and children of such firefighters; and the names and
4371 locations of schools and day care facilities attended by the
4372 children of such firefighters are exempt from s. 119.07(1).
4373 c. The home addresses, dates of birth, and telephone
4374 numbers of current or former justices of the Supreme Court,
4375 district court of appeal judges, circuit court judges, and
4376 county court judges; the home addresses, telephone numbers,
4377 dates of birth, and places of employment of the spouses and
4378 children of current or former justices and judges; and the names
4379 and locations of schools and day care facilities attended by the
4380 children of current or former justices and judges are exempt
4381 from s. 119.07(1).
4382 d. The home addresses, telephone numbers, social security
4383 numbers, dates of birth, and photographs of current or former
4384 state attorneys, assistant state attorneys, statewide
4385 prosecutors, or assistant statewide prosecutors; the home
4386 addresses, telephone numbers, social security numbers,
4387 photographs, dates of birth, and places of employment of the
4388 spouses and children of current or former state attorneys,
4389 assistant state attorneys, statewide prosecutors, or assistant
4390 statewide prosecutors; and the names and locations of schools
4391 and day care facilities attended by the children of current or

360216

4392 former state attorneys, assistant state attorneys, statewide
4393 prosecutors, or assistant statewide prosecutors are exempt from
4394 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
4395 e. The home addresses, dates of birth, and telephone
4396 numbers of general magistrates, special magistrates, judges of
4397 compensation claims, administrative law judges of the Division
4398 of Administrative Hearings, and child support enforcement
4399 hearing officers; the home addresses, telephone numbers, dates
4400 of birth, and places of employment of the spouses and children
4401 of general magistrates, special magistrates, judges of
4402 compensation claims, administrative law judges of the Division
4403 of Administrative Hearings, and child support enforcement
4404 hearing officers; and the names and locations of schools and day
4405 care facilities attended by the children of general magistrates,
4406 special magistrates, judges of compensation claims,
4407 administrative law judges of the Division of Administrative
4408 Hearings, and child support enforcement hearing officers are
4409 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4410 Constitution if the general magistrate, special magistrate,
4411 judge of compensation claims, administrative law judge of the
4412 Division of Administrative Hearings, or child support hearing
4413 officer provides a written statement that the general
4414 magistrate, special magistrate, judge of compensation claims,
4415 administrative law judge of the Division of Administrative
4416 Hearings, or child support hearing officer has made reasonable
4417 efforts to protect such information from being accessible
4418 through other means available to the public.
4419 f. The home addresses, telephone numbers, dates of birth,
4420 and photographs of current or former human resource, labor

360216

4421 relations, or employee relations directors, assistant directors,
4422 managers, or assistant managers of any local government agency
4423 or water management district whose duties include hiring and
4424 firing employees, labor contract negotiation, administration, or
4425 other personnel-related duties; the names, home addresses,
4426 telephone numbers, dates of birth, and places of employment of
4427 the spouses and children of such personnel; and the names and
4428 locations of schools and day care facilities attended by the
4429 children of such personnel are exempt from s. 119.07(1) and s.
4430 24(a), Art. I of the State Constitution.
4431 g. The home addresses, telephone numbers, dates of birth,
4432 and photographs of current or former code enforcement officers;
4433 the names, home addresses, telephone numbers, dates of birth,
4434 and places of employment of the spouses and children of such
4435 personnel; and the names and locations of schools and day care
4436 facilities attended by the children of such personnel are exempt
4437 from s. 119.07(1) and s. 24(a), Art. I of the State
4438 Constitution.
4439 h. The home addresses, telephone numbers, places of
4440 employment, dates of birth, and photographs of current or former
4441 guardians ad litem, as defined in s. 39.820; the names, home
4442 addresses, telephone numbers, dates of birth, and places of
4443 employment of the spouses and children of such persons; and the
4444 names and locations of schools and day care facilities attended
4445 by the children of such persons are exempt from s. 119.07(1) and
4446 s. 24(a), Art. I of the State Constitution, if the guardian ad
4447 litem provides a written statement that the guardian ad litem
4448 has made reasonable efforts to protect such information from
4449 being accessible through other means available to the public.

360216

4450 i. The home addresses, telephone numbers, dates of birth,
4451 and photographs of current or former juvenile probation
4452 officers, juvenile probation supervisors, detention
4453 superintendents, assistant detention superintendents, juvenile
4454 justice detention officers I and II, juvenile justice detention
4455 officer supervisors, juvenile justice residential officers,
4456 juvenile justice residential officer supervisors I and II,
4457 juvenile justice counselors, juvenile justice counselor
4458 supervisors, human services counselor administrators, senior
4459 human services counselor administrators, rehabilitation
4460 therapists, and social services counselors of the Department of
4461 Juvenile Justice; the names, home addresses, telephone numbers,
4462 dates of birth, and places of employment of spouses and children
4463 of such personnel; and the names and locations of schools and
4464 day care facilities attended by the children of such personnel
4465 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4466 Constitution.
4467 j. The home addresses, telephone numbers, dates of birth,
4468 and photographs of current or former public defenders, assistant
4469 public defenders, criminal conflict and civil regional counsel,
4470 and assistant criminal conflict and civil regional counsel; the
4471 home addresses, telephone numbers, dates of birth, and places of
4472 employment of the spouses and children of such defenders or
4473 counsel; and the names and locations of schools and day care
4474 facilities attended by the children of such defenders or counsel
4475 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4476 Constitution.
4477 k. The home addresses, telephone numbers, and photographs
4478 of current or former investigators or inspectors of the

360216

4479 Department of Business and Professional Regulation; the names,
4480 home addresses, telephone numbers, and places of employment of
4481 the spouses and children of such current or former investigators
4482 and inspectors; and the names and locations of schools and day
4483 care facilities attended by the children of such current or
4484 former investigators and inspectors are exempt from s. 119.07(1)
4485 and s. 24(a), Art. I of the State Constitution if the
4486 investigator or inspector has made reasonable efforts to protect
4487 such information from being accessible through other means
4488 available to the public. This sub-subparagraph is subject to the
4489 Open Government Sunset Review Act in accordance with s. 119.15
4490 and shall stand repealed on October 2, 2017, unless reviewed and
4491 saved from repeal through reenactment by the Legislature.
4492 l. The home addresses and telephone numbers of county tax
4493 collectors; the names, home addresses, telephone numbers, and
4494 places of employment of the spouses and children of such tax
4495 collectors; and the names and locations of schools and day care
4496 facilities attended by the children of such tax collectors are
4497 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4498 Constitution if the county tax collector has made reasonable
4499 efforts to protect such information from being accessible
4500 through other means available to the public. This sub-
4501 subparagraph is subject to the Open Government Sunset Review Act
4502 in accordance with s. 119.15 and shall stand repealed on October
4503 2, 2017, unless reviewed and saved from repeal through
4504 reenactment by the Legislature.
4505 3. An agency that is the custodian of the information
4506 specified in subparagraph 2. and that is not the employer of the
4507 officer, employee, justice, judge, or other person specified in

360216

4508 subparagraph 2. shall maintain the exempt status of that
4509 information only if the officer, employee, justice, judge, other
4510 person, or employing agency of the designated employee submits a
4511 written request for maintenance of the exemption to the
4512 custodial agency.
4513 4. The exemptions in this paragraph apply to information
4514 held by an agency before, on, or after the effective date of the
4515 exemption.
4516 5. This paragraph is subject to the Open Government Sunset
4517 Review Act in accordance with s. 119.15, and shall stand
4518 repealed on October 2, 2017, unless reviewed and saved from
4519 repeal through reenactment by the Legislature.
4520 Section 123. Subsection (17) of section 120.80, Florida
4521 Statutes, is amended to read:
4522 120.80 Exceptions and special requirements; agencies.—
4523 (17) STATE FIRE MARSHAL.—Section 120.541(3) does not apply
4524 to the adoption of amendments and the triennial update to the
4525 Florida Fire Prevention Code expressly authorized by s. 633.202
4526 ~~633.0215~~.
4527 Section 124. Subsection (3) and paragraph (a) of subsection
4528 (6) of section 121.0515, Florida Statutes, are amended to read:
4529 121.0515 Special Risk Class.—
4530 (3) CRITERIA.—A member, to be designated as a special risk
4531 member, must meet the following criteria:
4532 (a) Effective October 1, 1978, the member must be employed
4533 as a law enforcement officer and be certified, or required to be
4534 certified, in compliance with s. 943.1395; however, sheriffs and
4535 elected police chiefs are excluded from meeting the
4536 certification requirements of this paragraph. In addition, the

360216

4537 member’s duties and responsibilities must include the pursuit,
4538 apprehension, and arrest of law violators or suspected law
4539 violators; or as of July 1, 1982, the member must be an active
4540 member of a bomb disposal unit whose primary responsibility is
4541 the location, handling, and disposal of explosive devices; or
4542 the member must be the supervisor or command officer of a member
4543 or members who have such responsibilities. Administrative
4544 support personnel, including, but not limited to, those whose
4545 primary duties and responsibilities are in accounting,
4546 purchasing, legal, and personnel, are not included;
4547 (b) Effective October 1, 1978, the member must be employed
4548 as a firefighter and be certified, or required to be certified,
4549 in compliance with s. 633.408 ~~633.35~~ and be employed solely
4550 within the fire department of a local government employer or an
4551 agency of state government with firefighting responsibilities.
4552 In addition, the member’s duties and responsibilities must
4553 include on-the-scene fighting of fires; as of October 1, 2001,
4554 fire prevention or firefighter training; as of October 1, 2001,
4555 direct supervision of firefighting units, fire prevention, or
4556 firefighter training; or as of July 1, 2001, aerial firefighting
4557 surveillance performed by fixed-wing aircraft pilots employed by
4558 the Florida Forest Service of the Department of Agriculture and
4559 Consumer Services; or the member must be the supervisor or
4560 command officer of a member or members who have such
4561 responsibilities. Administrative support personnel, including,
4562 but not limited to, those whose primary duties and
4563 responsibilities are in accounting, purchasing, legal, and
4564 personnel, are not included. All periods of creditable service
4565 in fire prevention or firefighter training, or as the supervisor

360216

4566 or command officer of a member or members who have such
4567 responsibilities, and for which the employer paid the special
4568 risk contribution rate, are included;
4569 (c) Effective October 1, 1978, the member must be employed
4570 as a correctional officer and be certified, or required to be
4571 certified, in compliance with s. 943.1395. In addition, the
4572 member’s primary duties and responsibilities must be the
4573 custody, and physical restraint when necessary, of prisoners or
4574 inmates within a prison, jail, or other criminal detention
4575 facility, or while on work detail outside the facility, or while
4576 being transported; or as of July 1, 1984, the member must be the
4577 supervisor or command officer of a member or members who have
4578 such responsibilities. Administrative support personnel,
4579 including, but not limited to, those whose primary duties and
4580 responsibilities are in accounting, purchasing, legal, and
4581 personnel, are not included; however, wardens and assistant
4582 wardens, as defined by rule, are included;
4583 (d) Effective October 1, 1999, the member must be employed
4584 by a licensed Advance Life Support (ALS) or Basic Life Support
4585 (BLS) employer as an emergency medical technician or a paramedic
4586 and be certified in compliance with s. 401.27. In addition, the
4587 member’s primary duties and responsibilities must include on-
4588 the-scene emergency medical care or as of October 1, 2001,
4589 direct supervision of emergency medical technicians or
4590 paramedics, or the member must be the supervisor or command
4591 officer of one or more members who have such responsibility.
4592 Administrative support personnel, including, but not limited to,
4593 those whose primary responsibilities are in accounting,
4594 purchasing, legal, and personnel, are not included;

360216

4595 (e) Effective January 1, 2001, the member must be employed
4596 as a community-based correctional probation officer and be
4597 certified, or required to be certified, in compliance with s.
4598 943.1395. In addition, the member's primary duties and
4599 responsibilities must be the supervised custody, surveillance,
4600 control, investigation, and counseling of assigned inmates,
4601 probationers, parolees, or community controllees within the
4602 community; or the member must be the supervisor of a member or
4603 members who have such responsibilities. Administrative support
4604 personnel, including, but not limited to, those whose primary
4605 duties and responsibilities are in accounting, purchasing, legal
4606 services, and personnel management, are not included; however,
4607 probation and parole circuit and deputy circuit administrators
4608 are included;
4609 (f) Effective January 1, 2001, the member must be employed
4610 in one of the following classes and must spend at least 75
4611 percent of his or her time performing duties which involve
4612 contact with patients or inmates in a correctional or forensic
4613 facility or institution:
4614 1. Dietitian (class codes 5203 and 5204);
4615 2. Public health nutrition consultant (class code 5224);
4616 3. Psychological specialist (class codes 5230 and 5231);
4617 4. Psychologist (class code 5234);
4618 5. Senior psychologist (class codes 5237 and 5238);
4619 6. Regional mental health consultant (class code 5240);
4620 7. Psychological Services Director—DCF (class code 5242);
4621 8. Pharmacist (class codes 5245 and 5246);
4622 9. Senior pharmacist (class codes 5248 and 5249);
4623 10. Dentist (class code 5266);

360216

4624 11. Senior dentist (class code 5269);
4625 12. Registered nurse (class codes 5290 and 5291);
4626 13. Senior registered nurse (class codes 5292 and 5293);
4627 14. Registered nurse specialist (class codes 5294 and
4628 5295);
4629 15. Clinical associate (class codes 5298 and 5299);
4630 16. Advanced registered nurse practitioner (class codes
4631 5297 and 5300);
4632 17. Advanced registered nurse practitioner specialist
4633 (class codes 5304 and 5305);
4634 18. Registered nurse supervisor (class codes 5306 and
4635 5307);
4636 19. Senior registered nurse supervisor (class codes 5308
4637 and 5309);
4638 20. Registered nursing consultant (class codes 5312 and
4639 5313);
4640 21. Quality management program supervisor (class code
4641 5314);
4642 22. Executive nursing director (class codes 5320 and 5321);
4643 23. Speech and hearing therapist (class code 5406); or
4644 24. Pharmacy manager (class code 5251);
4645 (g) Effective July 1, 2001, the member must be employed as
4646 a youth custody officer and be certified, or required to be
4647 certified, in compliance with s. 943.1395. In addition, the
4648 member’s primary duties and responsibilities must be the
4649 supervised custody, surveillance, control, investigation,
4650 apprehension, arrest, and counseling of assigned juveniles
4651 within the community;
4652 (h) Effective October 1, 2005, through June 30, 2008, the

360216

4653 member must be employed by a law enforcement agency or medical
4654 examiner's office in a forensic discipline recognized by the
4655 International Association for Identification and must qualify
4656 for active membership in the International Association for
4657 Identification. The member's primary duties and responsibilities
4658 must include the collection, examination, preservation,
4659 documentation, preparation, or analysis of physical evidence or
4660 testimony, or both, or the member must be the direct supervisor,
4661 quality management supervisor, or command officer of one or more
4662 individuals with such responsibility. Administrative support
4663 personnel, including, but not limited to, those whose primary
4664 responsibilities are clerical or in accounting, purchasing,
4665 legal, and personnel, are not included;
4666 (i) Effective July 1, 2008, the member must be employed by
4667 the Department of Law Enforcement in the crime laboratory or by
4668 the Division of State Fire Marshal in the forensic laboratory in
4669 one of the following classes:
4670 1. Forensic technologist (class code 8459);
4671 2. Crime laboratory technician (class code 8461);
4672 3. Crime laboratory analyst (class code 8463);
4673 4. Senior crime laboratory analyst (class code 8464);
4674 5. Crime laboratory analyst supervisor (class code 8466);
4675 6. Forensic chief (class code 9602); or
4676 7. Forensic services quality manager (class code 9603);
4677 (j) Effective July 1, 2008, the member must be employed by
4678 a local government law enforcement agency or medical examiner's
4679 office and must spend at least 65 percent of his or her time
4680 performing duties that involve the collection, examination,
4681 preservation, documentation, preparation, or analysis of human

360216

4682 tissues or fluids or physical evidence having potential
4683 biological, chemical, or radiological hazard or contamination,
4684 or use chemicals, processes, or materials that may have
4685 carcinogenic or health-damaging properties in the analysis of
4686 such evidence, or the member must be the direct supervisor of
4687 one or more individuals having such responsibility. If a special
4688 risk member changes to another position within the same agency,
4689 he or she must submit a complete application as provided in
4690 paragraph (4)(a); or
4691 (k) The member must have already qualified for and be
4692 actively participating in special risk membership under
4693 paragraph (a), paragraph (b), or paragraph (c), must have
4694 suffered a qualifying injury as defined in this paragraph, must
4695 not be receiving disability retirement benefits as provided in
4696 s. 121.091(4), and must satisfy the requirements of this
4697 paragraph.
4698 1. The ability to qualify for the class of membership
4699 defined in paragraph (2)(i) occurs when two licensed medical
4700 physicians, one of whom is a primary treating physician of the
4701 member, certify the existence of the physical injury and medical
4702 condition that constitute a qualifying injury as defined in this
4703 paragraph and that the member has reached maximum medical
4704 improvement after August 1, 2008. The certifications from the
4705 licensed medical physicians must include, at a minimum, that the
4706 injury to the special risk member has resulted in a physical
4707 loss, or loss of use, of at least two of the following: left
4708 arm, right arm, left leg, or right leg; and:
4709 a. That this physical loss or loss of use is total and
4710 permanent, except <u>if</u> ~~in the event that~~ the loss of use is due to

360216

4711 a physical injury to the member’s brain, in which event the loss
4712 of use is permanent with at least 75 percent loss of motor
4713 function with respect to each arm or leg affected.
4714 b. That this physical loss or loss of use renders the
4715 member physically unable to perform the essential job functions
4716 of his or her special risk position.
4717 c. That, notwithstanding this physical loss or loss of use,
4718 the individual can ~~is able to~~ perform the essential job
4719 functions required by the member’s new position, as provided in
4720 subparagraph 3.
4721 d. That use of artificial limbs is ~~either~~ not possible or
4722 does not alter the member’s ability to perform the essential job
4723 functions of the member’s position.
4724 e. That the physical loss or loss of use is a direct result
4725 of a physical injury and not a result of any mental,
4726 psychological, or emotional injury.
4727 2. For the purposes of this paragraph, “qualifying injury”
4728 means an injury sustained in the line of duty, as certified by
4729 the member’s employing agency, by a special risk member that
4730 does not result in total and permanent disability as defined in
4731 s. 121.091(4)(b). An injury is a qualifying injury if the injury
4732 is a physical injury to the member’s physical body resulting in
4733 a physical loss, or loss of use, of at least two of the
4734 following: left arm, right arm, left leg, or right leg.
4735 Notwithstanding any other provision of this section, an injury
4736 that would otherwise qualify as a qualifying injury is not
4737 considered a qualifying injury if and when the member ceases
4738 employment with the employer for whom he or she was providing
4739 special risk services on the date the injury occurred.

360216

4740 3. The new position, as described in sub-subparagraph 1.c.,
4741 that is required for qualification as a special risk member
4742 under this paragraph is not required to be a position with
4743 essential job functions that entitle an individual to special
4744 risk membership. Whether a new position as described in sub-
4745 subparagraph 1.c. exists and is available to the special risk
4746 member is a decision to be made solely by the employer in
4747 accordance with its hiring practices and applicable law.
4748 4. This paragraph does not grant or create additional
4749 rights for any individual to continued employment or to be hired
4750 or rehired by his or her employer that are not already provided
4751 within the Florida Statutes, the State Constitution, the
4752 Americans with Disabilities Act, if applicable, or any other
4753 applicable state or federal law.
4754 (6) CREDIT FOR PAST SERVICE.—A special risk member may
4755 purchase retirement credit in the Special Risk Class based upon
4756 past service, and may upgrade retirement credit for such past
4757 service, to the extent of 2 percent of the member's average
4758 monthly compensation as specified in s. 121.091(1)(a) for such
4759 service as follows:
4760 (a) The member may purchase special risk credit for past
4761 service with a municipality or special district which has
4762 elected to join the Florida Retirement System, or with a
4763 participating agency to which a member's governmental unit was
4764 transferred, merged, or consolidated as provided in s.
4765 121.081(1)(f), if the member was employed with the municipality
4766 or special district when ~~at the time~~ it commenced participating
4767 in the Florida Retirement System or with the governmental unit
4768 at the time of its transfer, merger, or consolidation with the

360216

4769 participating agency. The service must satisfy the criteria set
4770 forth in subsection (3) for Special Risk Class membership as a
4771 law enforcement officer, firefighter, or correctional officer;
4772 however, a certificate or waiver of certificate of compliance
4773 with s. 943.1395 or s. 633.408 ~~633.35~~ is not required for such
4774 service.
4775 Section 125. Paragraph (d) of subsection (1) of section
4776 125.01, Florida Statutes, is amended to read:
4777 125.01 Powers and duties.—
4778 (1) The legislative and governing body of a county shall
4779 have the power to carry on county government. To the extent not
4780 inconsistent with general or special law, this power includes,
4781 but is not restricted to, the power to:
4782 (d) Provide fire protection, including the enforcement of
4783 the Florida Fire Prevention Code, as provided in ss. 633.206
4784 ~~633.022~~ and 633.208 ~~633.025~~, and adopt and enforce local
4785 technical amendments to the Florida Fire Prevention Code as
4786 provided in those sections and pursuant to s. 633.202 ~~633.0215~~.
4787 Section 126. Subsection (2) of section 125.01045, Florida
4788 Statutes, is amended to read:
4789 125.01045 Prohibition of fees for first responder
4790 services.—
4791 (2) As used in this section, the term “first responder”
4792 means a law enforcement officer as defined in s. 943.10, a
4793 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency
4794 medical technician or paramedic as defined in s. 401.23 who is
4795 employed by the state or a local government. A volunteer law
4796 enforcement officer, firefighter, or emergency medical
4797 technician or paramedic engaged by the state or a local

360216

4798 government is also considered a first responder of the state or
4799 local government for purposes of this section.
4800 Section 127. Subsection (1) of section 125.56, Florida
4801 Statutes, is amended to read:
4802 125.56 Enforcement and amendment of the Florida Building
4803 Code and the Florida Fire Prevention Code; inspection fees;
4804 inspectors; etc.—
4805 (1) The board of county commissioners of each of the
4806 several counties of the state may ~~is authorized to~~ enforce the
4807 Florida Building Code and the Florida Fire Prevention Code, as
4808 provided in ss. 553.80, 633.206 ~~633.022~~, and 633.208 ~~633.025~~,
4809 and, at its discretion, to adopt local technical amendments to
4810 the Florida Building Code, pursuant to s. 553.73(4)(b) and (c)
4811 and local technical amendments to the Florida Fire Prevention
4812 Code, pursuant to s. 633.202 ~~633.0215~~, to provide for the safe
4813 construction, erection, alteration, repair, securing, and
4814 demolition of any building within its territory outside the
4815 corporate limits of any municipality. Upon a determination to
4816 consider amending the Florida Building Code or the Florida Fire
4817 Prevention Code by a majority of the members of the board of
4818 county commissioners of such county, the board shall call a
4819 public hearing and comply with the public notice requirements of
4820 s. 125.66(2). The board shall hear all interested parties at the
4821 public hearing and may then amend the building code or the fire
4822 code consistent with the terms and purposes of this act. Upon
4823 adoption, an amendment to the code shall be in full force and
4824 effect throughout the unincorporated area of such county until
4825 otherwise notified by the Florida Building Commission pursuant
4826 to s. 553.73 or the State Fire Marshal pursuant to s. 633.202

360216

4827 ~~633.0215~~. Nothing herein contained shall be construed to prevent
4828 the board of county commissioners from repealing such amendment
4829 to the building code or the fire code at any regular meeting of
4830 such board.
4831 Section 128. Subsection (2) of section 166.0446, Florida
4832 Statutes, is amended to read:
4833 166.0446 Prohibition of fees for first responder services.—
4834 (2) As used in this section, the term "first responder"
4835 means a law enforcement officer as defined in s. 943.10, a
4836 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency
4837 medical technician or paramedic as defined in s. 401.23 who is
4838 employed by the state or a local government. A volunteer law
4839 enforcement officer, firefighter, or emergency medical
4840 technician or paramedic engaged by the state or a local
4841 government is also considered a first responder of the state or
4842 local government for purposes of this section.
4843 Section 129. Paragraph (a) of subsection (8) of section
4844 175.032, Florida Statutes, is amended to read:
4845 175.032 Definitions.—For any municipality, special fire
4846 control district, chapter plan, local law municipality, local
4847 law special fire control district, or local law plan under this
4848 chapter, the following words and phrases have the following
4849 meanings:
4850 (8)(a) "Firefighter" means a ~~any~~ person employed solely by
4851 a constituted fire department of any municipality or special
4852 fire control district who is certified as a firefighter as a
4853 condition of employment in accordance with s. 633.408 ~~633.35~~ and
4854 whose duty it is to extinguish fires, to protect life, or to
4855 protect property. The term includes all certified, supervisory,

360216

4856 and command personnel whose duties include, in whole or in part,
4857 the supervision, training, guidance, and management
4858 responsibilities of full-time firefighters, part-time
4859 firefighters, or auxiliary firefighters but does not include
4860 part-time firefighters or auxiliary firefighters. However, for
4861 purposes of this chapter only, the term also includes public
4862 safety officers who are responsible for performing both police
4863 and fire services, who are certified as police officers or
4864 firefighters, and who are certified by their employers to the
4865 Chief Financial Officer as participating in this chapter before
4866 October 1, 1979. Effective October 1, 1979, public safety
4867 officers who have not been certified as participating in this
4868 chapter are considered police officers for retirement purposes
4869 and are eligible to participate in chapter 185. Any plan may
4870 provide that the fire chief has an option to participate, or
4871 not, in that plan.
4872 Section 130. Subsection (3) of section 175.121, Florida
4873 Statutes, is amended to read:
4874 175.121 Department of Revenue and Division of Retirement to
4875 keep accounts of deposits; disbursements.—For any municipality
4876 or special fire control district having a chapter or local law
4877 plan established pursuant to this chapter:
4878 (3)(a) All moneys not distributed to municipalities and
4879 special fire control districts under this section as a result of
4880 the limitation on disbursement contained in s. 175.122, or as a
4881 result of any municipality or special fire control district not
4882 having qualified in any given year, or portion thereof, shall be
4883 transferred to the Firefighters' Supplemental Compensation Trust
4884 Fund administered by the Department of Revenue, as provided in

360216

4885 s. 633.422 ~~633.382~~.
4886 (b)1. Moneys transferred under paragraph (a) but not needed
4887 to support the supplemental compensation program in a given year
4888 shall be redistributed pro rata to those participating
4889 municipalities and special fire control districts that transfer
4890 any portion of their funds to support the supplemental
4891 compensation program in that year. Such additional moneys shall
4892 be used to cover or offset costs of the retirement plan.
4893 2. To assist the Department of Revenue, the division shall
4894 identify those municipalities and special fire control districts
4895 that are eligible for redistribution as provided in s.
4896 633.422(3)(c)2. ~~633.382(4)(c)2.~~, by listing the municipalities
4897 and special fire control districts from which funds were
4898 transferred under paragraph (a) and specifying the amount
4899 transferred by each.
4900 Section 131. Paragraph (e) of subsection (1) of section
4901 218.23, Florida Statutes, is amended to read:
4902 218.23 Revenue sharing with units of local government.—
4903 (1) To be eligible to participate in revenue sharing beyond
4904 the minimum entitlement in any fiscal year, a unit of local
4905 government is required to have:
4906 (e) Certified that persons in its employ as firefighters,
4907 as defined in s. 633.102 ~~633.30(1)~~, meet the qualification for
4908 employment as established by the Division of State Fire Marshal
4909 pursuant to ~~the provisions of~~ ss. 633.412 ~~633.34~~ and 633.408
4910 ~~633.35~~ and that ~~the provisions of~~ s. 633.422 has ~~633.382 have~~
4911 been met.
4912
4913 Additionally, to receive its share of revenue sharing funds, a

360216

4914 unit of local government shall certify to the Department of
4915 Revenue that the requirements of s. 200.065, if applicable, were
4916 met. The certification shall be made annually within 30 days of
4917 adoption of an ordinance or resolution establishing a final
4918 property tax levy or, if no property tax is levied, not later
4919 than November 1. The portion of revenue sharing funds which,
4920 pursuant to this part, would otherwise be distributed to a unit
4921 of local government which has not certified compliance or has
4922 otherwise failed to meet the requirements of s. 200.065 shall be
4923 deposited in the General Revenue Fund for the 12 months
4924 following a determination of noncompliance by the department.
4925 Section 132. Paragraph (a) of subsection (3) of section
4926 252.515, Florida Statutes, is amended to read:
4927 252.515 Postdisaster Relief Assistance Act; immunity from
4928 civil liability.—
4929 (3) As used in this section, the term:
4930 (a) “Emergency first responder” means:
4931 1. A physician licensed under chapter 458.
4932 2. An osteopathic physician licensed under chapter 459.
4933 3. A chiropractic physician licensed under chapter 460.
4934 4. A podiatric physician licensed under chapter 461.
4935 5. A dentist licensed under chapter 466.
4936 6. An advanced registered nurse practitioner certified
4937 under s. 464.012.
4938 7. A physician assistant licensed under s. 458.347 or s.
4939 459.022.
4940 8. A worker employed by a public or private hospital in the
4941 state.
4942 9. A paramedic as defined in s. 401.23(17).

360216

4943 10. An emergency medical technician as defined in s.
4944 401.23(11).
4945 11. A firefighter as defined in s. 633.102 ~~633.30~~.
4946 12. A law enforcement officer as defined in s. 943.10.
4947 13. A member of the Florida National Guard.
4948 14. Any other personnel designated as emergency personnel
4949 by the Governor pursuant to a declared emergency.
4950 Section 133. Section 255.45, Florida Statutes, is amended
4951 to read:
4952 255.45 Correction of firesafety violations in certain
4953 state-owned property.—The Department of Management Services is
4954 responsible for ensuring that firesafety violations that are
4955 noted by the State Fire Marshal pursuant to s. 633.218 ~~633.085~~
4956 are corrected as soon as practicable for all state-owned
4957 property which is leased from the Department of Management
4958 Services.
4959 Section 134. Subsection (4) of section 258.0145, Florida
4960 Statutes, is amended to read:
4961 258.0145 Military state park fee discounts.—The Division of
4962 Recreation and Parks shall provide the following discounts on
4963 park fees to persons who present written documentation
4964 satisfactory to the division which evidences their eligibility
4965 for the discounts:
4966 (4) The surviving spouse and parents of a law enforcement
4967 officer, as defined in s. 943.10(1), or a firefighter, as
4968 defined in s. 633.102 ~~633.30(1)~~, who has died in the line of
4969 duty shall receive lifetime family annual entrance passes at no
4970 charge.
4971 Section 135. Subsection (1) of section 281.02, Florida

360216

4972 Statutes, is amended to read:
4973 281.02 Powers and duties of the Department of Management
4974 Services with respect to firesafety and security.—The Department
4975 of Management Services has the following powers and duties with
4976 respect to firesafety and security:
4977 (1) To assist the State Fire Marshal in maintaining the
4978 firesafety of public buildings pursuant to s. 633.218 ~~633.085~~.
4979 Section 136. Subsection (1) of section 384.287, Florida
4980 Statutes, is amended to read:
4981 384.287 Screening for sexually transmissible disease.—
4982 (1) An officer as defined in s. 943.10(14); support
4983 personnel as defined in s. 943.10(11) who are employed by the
4984 Department of Law Enforcement, including, but not limited to,
4985 any crime scene analyst, forensic technologist, or crime lab
4986 analyst; firefighter as defined in s. 633.102 ~~633.30~~; or
4987 ambulance driver, paramedic, or emergency medical technician as
4988 defined in s. 401.23, acting within the scope of employment, who
4989 comes into contact with a person in such a way that significant
4990 exposure, as defined in s. 381.004, has occurred may request
4991 that the person be screened for a sexually transmissible disease
4992 that can be transmitted through a significant exposure.
4993 Section 137. Paragraph (a) of subsection (1) of section
4994 395.0163, Florida Statutes, is amended to read:
4995 395.0163 Construction inspections; plan submission and
4996 approval; fees.—
4997 (1)(a) The design, construction, erection, alteration,
4998 modification, repair, and demolition of all public and private
4999 health care facilities are governed by the Florida Building Code
5000 and the Florida Fire Prevention Code under ss. 553.73 and

360216

5001 633.206 ~~633.022~~. In addition to the requirements of ss. 553.79
5002 and 553.80, the agency shall review facility plans and survey
5003 the construction of any facility licensed under this chapter.
5004 The agency shall make, or cause to be made, such construction
5005 inspections and investigations as it deems necessary. The agency
5006 may prescribe by rule that any licensee or applicant desiring to
5007 make specified types of alterations or additions to its
5008 facilities or to construct new facilities shall, before
5009 commencing such alteration, addition, or new construction,
5010 submit plans and specifications therefor to the agency for
5011 preliminary inspection and approval or recommendation with
5012 respect to compliance with applicable provisions of the Florida
5013 Building Code or agency rules and standards. The agency shall
5014 approve or disapprove the plans and specifications within 60
5015 days after receipt of the fee for review of plans as required in
5016 subsection (2). The agency may be granted one 15-day extension
5017 for the review period if the director of the agency approves the
5018 extension. If the agency fails to act within the specified time,
5019 it shall be deemed to have approved the plans and
5020 specifications. When the agency disapproves plans and
5021 specifications, it shall set forth in writing the reasons for
5022 its disapproval. Conferences and consultations may be provided
5023 as necessary.
5024 Section 138. Section 400.232, Florida Statutes, is amended
5025 to read:
5026 400.232 Review and approval of plans; fees and costs.—The
5027 design, construction, erection, alteration, modification,
5028 repair, and demolition of all public and private health care
5029 facilities are governed by the Florida Building Code and the

360216

5030 Florida Fire Prevention Code under ss. 553.73 and 633.206
5031 ~~633.022~~. In addition to the requirements of ss. 553.79 and
5032 553.80, the agency shall review the facility plans and survey
5033 the construction of facilities licensed under this chapter.
5034 (1) The agency shall approve or disapprove the plans and
5035 specifications within 60 days after receipt of the final plans
5036 and specifications. The agency may be granted one 15-day
5037 extension for the review period, if the director of the agency
5038 so approves. If the agency fails to act within the specified
5039 time, it shall be deemed to have approved the plans and
5040 specifications. When the agency disapproves plans and
5041 specifications, it shall set forth in writing the reasons for
5042 disapproval. Conferences and consultations may be provided as
5043 necessary.
5044 (2) The agency may ~~is authorized to~~ charge an initial fee
5045 of $2,000 for review of plans and construction on all projects,
5046 no part of which is refundable. The agency may also collect a
5047 fee, not to exceed 1 percent of the estimated construction cost
5048 or the actual cost of review, whichever is less, for the portion
5049 of the review which encompasses initial review through the
5050 initial revised construction document review. The agency is
5051 further authorized to collect its actual costs on all subsequent
5052 portions of the review and construction inspections. Initial fee
5053 payment shall accompany the initial submission of plans and
5054 specifications. Any subsequent payment that is due is payable
5055 upon receipt of the invoice from the agency. Notwithstanding any
5056 other ~~provisions of~~ law to the contrary, all money received by
5057 the agency pursuant to ~~the provisions of~~ this section shall be
5058 ~~deemed to be~~ trust funds, to be held and applied solely for the

360216

5059 operations required under this section.
5060 Section 139. Section 400.915, Florida Statutes, is amended
5061 to read:
5062 400.915 Construction and renovation; requirements.—The
5063 requirements for the construction or renovation of a PPEC center
5064 shall comply with:
5065 (1) The provisions of chapter 553, which pertain to
5066 building construction standards, including plumbing, electrical
5067 code, glass, manufactured buildings, accessibility for the
5068 physically disabled;
5069 (2) Section 633.206 ~~The provisions of s. 633.022~~ and
5070 applicable rules pertaining to physical standards for
5071 nonresidential child care facilities; and
5072 (3) The standards or rules adopted pursuant to this part
5073 and part II of chapter 408.
5074 Section 140. Paragraph (a) of subsection (1) of section
5075 429.41, Florida Statutes, is amended to read:
5076 429.41 Rules establishing standards.—
5077 (1) It is the intent of the Legislature that rules
5078 published and enforced pursuant to this section shall include
5079 criteria by which a reasonable and consistent quality of
5080 resident care and quality of life may be ensured and the results
5081 of such resident care may be demonstrated. Such rules shall also
5082 ensure a safe and sanitary environment that is residential and
5083 noninstitutional in design or nature. It is further intended
5084 that reasonable efforts be made to accommodate the needs and
5085 preferences of residents to enhance the quality of life in a
5086 facility. The agency, in consultation with the department, may
5087 adopt rules to administer the requirements of part II of chapter

360216

5088 408. In order to provide safe and sanitary facilities and the
5089 highest quality of resident care accommodating the needs and
5090 preferences of residents, the department, in consultation with
5091 the agency, the Department of Children and Family Services, and
5092 the Department of Health, shall adopt rules, policies, and
5093 procedures to administer this part, which must include
5094 reasonable and fair minimum standards in relation to:
5095 (a) The requirements for and maintenance of facilities, not
5096 in conflict with ~~the provisions of~~ chapter 553, relating to
5097 plumbing, heating, cooling, lighting, ventilation, living space,
5098 and other housing conditions, which will ensure the health,
5099 safety, and comfort of residents and protection from fire
5100 hazard, including adequate provisions for fire alarm and other
5101 fire protection suitable to the size of the structure. Uniform
5102 firesafety standards shall be established and enforced by the
5103 State Fire Marshal in cooperation with the agency, the
5104 department, and the Department of Health.
5105 1. Evacuation capability determination.—
5106 a. The ~~provisions of the~~ National Fire Protection
5107 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
5108 for determining the ability of the residents, with or without
5109 staff assistance, to relocate from or within a licensed facility
5110 to a point of safety as provided in the fire codes adopted
5111 herein. An evacuation capability evaluation for initial
5112 licensure shall be conducted within 6 months after the date of
5113 licensure. For existing licensed facilities that are not
5114 equipped with an automatic fire sprinkler system, the
5115 administrator shall evaluate the evacuation capability of
5116 residents at least annually. The evacuation capability

360216

5117 evaluation for each facility not equipped with an automatic fire
5118 sprinkler system shall be validated, without liability, by the
5119 State Fire Marshal, by the local fire marshal, or by the local
5120 authority having jurisdiction over firesafety, before the
5121 license renewal date. If the State Fire Marshal, local fire
5122 marshal, or local authority having jurisdiction over firesafety
5123 has reason to believe that the evacuation capability of a
5124 facility as reported by the administrator may have changed, it
5125 may, with assistance from the facility administrator, reevaluate
5126 the evacuation capability through timed exiting drills.
5127 Translation of timed fire exiting drills to evacuation
5128 capability may be determined:
5129 (I) Three minutes or less: prompt.
5130 (II) More than 3 minutes, but not more than 13 minutes:
5131 slow.
5132 (III) More than 13 minutes: impractical.
5133 b. The Office of the State Fire Marshal shall provide or
5134 cause the provision of training and education on the proper
5135 application of Chapter 5, NFPA 101A, 1995 edition, to its
5136 employees, to staff of the Agency for Health Care Administration
5137 who are responsible for regulating facilities under this part,
5138 and to local governmental inspectors. The Office of the State
5139 Fire Marshal shall provide or cause the provision of this
5140 training within its existing budget, but may charge a fee for
5141 this training to offset its costs. The initial training must be
5142 delivered within 6 months after July 1, 1995, and as needed
5143 thereafter.
5144 c. The Office of the State Fire Marshal, in cooperation
5145 with provider associations, shall provide or cause the provision

360216

5146 of a training program designed to inform facility operators on
5147 how to properly review bid documents relating to the
5148 installation of automatic fire sprinklers. The Office of the
5149 State Fire Marshal shall provide or cause the provision of this
5150 training within its existing budget, but may charge a fee for
5151 this training to offset its costs. The initial training must be
5152 delivered within 6 months after July 1, 1995, and as needed
5153 thereafter.
5154 d. The administrator of a licensed facility shall sign an
5155 affidavit verifying the number of residents occupying the
5156 facility at the time of the evacuation capability evaluation.
5157 2. Firesafety requirements.—
5158 a. Except for the special applications provided herein,
5159 effective January 1, 1996, the ~~provisions of the~~ National Fire
5160 Protection Association, Life Safety Code, NFPA 101, 1994
5161 edition, Chapter 22 for new facilities and Chapter 23 for
5162 existing facilities shall be the uniform fire code applied by
5163 the State Fire Marshal for assisted living facilities, pursuant
5164 to s. 633.206 ~~633.022~~.
5165 b. Any new facility, regardless of size, that applies for a
5166 license on or after January 1, 1996, must be equipped with an
5167 automatic fire sprinkler system. The exceptions as provided in
5168 s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply
5169 to any new facility housing eight or fewer residents. On July 1,
5170 1995, local governmental entities responsible for the issuance
5171 of permits for construction shall inform, without liability, any
5172 facility whose permit for construction is obtained before ~~prior~~
5173 ~~to~~ January 1, 1996, of this automatic fire sprinkler
5174 requirement. As used in this part, the term “a new facility”

360216

5175 does not mean an existing facility that has undergone change of
5176 ownership.
5177 c. Notwithstanding any provision of s. 633.206 ~~633.022~~ or
5178 of the National Fire Protection Association, NFPA 101A, Chapter
5179 5, 1995 edition, to the contrary, any existing facility housing
5180 eight or fewer residents is not required to install an automatic
5181 fire sprinkler system, nor to comply with any other requirement
5182 in Chapter 23, NFPA 101, 1994 edition, that exceeds the
5183 firesafety requirements of NFPA 101, 1988 edition, that applies
5184 to this size facility, unless the facility has been classified
5185 as impractical to evacuate. Any existing facility housing eight
5186 or fewer residents that is classified as impractical to evacuate
5187 must install an automatic fire sprinkler system within the
5188 timeframes granted in this section.
5189 d. Any existing facility that is required to install an
5190 automatic fire sprinkler system under this paragraph need not
5191 meet other firesafety requirements of Chapter 23, NFPA 101, 1994
5192 edition, which exceed the provisions of NFPA 101, 1988 edition.
5193 The mandate contained in this paragraph which requires certain
5194 facilities to install an automatic fire sprinkler system
5195 supersedes any other requirement.
5196 e. This paragraph does not supersede the exceptions granted
5197 in NFPA 101, 1988 edition or 1994 edition.
5198 f. This paragraph does not exempt facilities from other
5199 firesafety provisions adopted under s. 633.206 ~~633.022~~ and local
5200 building code requirements in effect before July 1, 1995.
5201 g. A local government may charge fees only in an amount not
5202 to exceed the actual expenses incurred by local government
5203 relating to the installation and maintenance of an automatic

360216

5204 fire sprinkler system in an existing and properly licensed
5205 assisted living facility structure as of January 1, 1996.
5206 h. If a licensed facility undergoes major reconstruction or
5207 addition to an existing building on or after January 1, 1996,
5208 the entire building must be equipped with an automatic fire
5209 sprinkler system. Major reconstruction of a building means
5210 repair or restoration that costs in excess of 50 percent of the
5211 value of the building as reported on the tax rolls, excluding
5212 land, before reconstruction. Multiple reconstruction projects
5213 within a 5-year period the total costs of which exceed 50
5214 percent of the initial value of the building when ~~at the time~~
5215 the first reconstruction project was permitted are to be
5216 considered as major reconstruction. Application for a permit for
5217 an automatic fire sprinkler system is required upon application
5218 for a permit for a reconstruction project that creates costs
5219 that go over the 50-percent threshold.
5220 i. Any facility licensed before January 1, 1996, that is
5221 required to install an automatic fire sprinkler system shall
5222 ensure that the installation is completed within the following
5223 timeframes based upon evacuation capability of the facility as
5224 determined under subparagraph 1.:
5225 (I) Impractical evacuation capability, 24 months.
5226 (II) Slow evacuation capability, 48 months.
5227 (III) Prompt evacuation capability, 60 months.
5228
5229 The beginning date from which the deadline for the automatic
5230 fire sprinkler installation requirement must be calculated is
5231 upon receipt of written notice from the local fire official that
5232 an automatic fire sprinkler system must be installed. The local

360216

5233 fire official shall send a copy of the document indicating the
5234 requirement of a fire sprinkler system to the Agency for Health
5235 Care Administration.
5236 j. It is recognized that the installation of an automatic
5237 fire sprinkler system may create financial hardship for some
5238 facilities. The appropriate local fire official shall, without
5239 liability, grant two 1-year extensions to the timeframes for
5240 installation established herein, if an automatic fire sprinkler
5241 installation cost estimate and proof of denial from two
5242 financial institutions for a construction loan to install the
5243 automatic fire sprinkler system are submitted. However, for any
5244 facility with a class I or class II, or a history of uncorrected
5245 class III, firesafety deficiencies, an extension must not be
5246 granted. The local fire official shall send a copy of the
5247 document granting the time extension to the Agency for Health
5248 Care Administration.
5249 k. A facility owner whose facility is required to be
5250 equipped with an automatic fire sprinkler system under Chapter
5251 23, NFPA 101, 1994 edition, as adopted herein, must disclose to
5252 any potential buyer of the facility that an installation of an
5253 automatic fire sprinkler requirement exists. The sale of the
5254 facility does not alter the timeframe for the installation of
5255 the automatic fire sprinkler system.
5256 l. Existing facilities required to install an automatic
5257 fire sprinkler system as a result of construction-type
5258 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted
5259 herein, or evacuation capability requirements shall be notified
5260 by the local fire official in writing of the automatic fire
5261 sprinkler requirement, as well as the appropriate date for final

360216

5262 compliance as provided in this subparagraph. The local fire
5263 official shall send a copy of the document to the Agency for
5264 Health Care Administration.
5265 m. Except in cases of life-threatening fire hazards, if an
5266 existing facility experiences a change in the evacuation
5267 capability, or if the local authority having jurisdiction
5268 identifies a construction-type restriction, such that an
5269 automatic fire sprinkler system is required, it shall be given
5270 ~~afforded~~ time for installation as provided in this subparagraph.
5271
5272 Facilities that are fully sprinkled and in compliance with other
5273 firesafety standards are not required to conduct more than one
5274 of the required fire drills between the hours of 11 p.m. and 7
5275 a.m., per year. In lieu of the remaining drills, staff
5276 responsible for residents during such hours may be required to
5277 participate in a mock drill that includes a review of evacuation
5278 procedures. Such standards must be included or referenced in the
5279 rules adopted by the State Fire Marshal. Pursuant to s.
5280 633.206(1)(b) ~~633.022(1)(b)~~, the State Fire Marshal is the final
5281 administrative authority for firesafety standards established
5282 and enforced pursuant to this section. All licensed facilities
5283 must have an annual fire inspection conducted by the local fire
5284 marshal or authority having jurisdiction.
5285 3. Resident elopement requirements.—Facilities are required
5286 to conduct a minimum of two resident elopement prevention and
5287 response drills per year. All administrators and direct care
5288 staff must participate in the drills which shall include a
5289 review of procedures to address resident elopement. Facilities
5290 must document the implementation of the drills and ensure that

360216

5291 the drills are conducted in a manner consistent with the
5292 facility's resident elopement policies and procedures.
5293 Section 141. Subsection (1) of section 429.44, Florida
5294 Statutes, is amended to read:
5295 429.44 Construction and renovation; requirements.—
5296 (1) The requirements for the construction and renovation of
5297 a facility shall comply with ~~the provisions of~~ chapter 553 which
5298 pertains ~~pertain~~ to building construction standards, including
5299 plumbing, electrical code, glass, manufactured buildings,
5300 accessibility for persons with disabilities, and the state
5301 minimum building code and with ~~the provisions of~~ s. 633.206
5302 ~~633.022~~, which pertains ~~pertain~~ to uniform firesafety standards.
5303 Section 142. Subsection (2) of section 429.73, Florida
5304 Statutes, is amended to read:
5305 429.73 Rules and standards relating to adult family-care
5306 homes.—
5307 (2) The department shall by rule provide minimum standards
5308 and procedures for emergencies. Pursuant to s. 633.206 ~~633.022~~,
5309 the State Fire Marshal, in consultation with the department and
5310 the agency, shall adopt uniform firesafety standards for adult
5311 family-care homes.
5312 Section 143. Subsection (4) of section 447.203, Florida
5313 Statutes, is amended to read:
5314 447.203 Definitions.—As used in this part:
5315 (4) "Managerial employees" are those employees who:
5316 (a) Perform jobs that are not of a routine, clerical, or
5317 ministerial nature and require the exercise of independent
5318 judgment in the performance of such jobs and to whom one or more
5319 of the following applies:

360216

5320 1. They formulate or assist in formulating policies which
5321 are applicable to bargaining unit employees.
5322 2. They may reasonably be required on behalf of the
5323 employer to assist in the preparation for the conduct of
5324 collective bargaining negotiations.
5325 3. They have a role in the administration of agreements
5326 resulting from collective bargaining negotiations.
5327 4. They have a significant role in personnel
5328 administration.
5329 5. They have a significant role in employee relations.
5330 6. They are included in the definition of administrative
5331 personnel contained in s. 1012.01(3).
5332 7. They have a significant role in the preparation or
5333 administration of budgets for any public agency or institution
5334 or subdivision thereof.
5335 (b) Serve as police chiefs, fire chiefs, or directors of
5336 public safety of any police, fire, or public safety department.
5337 Other police officers, as defined in s. 943.10(1), and
5338 firefighters, as defined in s. 633.102 ~~633.30(1)~~, may be
5339 determined by the commission to be managerial employees of such
5340 departments. In making such determinations, the commission shall
5341 consider, in addition to the criteria established in paragraph
5342 (a), the paramilitary organizational structure of the department
5343 involved.
5344
5345 However, in determining whether an individual is a managerial
5346 employee pursuant to ~~either~~ paragraph (a) or paragraph (b),
5347 above, the commission may consider historic relationships of the
5348 employee to the public employer and to coemployees.

360216

5349 Section 144. Subsection (1) of section 468.602, Florida
5350 Statutes, is amended to read:
5351 468.602 Exemptions.—This part does not apply to:
5352 (1) Persons who possess a valid certificate, issued
5353 pursuant to s. 633.216 ~~633.081~~, for conducting firesafety
5354 inspections, when conducting firesafety inspections.
5355 Section 145. Paragraph (c) of subsection (2) of section
5356 468.609, Florida Statutes, is amended to read:
5357 468.609 Administration of this part; standards for
5358 certification; additional categories of certification.—
5359 (2) A person may take the examination for certification as
5360 a building code inspector or plans examiner pursuant to this
5361 part if the person:
5362 (c) Meets eligibility requirements according to one of the
5363 following criteria:
5364 1. Demonstrates 5 years' combined experience in the field
5365 of construction or a related field, building code inspection, or
5366 plans review corresponding to the certification category sought;
5367 2. Demonstrates a combination of postsecondary education in
5368 the field of construction or a related field and experience
5369 which totals 4 years, with at least 1 year of such total being
5370 experience in construction, building code inspection, or plans
5371 review;
5372 3. Demonstrates a combination of technical education in the
5373 field of construction or a related field and experience which
5374 totals 4 years, with at least 1 year of such total being
5375 experience in construction, building code inspection, or plans
5376 review;
5377 4. Currently holds a standard certificate as issued by the

360216

5378 board, or a fire safety inspector license issued pursuant to
5379 chapter 633, has a minimum of 5 years' verifiable full-time
5380 experience in inspection or plan review, and satisfactorily
5381 completes a building code inspector or plans examiner training
5382 program of not less than 200 hours in the certification category
5383 sought. The board shall establish by rule criteria for the
5384 development and implementation of the training programs; or
5385 5. Demonstrates a combination of the completion of an
5386 approved training program in the field of building code
5387 inspection or plan review and a minimum of 2 years' experience
5388 in the field of building code inspection, plan review, fire code
5389 inspections and fire plans review of new buildings as a
5390 firesafety inspector certified under s. 633.216 ~~633.081(2)~~, or
5391 construction. The approved training portion of this requirement
5392 shall include proof of satisfactory completion of a training
5393 program of not less than 300 hours which is approved by the
5394 board in the chosen category of building code inspection or plan
5395 review in the certification category sought with not less than
5396 20 hours of instruction in state laws, rules, and ethics
5397 relating to professional standards of practice, duties, and
5398 responsibilities of a certificateholder. The board shall
5399 coordinate with the Building Officials Association of Florida,
5400 Inc., to establish by rule the development and implementation of
5401 the training program.
5402 Section 146. Subsection (22) of section 489.103, Florida
5403 Statutes, is amended to read:
5404 489.103 Exemptions.—This part does not apply to:
5405 (22) A person licensed pursuant to s. 633.304(1)(d)
5406 ~~633.061(1)(d)~~ or (3)(b) performing work authorized by such

360216

5407 license.
5408 Section 147. Paragraph (n) of subsection (3) of section
5409 489.105, Florida Statutes, is amended to read:
5410 489.105 Definitions.—As used in this part:
5411 (3) “Contractor” means the person who is qualified for, and
5412 is only responsible for, the project contracted for and means,
5413 except as exempted in this part, the person who, for
5414 compensation, undertakes to, submits a bid to, or does himself
5415 or herself or by others construct, repair, alter, remodel, add
5416 to, demolish, subtract from, or improve any building or
5417 structure, including related improvements to real estate, for
5418 others or for resale to others; and whose job scope is
5419 substantially similar to the job scope described in one of the
5420 paragraphs of this subsection. For the purposes of regulation
5421 under this part, the term “demolish” applies only to demolition
5422 of steel tanks more than 50 feet in height; towers more than 50
5423 feet in height; other structures more than 50 feet in height;
5424 and all buildings or residences. Contractors are subdivided into
5425 two divisions, Division I, consisting of those contractors
5426 defined in paragraphs (a)-(c), and Division II, consisting of
5427 those contractors defined in paragraphs (d)-(q):
5428 (n) “Underground utility and excavation contractor” means a
5429 contractor whose services are limited to the construction,
5430 installation, and repair, on public or private property, whether
5431 accomplished through open excavations or through other means,
5432 including, but not limited to, directional drilling, auger
5433 boring, jacking and boring, trenchless technologies, wet and dry
5434 taps, grouting, and slip lining, of main sanitary sewer
5435 collection systems, main water distribution systems, storm sewer

360216

5436 collection systems, and the continuation of utility lines from
5437 the main systems to a point of termination up to and including
5438 the meter location for the individual occupancy, sewer
5439 collection systems at property line on residential or single-
5440 occupancy commercial properties, or on multioccupancy properties
5441 at manhole or wye lateral extended to an invert elevation as
5442 engineered to accommodate future building sewers, water
5443 distribution systems, or storm sewer collection systems at storm
5444 sewer structures. However, an underground utility and excavation
5445 contractor may install empty underground conduits in rights-of-
5446 way, easements, platted rights-of-way in new site development,
5447 and sleeves for parking lot crossings no smaller than 2 inches
5448 in diameter if each conduit system installed is designed by a
5449 licensed professional engineer or an authorized employee of a
5450 municipality, county, or public utility and the installation of
5451 such conduit does not include installation of any conductor
5452 wiring or connection to an energized electrical system. An
5453 underground utility and excavation contractor may not install
5454 piping that is an integral part of a fire protection system as
5455 defined in s. 633.102 ~~633.021~~ beginning at the point where the
5456 piping is used exclusively for such system.
5457 Section 148. Subsection (9) of section 496.404, Florida
5458 Statutes, is amended to read:
5459 496.404 Definitions.—As used in ss. 496.401-496.424:
5460 (9) “Emergency service employee” means any employee who is
5461 a firefighter, as defined in s. 633.102 ~~633.30~~, or ambulance
5462 driver, emergency medical technician, or paramedic, as defined
5463 in s. 401.23.
5464 Section 149. Paragraph (a) of subsection (7) of section

360216

5465 509.032, Florida Statutes, is amended to read:
5466 509.032 Duties.—
5467 (7) PREEMPTION AUTHORITY.—
5468 (a) The regulation of public lodging establishments and
5469 public food service establishments, including, but not limited
5470 to, sanitation standards, inspections, training and testing of
5471 personnel, and matters related to the nutritional content and
5472 marketing of foods offered in such establishments, is preempted
5473 to the state. This paragraph does not preempt the authority of a
5474 local government or local enforcement district to conduct
5475 inspections of public lodging and public food service
5476 establishments for compliance with the Florida Building Code and
5477 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
5478 633.206 ~~633.022~~.
5479 Section 150. Section 513.05, Florida Statutes, is amended
5480 to read:
5481 513.05 Rules.—The department may adopt rules pertaining to
5482 the location, construction, modification, equipment, and
5483 operation of mobile home parks, lodging parks, recreational
5484 vehicle parks, and recreational camps, except as provided in s.
5485 633.206 ~~633.022~~, as necessary to administer this chapter. Such
5486 rules may include definitions of terms; requirements for plan
5487 reviews of proposed and existing parks and camps; plan reviews
5488 of parks that consolidate space or change space size; water
5489 supply; sewage collection and disposal; plumbing and backflow
5490 prevention; garbage and refuse storage, collection, and
5491 disposal; insect and rodent control; space requirements; heating
5492 facilities; food service; lighting; sanitary facilities;
5493 bedding; an occupancy equivalency to spaces for permits for

360216

5494 recreational camps; sanitary facilities in recreational vehicle
5495 parks; and the owners' responsibilities at recreational vehicle
5496 parks and recreational camps.
5497 Section 151. Paragraph (d) of subsection (1) and paragraph
5498 (f) of subsection (11) of section 553.73, Florida Statutes, are
5499 amended to read:
5500 553.73 Florida Building Code.—
5501 (1)
5502 (d) Conflicting requirements between the Florida Building
5503 Code and the Florida Fire Prevention Code and Life Safety Code
5504 of the state established pursuant to ss. 633.206 ~~633.022~~ and
5505 633.208 ~~633.025~~ shall be resolved by agreement between the
5506 commission and the State Fire Marshal in favor of the
5507 requirement that offers the greatest degree of lifesafety or
5508 alternatives that would provide an equivalent degree of
5509 lifesafety and an equivalent method of construction. If the
5510 commission and State Fire Marshal are unable to agree on a
5511 resolution, the question shall be referred to a mediator,
5512 mutually agreeable to both parties, to resolve the conflict in
5513 favor of the provision that offers the greatest lifesafety, or
5514 alternatives that would provide an equivalent degree of
5515 lifesafety and an equivalent method of construction.
5516 (11)
5517 (f) All decisions of the local building official and local
5518 fire official and all decisions of the administrative board
5519 shall be in writing and shall be binding upon a person ~~all~~
5520 ~~persons~~ but do ~~shall~~ not limit the authority of the State Fire
5521 Marshal or the Florida Building Commission pursuant to paragraph
5522 (1)(d) and ss. 633.104 ~~633.01~~ and 633.228 ~~633.161~~. Decisions of

360216

5523 general application shall be indexed by building and fire code
5524 sections and shall be available for inspection during normal
5525 business hours.
5526 Section 152. Paragraph (e) of subsection (1) of section
5527 553.77, Florida Statutes, is amended to read:
5528 553.77 Specific powers of the commission.—
5529 (1) The commission shall:
5530 (e) Participate with the Florida Fire Code Advisory Council
5531 created under s. 633.204 ~~633.72~~, to provide assistance and
5532 recommendations relating to firesafety code interpretations. The
5533 administrative staff of the commission shall attend meetings of
5534 the Florida Fire Code Advisory Council and coordinate efforts to
5535 provide consistency between the Florida Building Code and the
5536 Florida Fire Prevention Code and the Life Safety Code.
5537 Section 153. Subsections (2) and (12) of section 553.79,
5538 Florida Statutes, are amended to read:
5539 553.79 Permits; applications; issuance; inspections.—
5540 (2) Except as provided in subsection (6), an enforcing
5541 agency may not issue any permit for construction, erection,
5542 alteration, modification, repair, or demolition of any building
5543 or structure until the local building code administrator or
5544 inspector has reviewed the plans and specifications required by
5545 the Florida Building Code, or local amendment thereto, for such
5546 proposal and found the plans to be in compliance with the
5547 Florida Building Code. If the local building code administrator
5548 or inspector finds that the plans are not in compliance with the
5549 Florida Building Code, the local building code administrator or
5550 inspector shall identify the specific plan features that do not
5551 comply with the applicable codes, identify the specific code

360216

5552 chapters and sections upon which the finding is based, and
5553 provide this information to the local enforcing agency. The
5554 local enforcing agency shall provide this information to the
5555 permit applicant. In addition, an enforcing agency may not issue
5556 any permit for construction, erection, alteration, modification,
5557 repair, or demolition of any building until the appropriate
5558 firesafety inspector certified pursuant to s. 633.216 ~~633.081~~
5559 has reviewed the plans and specifications required by the
5560 Florida Building Code, or local amendment thereto, for such
5561 proposal and found that the plans comply with the Florida Fire
5562 Prevention Code and the Life Safety Code. Any building or
5563 structure which is not subject to a firesafety code shall not be
5564 required to have its plans reviewed by the firesafety inspector.
5565 Any building or structure that is exempt from the local building
5566 permit process may not be required to have its plans reviewed by
5567 the local building code administrator. Industrial construction
5568 on sites where design, construction, and firesafety are
5569 supervised by appropriate design and inspection professionals
5570 and which contain adequate in-house fire departments and rescue
5571 squads is exempt, subject to local government option, from
5572 review of plans and inspections, providing owners certify that
5573 applicable codes and standards have been met and supply
5574 appropriate approved drawings to local building and firesafety
5575 inspectors. The enforcing agency shall issue a permit to
5576 construct, erect, alter, modify, repair, or demolish any
5577 building or structure when the plans and specifications for such
5578 proposal comply with ~~the provisions of~~ the Florida Building Code
5579 and the Florida Fire Prevention Code and the Life Safety Code as
5580 determined by the local authority in accordance with this

360216

5581 chapter and chapter 633.
5582 (12) One-family and two-family detached residential
5583 dwelling units are not subject to plan review by the local fire
5584 official as described in this section or inspection by the local
5585 fire official as described in s. 633.216 ~~633.081~~, unless
5586 expressly made subject to the ~~said~~ plan review or inspection by
5587 local ordinance.
5588 Section 154. Paragraph (d) of subsection (1) of section
5589 590.02, Florida Statutes, is amended to read:
5590 590.02 Florida Forest Service; powers, authority, and
5591 duties; liability; building structures; Florida Center for
5592 Wildfire and Forest Resources Management Training.—
5593 (1) The Florida Forest Service has the following powers,
5594 authority, and duties:
5595 (d) To appoint center managers, forest area supervisors,
5596 forestry program administrators, a forest protection bureau
5597 chief, a forest protection assistant bureau chief, a field
5598 operations bureau chief, deputy chiefs of field operations,
5599 district managers, forest operations administrators, senior
5600 forest rangers, investigators, forest rangers, firefighter
5601 rotorcraft pilots, and other employees who may, at the Florida
5602 Forest Service's discretion, be certified as forestry
5603 firefighters pursuant to s. 633.408(8) ~~633.35(4)~~. Other
5604 ~~provisions of~~ law notwithstanding, center managers, district
5605 managers, forest protection assistant bureau chief, and deputy
5606 chiefs of field operations shall have Selected Exempt Service
5607 status in the state personnel designation;
5608 Section 155. Section 627.4107, Florida Statutes, is amended
5609 to read:

360216

5610 627.4107 Government employees exposed to toxic drug
5611 chemicals; cancellation of life or health policy or certificate
5612 prohibited.—No life or health insurer may cancel or nonrenew a
5613 life or health insurance policy or certificate of insurance
5614 providing coverage to a state or local law enforcement officer
5615 as defined in s. 943.10, firefighter as defined in s. 633.102
5616 ~~633.30~~, emergency medical technician as defined in s. 401.23, or
5617 paramedic as defined in s. 401.23, a volunteer firefighter as
5618 defined in 633.102 engaged by state or local government, a law
5619 enforcement officer employed by the Federal Government, or any
5620 other local, state, or Federal Government employee solely based
5621 on the fact that the individual has been exposed to toxic
5622 chemicals or suffered injury or disease as a result of the
5623 individual's lawful duties arising out of the commission of a
5624 violation of chapter 893 by another person. This section does
5625 not apply to a ~~any~~ person who commits an offense under chapter
5626 893. This section does not prohibit an insurer from canceling or
5627 nonrenewing an insurance policy or certificate, as permitted
5628 under the applicable state insurance code, based on an act or
5629 practice of the policyholder or certificateholder that
5630 constitutes fraud or intentional misrepresentation of material
5631 fact by the policyholder or certificateholder.
5632 Section 156. Subsection (10) of section 893.13, Florida
5633 Statutes, is amended to read:
5634 893.13 Prohibited acts; penalties.—
5635 (10) If a person violates any provision of this chapter and
5636 the violation results in a serious injury to a state or local
5637 law enforcement officer as defined in s. 943.10, firefighter as
5638 defined in s. 633.102 ~~633.30~~, emergency medical technician as

360216

5639 defined in s. 401.23, paramedic as defined in s. 401.23,
5640 employee of a public utility or an electric utility as defined
5641 in s. 366.02, animal control officer as defined in s. 828.27,
5642 volunteer firefighter engaged by state or local government, law
5643 enforcement officer employed by the Federal Government, or any
5644 other local, state, or Federal Government employee injured
5645 during the course and scope of his or her employment, the person
5646 commits a felony of the third degree, punishable as provided in
5647 s. 775.082, s. 775.083, or s. 775.084. If the injury sustained
5648 results in death or great bodily harm, the person commits a
5649 felony of the second degree, punishable as provided in s.
5650 775.082, s. 775.083, or s. 775.084.
5651 Section 157. Paragraph (g) of subsection (2) of section
5652 934.03, Florida Statutes, is amended to read:
5653 934.03 Interception and disclosure of wire, oral, or
5654 electronic communications prohibited.—
5655 (2)
5656 (g) It is lawful under ss. 934.03-934.09 for an employee
5657 of:
5658 1. An ambulance service licensed pursuant to s. 401.25, a
5659 fire station employing firefighters as defined by s. 633.102
5660 ~~633.30~~, a public utility, a law enforcement agency as defined by
5661 s. 934.02(10), or any other entity with published emergency
5662 telephone numbers;
5663 2. An agency operating an emergency telephone number “911”
5664 system established pursuant to s. 365.171; or
5665 3. The central abuse hotline operated pursuant to s. 39.201
5666
5667 to intercept and record incoming wire communications; however,

360216

5668 such employee may intercept and record incoming wire
5669 communications on designated "911" telephone numbers and
5670 published nonemergency telephone numbers staffed by trained
5671 dispatchers at public safety answering points only. It is also
5672 lawful for such employee to intercept and record outgoing wire
5673 communications to the numbers from which such incoming wire
5674 communications were placed when necessary to obtain information
5675 required to provide the emergency services being requested. For
5676 the purpose of this paragraph, the term "public utility" has the
5677 same meaning as provided in s. 366.02 and includes a person,
5678 partnership, association, or corporation now or hereafter owning
5679 or operating equipment or facilities in the state for conveying
5680 or transmitting messages or communications by telephone or
5681 telegraph to the public for compensation.
5682 Section 158. Paragraph (b) of subsection (4) of section
5683 943.61, Florida Statutes, is amended to read:
5684 943.61 Powers and duties of the Capitol Police.—
5685 (4) The Capitol Police shall have the following
5686 responsibilities, powers, and duties:
5687 (b) To provide and maintain the security of all property
5688 located in the Capitol Complex in a manner consistent with the
5689 security plans developed and approved under paragraph (a) and,
5690 in consultation with the State Fire Marshal, to provide for
5691 evacuations, information, and training required for firesafety
5692 on such property in a manner consistent with s. 633.218 ~~633.085~~.
5693 Section 159. Paragraph (b) of subsection (18) of section
5694 1002.33, Florida Statutes, is amended to read:
5695 1002.33 Charter schools.—
5696 (18) FACILITIES.—

360216

5697 (b) A charter school shall use ~~utilize~~ facilities that
5698 comply with the Florida Fire Prevention Code, pursuant to s.
5699 633.208 ~~633.025~~, as adopted by the authority in whose
5700 jurisdiction the facility is located as provided in paragraph
5701 (a).
5702 Section 160. Subsection (9) of section 1002.34, Florida
5703 Statutes, is amended to read:
5704 1002.34 Charter technical career centers.—
5705 (9) FACILITIES.—A center may be located in any suitable
5706 location, including part of an existing public school or Florida
5707 College System institution building, space provided on a public
5708 worksite, or a public building. A center's facilities must
5709 comply with the State Uniform Building Code for Public
5710 Educational Facilities Construction adopted pursuant to s.
5711 1013.37, or with applicable state minimum building codes
5712 pursuant to chapter 553, and state minimum fire protection codes
5713 pursuant to s. 633.208 ~~633.025~~, adopted by the authority in
5714 whose jurisdiction the facility is located. If K-12 public
5715 school funds are used for construction, the facility must remain
5716 on the local school district's Florida Inventory of School
5717 Houses (FISH) school building inventory of the district school
5718 board and must revert to the district school board if the
5719 consortium dissolves and the program is discontinued. If Florida
5720 College System institution public school funds are used for
5721 construction, the facility must remain on the local Florida
5722 College System institution's facilities inventory and must
5723 revert to the local Florida College System institution board of
5724 trustees if the consortium dissolves and the program is
5725 discontinued. The additional student capacity created by the

360216

5726 addition of the center to the local school district's FISH may
5727 not be calculated in the permanent student capacity for the
5728 purpose of determining need or eligibility for state capital
5729 outlay funds while the facility is used as a center. If the
5730 construction of the center is funded jointly by K-12 public
5731 school funds and Florida College System institution funds, the
5732 sponsoring entities must agree, before granting the charter, on
5733 the appropriate owner and terms of transfer of the facility if
5734 the charter is dissolved.
5735 Section 161. Subsection (1), paragraph (c) of subsection
5736 (2), and paragraphs (a) and (c) of subsection (6) of section
5737 1013.12, Florida Statutes, are amended to read:
5738 1013.12 Casualty, safety, sanitation, and firesafety
5739 standards and inspection of property.—
5740 (1) FIRESAFETY.—The State Board of Education shall adopt
5741 and administer rules prescribing standards for the safety and
5742 health of occupants of educational and ancillary plants as a
5743 part of State Requirements for Educational Facilities or the
5744 Florida Building Code for educational facilities construction as
5745 provided in s. 1013.37, except that the State Fire Marshal in
5746 consultation with the Department of Education shall adopt
5747 uniform firesafety standards for educational and ancillary
5748 plants and educational facilities, as provided in s.
5749 633.206(1)(b) ~~633.022(1)(b)~~, and a firesafety evaluation system
5750 to be used as an alternate firesafety inspection standard for
5751 existing educational and ancillary plants and educational
5752 facilities. The uniform firesafety standards and the alternate
5753 firesafety evaluation system shall be administered and enforced
5754 by fire officials certified by the State Fire Marshal under s.

360216

5755 633.216 ~~633.081~~. These standards must be used by all public
5756 agencies when inspecting public educational and ancillary
5757 plants, and the firesafety standards must be used by county,
5758 municipal, or independent special fire control district
5759 inspectors when performing firesafety inspections of public
5760 educational and ancillary plants and educational facilities. In
5761 accordance with such standards, each board shall prescribe
5762 policies and procedures establishing a comprehensive program of
5763 safety and sanitation for the protection of occupants of public
5764 educational and ancillary plants. Such policies must contain
5765 procedures for periodic inspections as prescribed in this
5766 section or chapter 633 and for withdrawal of any educational and
5767 ancillary plant, or portion thereof, from use until unsafe or
5768 unsanitary conditions are corrected or removed.
5769 (2) PERIODIC INSPECTION OF PROPERTY BY DISTRICT SCHOOL
5770 BOARDS.—
5771 (c) Under the direction of the fire official appointed by
5772 the board under s. 1013.371(2), firesafety inspections of each
5773 educational and ancillary plant located on property owned or
5774 leased by the board, or other educational facilities operated by
5775 the board, must be made no sooner than 1 year after issuance of
5776 a certificate of occupancy and annually thereafter. Such
5777 inspections shall be made by persons certified by the Division
5778 of State Fire Marshal under s. 633.216 ~~633.081~~ to conduct
5779 firesafety inspections in public educational and ancillary
5780 plants. The board shall submit a copy of the firesafety
5781 inspection report to the county, municipality, or independent
5782 special fire control district providing fire protection services
5783 to the school facility within 10 business days after the date of

360216

5784 the inspection. Alternate schedules for delivery of reports may
5785 be agreed upon between the school district and the county,
5786 municipality, or independent special fire control district
5787 providing fire protection services to the site in cases in which
5788 delivery is impossible due to hurricanes or other natural
5789 disasters. Regardless, if immediate life-threatening
5790 deficiencies are noted in the report, the report shall be
5791 delivered immediately. In addition, the board and any other
5792 authority conducting the fire safety inspection shall certify to
5793 the State Fire Marshal that the annual inspection has been
5794 completed. The certification shall be made electronically or by
5795 such other means as directed by the State Fire Marshal.
5796 (6) INSPECTIONS OF PUBLIC POSTSECONDARY EDUCATION
5797 FACILITIES.—
5798 (a) Firesafety inspections of public college facilities,
5799 including charter schools located on board-owned or board-leased
5800 facilities or otherwise operated by public college boards, shall
5801 be made in accordance with the Florida Fire Prevention Code, as
5802 adopted by the State Fire Marshal. Notwithstanding s. 633.202
5803 ~~633.0215~~, provisions of the code relating to inspections of such
5804 facilities are not subject to any local amendments as provided
5805 by s. 1013.371. Each public college facility shall be inspected
5806 annually by persons certified under s. 633.216 ~~633.081~~.
5807 (c) Firesafety inspections of state universities shall
5808 comply with the Florida Fire Prevention Code, as adopted by the
5809 State Fire Marshal under s. 633.202 ~~633.0215~~.
5810 Section 162. Paragraphs (a), (b), and (d) of subsection (2)
5811 and paragraph (a) of subsection (4) of section 1013.38, Florida
5812 Statutes, are amended to read:

360216

5813 1013.38 Boards to ensure that facilities comply with
5814 building codes and life safety codes.—
5815 (2) In addition to the submission of site plans, boards may
5816 provide compliance as follows:
5817 (a) Boards or consortia may individually or cooperatively
5818 provide review services under the insurance risk management
5819 oversight through the use of board employees or consortia
5820 employees registered pursuant to chapter 471, chapter 481, or
5821 part XII of chapter 468 and firesafety inspectors certified
5822 under s. 633.216 ~~633.081~~.
5823 (b) Boards may elect to review construction documents using
5824 their own employees registered pursuant to chapter 471, chapter
5825 481, or part XII of chapter 468 and firesafety inspectors
5826 certified under s. 633.216 ~~633.081~~.
5827 (d) Boards or consortia may contract for plan review
5828 services directly with engineers and architects registered
5829 pursuant to chapter 471 or chapter 481 and firesafety inspectors
5830 certified under s. 633.216 ~~633.081~~.
5831 (4)(a) Before the commencement of any new construction,
5832 renovation, or remodeling, the board shall:
5833 1. Approve or cause to be approved the construction
5834 documents and evaluate such documents for compliance with the
5835 Florida Building Code and the Florida Fire Prevention Code.
5836 2. Ensure compliance with all applicable firesafety codes
5837 and standards by contracting with a firesafety inspector
5838 certified by the State Fire Marshal under s. 633.216 ~~633.081~~.
5839 Section 163. This act shall take effect July 1, 2013.
5840
5841 ========== T I T L E A M E N D M E N T ==========

360216

5842 And the title is amended as follows:
5843 Delete everything before the enacting clause
5844 and insert:
5845 A bill to be entitled
5846 An act relating to fire safety and prevention;
5847 providing a directive to the Division of Law Revision
5848 and Information to create part I of ch. 633, F.S.,
5849 entitled "General Provisions"; transferring,
5850 renumbering, and amending s. 633.021, F.S.; revising
5851 and providing definitions; transferring, renumbering,
5852 and amending s. 633.01, F.S.; revising provisions
5853 relating to the authority of the State Fire Marshal;
5854 removing references to the Life Safety Code; revising
5855 the renewal period for fire safety inspector
5856 requirements for certification; conforming cross-
5857 references; authorizing the State Fire Marshal to
5858 administer oaths and take testimony; authorizing the
5859 State Fire Marshal to enter into contracts with
5860 private entities for the administration of
5861 examinations; transferring, renumbering, and amending
5862 s. 633.163, F.S.; revising provisions relating to the
5863 disciplinary authority of the State Fire Marshal;
5864 authorizing the State Fire Marshal to deny, suspend,
5865 or revoke the licenses of certain persons; providing
5866 terms and conditions of probation; transferring and
5867 renumbering s. 633.15, F.S., relating to the force and
5868 effect of ch. 633, F.S., and rules adopted by the
5869 State Fire Marshal on municipalities, counties, and
5870 special districts having fire safety responsibilities;

360216

5871 transferring, renumbering, and amending s. 633.101,
5872 F.S.; revising provisions relating to hearings,
5873 investigations, and recordkeeping duties and the
5874 authority of the State Fire Marshal; authorizing the
5875 State Fire Marshal to designate an agent for various
5876 purposes related to hearings; providing for the
5877 issuance of subpoenas; transferring, renumbering, and
5878 amending s. 633.111, F.S.; requiring the State Fire
5879 Marshal to keep records of all fires and explosions;
5880 transferring, renumbering, and amending s. 633.02,
5881 F.S.; revising provisions relating to the authority of
5882 agents of the State Fire Marshal; transferring and
5883 renumbering s. 633.14, F.S., relating to the powers of
5884 agents of the State Fire Marshal to make arrests,
5885 conduct searches and seizures, serve summonses, and
5886 carry firearms; transferring, renumbering, and
5887 amending s. 633.121, F.S., relating to persons
5888 authorized to enforce laws and rules of the State Fire
5889 Marshal; revising terminology; transferring,
5890 renumbering, and amending s. 633.151, F.S.; clarifying
5891 provisions relating to impersonating the State Fire
5892 Marshal, a firefighter, a fire safety inspector, or a
5893 volunteer firefighter, for which a criminal penalty is
5894 provided; transferring, renumbering, and amending s.
5895 633.171, F.S.; providing penalties for rendering a
5896 fire protection system required by statute or by rule
5897 inoperative; providing penalties for using the
5898 certificate of another person, holding a license or
5899 certificate and allowing another person to use the

360216

5900 license or certificate, and using or allowing the use
5901 of any certificate or permit by any individual or
5902 organization other than the individual to whom the
5903 certificate or permit is issued; conforming a cross-
5904 reference; transferring, renumbering, and amending s.
5905 633.175, F.S., relating to investigation of fraudulent
5906 insurance claims and crimes and immunity of insurance
5907 companies supplying information relative thereto;
5908 defining the term “consultant”; revising provisions to
5909 include investigation of explosions in fraudulent
5910 insurance claim investigations; authorizing the State
5911 Fire Marshal to adopt rules to implement provisions
5912 relating to an insurance company’s investigation of a
5913 suspected fire or explosion by intentional means;
5914 revising terminology; conforming a cross-reference;
5915 transferring, renumbering, and amending s. 633.45,
5916 F.S.; clarifying and revising the powers and duties of
5917 the Division of State Fire Marshal; requiring the
5918 division to establish by rule uniform minimum
5919 standards for the employment and training of
5920 firefighters and volunteer firefighters; requiring the
5921 division to establish by rule minimum curriculum
5922 requirements and criteria for the approval of
5923 education or training providers; requiring the
5924 division to specify by rule standards for the
5925 approval, denial of approval, probation, suspension,
5926 and revocation of approval of education or training
5927 providers and facilities for training firefighters and
5928 volunteer firefighters; requiring the division to

360216

5929 specify by rule standards for the certification,
5930 denial of certification, probation, and revocation of
5931 certification for instructors; requiring the division
5932 to establish by rule minimum training qualifications
5933 for persons serving as specified fire safety
5934 coordinators; requiring the division to issue
5935 specified licenses, certificates, and permits;
5936 conforming cross-references; creating s. 633.132,
5937 F.S.; establishing fees to be collected by the
5938 division; authorizing the division to establish by
5939 rule fees necessary to cover administrative costs and
5940 to collect such fees in advance; providing for the
5941 appropriation and deposit of all funds collected by
5942 the State Fire Marshal pursuant to ch. 633, F.S.;
5943 transferring and renumbering s. 633.39, F.S., relating
5944 to acceptance by the division of donations of property
5945 and grants of money; transferring, renumbering, and
5946 amending s. 633.115, F.S., relating to the Fire and
5947 Emergency Incident Information Reporting Program;
5948 making technical changes; conforming a cross-
5949 reference; creating s. 633.138, F.S.; providing
5950 requirements with respect to notice of change of
5951 address of record for, and notice of felony actions
5952 against, a licensee, permittee, or certificateholder;
5953 transferring, renumbering and amending s. 633.042,
5954 F.S.; revising the “Reduced Cigarette Ignition
5955 Propensity Standard and Firefighter Protection Act” to
5956 include preemption by the act of local laws and rules;
5957 providing a directive to the Division of Law Revision

360216

5958 and Information to create part II of ch. 633, F.S.,
5959 entitled "Fire Safety and Prevention"; transferring,
5960 renumbering, and amending s. 633.0215, F.S., relating
5961 to the Florida Fire Prevention Code; conforming cross-
5962 references; deleting an obsolete provision;
5963 transferring, renumbering, and amending s. 633.72,
5964 F.S., relating to the Florida Fire Code Advisory
5965 Council; revising membership of the council; providing
5966 for semiannual meetings of the council; authorizing
5967 the council to review proposed changes to the Florida
5968 Fire Prevention Code and specified uniform fire safety
5969 standards; conforming cross-references; transferring,
5970 renumbering, and amending s. 633.022, F.S., relating
5971 to uniform fire safety standards; revising
5972 applicability of uniform fire safety standards;
5973 removing obsolete provisions; transferring,
5974 renumbering, and amending s. 633.025, F.S., relating
5975 to minimum fire safety standards; deleting references
5976 to the Life Safety Code; conforming provisions to
5977 changes made by the act; conforming a cross-reference;
5978 transferring, renumbering, and amending s. 633.026,
5979 F.S., relating to informal interpretations of the
5980 Florida Fire Prevention Code and legislative intent
5981 with respect thereto; conforming provisions to changes
5982 made by the act; conforming cross-references; revising
5983 terminology to provide for declaratory statements
5984 rather than formal interpretations in nonbinding
5985 interpretations of Florida Fire Prevention Code
5986 provisions; transferring, renumbering, and amending s.

360216

5987 633.052, F.S., relating to ordinances relating to fire
5988 safety and penalties for violation; conforming
5989 terminology; providing that a special district may
5990 enact any ordinance relating to fire safety codes that
5991 is identical to ch. 633, F.S., or any state law,
5992 except as to penalty; transferring, renumbering, and
5993 amending s. 633.081, F.S., relating to inspection of
5994 buildings and equipment; clarifying persons authorized
5995 to inspect buildings and structures; conforming cross-
5996 references; revising requirements of persons
5997 conducting fire safety inspections; revising the
5998 period of validity of, and continuing education
5999 requirements for, fire safety inspector certificates;
6000 requiring repeat training for certified fire safety
6001 inspectors whose certification has lapsed for a
6002 specified period; revising grounds for denial, refusal
6003 to renew, suspension, or revocation of a fire safety
6004 inspector certificate; requiring the department to
6005 provide by rule for the certification of Fire Code
6006 Administrators; transferring, renumbering, and
6007 amending s. 633.085, F.S., relating to inspection of
6008 state buildings and premises; defining the terms
6009 “high-hazard occupancy” and “state-owned building”;
6010 providing for identification of state-owned buildings
6011 or state-leased buildings or space; authorizing,
6012 rather than requiring, the State Fire Marshal or
6013 agents thereof to conduct performance tests on any
6014 electronic fire warning and smoke detection system,
6015 and any pressurized air-handling unit, in any state-

360216

6016 owned building or state-leased building or space on a
6017 recurring basis; requiring the State Fire Marshal or
6018 agents thereof to ensure that fire drills are
6019 conducted in all high-hazard state-owned buildings or
6020 high-hazard state-leased occupancies at least
6021 annually; requiring that all new construction or
6022 renovation, alteration, or change of occupancy of any
6023 existing, state-owned building or state-leased
6024 building or space comply with uniform fire safety
6025 standards; authorizing the division to inspect state-
6026 owned buildings and spaces and state-leased buildings
6027 and spaces as necessary before occupancy or during
6028 construction, renovation, or alteration to ascertain
6029 compliance with uniform fire safety standards;
6030 requiring the division to issue orders to cease
6031 construction, renovation, or alteration, or to
6032 preclude occupancy, of a state-owned or state-leased
6033 building or space for noncompliance; transferring,
6034 renumbering, and amending s. 633.027, F.S., relating
6035 to buildings with light-frame truss-type construction;
6036 conforming cross-references; transferring,
6037 renumbering, and amending s. 633.60, F.S., relating to
6038 automatic fire sprinkler systems for one-family
6039 dwellings, two-family dwellings, and mobile homes;
6040 conforming a cross-reference; transferring and
6041 renumbering s. 633.557, F.S., relating to the
6042 nonapplicability of the act to owners of property who
6043 are building or improving farm outbuildings and
6044 standpipe systems installed by plumbing contractors;

360216

6045 transferring, renumbering, and amending s. 633.161,
6046 F.S., relating to violations and enforcement of ch.
6047 633, F.S., orders resulting from violations, and
6048 penalties for violation; conforming cross-references;
6049 providing a directive to the Division of Law Revision
6050 and Information to create part III of ch. 633, F.S.,
6051 entitled "Fire Protection and Suppression";
6052 transferring, renumbering, and amending s. 633.511,
6053 F.S., relating to the Florida Fire Safety Board;
6054 conforming provisions to changes made by the act;
6055 conforming cross-references; requiring the board to
6056 act in an advisory capacity; authorizing the board to
6057 review complaints and make recommendations; providing
6058 for election of officers, quorum, and compensation of
6059 the board; requiring the board to adopt a seal;
6060 transferring, renumbering, and amending s. 633.061,
6061 F.S., relating to licensure to install or maintain
6062 fire suppression equipment; removing the fee schedule
6063 from such provisions; revising provisions relating to
6064 fire equipment dealers who wish to withdraw a
6065 previously filed halon equipment exemption affidavit;
6066 providing conditions that an applicant for a license
6067 of any class who has facilities located outside the
6068 state must meet in order to obtain a required
6069 equipment inspection; providing for the adoption of
6070 rules with respect to the establishment and
6071 calculation of inspection costs; revising and
6072 clarifying provisions that exclude from licensure for
6073 a specified period applicants having a previous

360216

6074 criminal conviction; defining the term “convicted”;
6075 providing conditions under which a licensed fire
6076 equipment dealer may apply to convert the license
6077 currently held to a higher or lower licensing
6078 category; providing a procedure for an applicant who
6079 passes an examination for licensure or permit but
6080 fails to meet remaining qualifications within 1 year
6081 after the application date; transferring, renumbering,
6082 and amending s. 633.065, F.S., relating to
6083 requirements for installation, inspection, and
6084 maintenance of fire suppression equipment; conforming
6085 a cross-reference; transferring, renumbering, and
6086 amending s. 633.071, F.S., relating to standard
6087 service tags required on all fire extinguishers and
6088 preengineered systems; conforming a cross-reference;
6089 transferring, renumbering, and amending s. 633.082,
6090 F.S., relating to inspection of fire control systems,
6091 fire hydrants, and fire protection systems; conforming
6092 a cross-reference; making technical changes;
6093 transferring, renumbering, and amending s. 633.083,
6094 F.S., relating to the prohibited sale or use of
6095 certain types of fire extinguishers and penalty
6096 therefor; making a technical change; transferring,
6097 renumbering, and amending s. 633.162, F.S., relating
6098 to fire suppression system contractors and
6099 disciplinary actions with respect thereto; conforming
6100 cross-references; clarifying provisions; transferring,
6101 renumbering, and amending s. 633.521, F.S., relating
6102 to certification as fire protection system contractor;

360216

6103 clarifying provisions and making technical changes;
6104 conforming cross-references; transferring,
6105 renumbering, and amending s. 633.551, F.S., relating
6106 to county and municipal powers and the effect of ch.
6107 75-240, Laws of Florida; making technical changes;
6108 transferring and renumbering s. 633.527, F.S.,
6109 relating to records concerning an applicant and the
6110 extent of confidentiality; transferring and
6111 renumbering s. 633.531, F.S., relating to statewide
6112 effectiveness and nontransferability of certificates;
6113 transferring, renumbering, and amending s. 633.534,
6114 F.S., relating to the issuance of certificates to
6115 individuals and business organizations; making a
6116 technical change; transferring, renumbering, and
6117 amending s. 633.537, F.S., relating to renewal and
6118 expiration of certificates; deleting an obsolete
6119 provision; deleting a provision which prescribes the
6120 biennial renewal fee for an inactive status
6121 certificate; making technical changes; transferring,
6122 renumbering, and amending s. 633.539, F.S., relating
6123 to requirements for installation, inspection, and
6124 maintenance of fire protection systems; conforming a
6125 cross-reference; transferring, renumbering, and
6126 amending s. 633.541, F.S., relating to the prohibition
6127 against contracting as a fire protection contractor
6128 without a certificate and penalty for violation
6129 thereof; conforming cross-references; making a
6130 technical change; transferring, renumbering, and
6131 amending s. 633.547, F.S., relating to disciplinary

360216

6132 action concerning fire protection system contractors;
6133 revising provisions that authorize the State Fire
6134 Marshal to suspend a fire protection system
6135 contractor’s or permittee’s certificate; deleting
6136 provisions authorizing revocation of a certificate for
6137 a specified period; conforming a cross-reference;
6138 transferring, renumbering, and amending s. 633.549,
6139 F.S., relating to violations that are subject to
6140 injunction; making a technical change; transferring
6141 and renumbering s. 633.554, F.S., relating to
6142 application of ch. 633, F.S., regulating contracting
6143 and contractors; transferring, renumbering, and
6144 amending s. 633.70, F.S., relating to jurisdiction of
6145 the State Fire Marshal over alarm system contractors
6146 and certified unlimited electrical contractors;
6147 conforming a cross-reference; transferring and
6148 renumbering s. 633.701, F.S., relating to requirements
6149 for fire alarm system equipment; transferring,
6150 renumbering, and amending s. 633.702, F.S., relating
6151 to prohibited acts regarding alarm system contractors
6152 or certified unlimited electrical contractors and
6153 penalties for violations; making technical changes;
6154 providing a directive to the Division of Law Revision
6155 and Information to create part IV of ch. 633, F.S.,
6156 entitled “Fire Standards and Training”; transferring,
6157 renumbering, and amending s. 633.31, F.S.; revising
6158 provisions relating to the Firefighters Employment,
6159 Standards, and Training Council; providing for an
6160 additional member of the council; providing for

360216

6161 organization of the council, meetings, quorum,
6162 compensation, and adoption of a seal; providing for
6163 special powers of the council in connection with the
6164 employment and training of firefighters; transferring,
6165 renumbering, and amending s. 633.42, F.S., relating to
6166 the authority of fire service providers to establish
6167 qualifications and standards for hiring, training, or
6168 promoting firefighters which exceed the minimum set by
6169 the department; conforming terminology; creating s.
6170 633.406, F.S.; specifying classes of certification
6171 awarded by the division; authorizing the division to
6172 establish specified additional certificates by rule;
6173 transferring, renumbering, and amending s. 633.35,
6174 F.S.; revising provisions relating to firefighter and
6175 volunteer firefighter training and certification;
6176 requiring the division to establish by rule specified
6177 courses and course examinations; providing that
6178 courses may only be administered by specified
6179 education or training providers and taught by
6180 certified instructors; revising provisions with
6181 respect to payment of training costs and payment of
6182 tuition for attendance at approved courses; providing
6183 requirements for issuance by the division of a
6184 firefighter certificate of compliance; providing
6185 requirements for issuance by the division of a
6186 Volunteer Firefighter Certificate of Completion;
6187 authorizing the division to issue a Special
6188 Certificate of Compliance; providing requirements and
6189 limitations with respect thereto; providing procedures

360216

6190 and requirements for reexamination after failure of an
6191 examination; increasing the required number of hours
6192 of the structural fire training program; providing for
6193 a Forestry Certificate of Compliance and prescribing
6194 the rights, privileges, and benefits thereof;
6195 transferring, renumbering, and amending s. 633.34,
6196 F.S., relating to qualifications for certification as
6197 a firefighter; revising provisions relating to
6198 disqualifying offenses; providing requirements of the
6199 division with respect to suspension or revocation of a
6200 certificate; making technical changes; conforming
6201 cross-references; transferring, renumbering, and
6202 amending s. 633.352, F.S., relating to firefighter
6203 employment and volunteer firefighter service; revising
6204 provisions relating to retention of certification as a
6205 firefighter; defining the term “active”; transferring,
6206 renumbering, and amending s. 633.41, F.S.; prohibiting
6207 a fire service provider from employing an individual
6208 as a firefighter or supervisor of firefighters and
6209 from retaining the services of an individual
6210 volunteering as a firefighter or a supervisor of
6211 firefighters without required certification; requiring
6212 a fire service provider to make a diligent effort to
6213 determine possession of required certification prior
6214 to employing or retaining an individual for specified
6215 services; defining the term “diligent effort”;
6216 requiring a fire service provider to notify the
6217 division of specified hirings, retentions,
6218 terminations, decisions not to retain a firefighter,

360216

6219 and determinations of failure to meet certain
6220 requirements; authorizing the division to conduct site
6221 visits to fire departments to monitor compliance;
6222 defining the term “employ”; conforming cross-
6223 references; transferring, renumbering, and amending s.
6224 633.38, F.S., relating to curricula and standards for
6225 advanced and specialized training prescribed by the
6226 division; revising terminology to conform; conforming
6227 cross-references; transferring, renumbering, and
6228 amending s. 633.382, F.S., relating to supplemental
6229 compensation for firefighters who pursue specified
6230 higher educational opportunities; removing
6231 definitions; requiring the State Fire Marshal to
6232 determine, and adopt by rule, course work or degrees
6233 that represent the best practices toward supplemental
6234 compensation goals; specifying that supplemental
6235 compensation shall be paid to qualifying full-time
6236 employees of a fire service provider; conforming
6237 terminology; clarifying provisions; specifying that
6238 policy guidelines be adopted by rule; classifying the
6239 division as a fire service provider responsible for
6240 the payment of supplemental compensation to full-time
6241 firefighters employed by the division; transferring,
6242 renumbering, and amending s. 633.353, F.S., relating
6243 to falsification of qualifications; clarifying
6244 provisions that provide a penalty for falsification of
6245 qualifications provided to the Bureau of Fire
6246 Standards and Training of the division; transferring,
6247 renumbering, and amending s. 633.351, F.S., relating

360216

6248 to disciplinary action and standards for revocation of
6249 certification; providing definitions; providing
6250 conditions for ineligibility to apply for
6251 certification under ch. 633, F.S.; providing
6252 conditions for permanent revocation of certification,
6253 prospective application of such provisions, and
6254 retroactive application with respect to specified
6255 convictions; revising provisions relating to
6256 revocation of certification; providing requirements
6257 with respect to application for certification;
6258 requiring specified submission of fingerprints;
6259 providing a fee; providing requirements of the
6260 Department of Law Enforcement with respect to
6261 submitted fingerprints; transferring, renumbering, and
6262 amending s. 633.43, F.S., relating to the
6263 establishment of the Florida State Fire College;
6264 conforming a provision to changes made by the act;
6265 transferring, renumbering, and amending s. 633.44,
6266 F.S., relating to the purposes of the Florida State
6267 Fire College and part IV of ch. 633, F.S.; expanding
6268 such purpose; conforming a cross-reference;
6269 transferring, renumbering, and amending s. 633.48,
6270 F.S., relating to the superintendent of the Florida
6271 State Fire College; conforming a cross-reference;
6272 transferring, renumbering, and amending s. 633.461,
6273 F.S., relating to uses of funds from the Insurance
6274 Regulatory Trust Fund; clarifying provisions;
6275 transferring and renumbering s. 633.47, F.S., relating
6276 to the procedure for making expenditures on behalf of

360216

6277 the Florida State Fire College; transferring,
6278 renumbering, and amending s. 633.49, F.S., relating to
6279 the use of buildings, equipment, and other facilities
6280 of the fire college; conforming a cross-reference;
6281 transferring, renumbering, and amending s. 633.50,
6282 F.S., relating to additional duties of the Division of
6283 State Fire Marshal related to the Florida State Fire
6284 College; conforming cross-references; transferring and
6285 renumbering s. 633.46, F.S., relating to fees to be
6286 charged for training; providing a directive to the
6287 Division of Law Revision and Information to create
6288 part V of ch. 633, F.S., entitled "Florida
6289 Firefighters Occupational Safety and Health Act";
6290 transferring, renumbering, and amending s. 633.801,
6291 F.S., relating to a short title; conforming a cross-
6292 reference; transferring, renumbering, and amending s.
6293 633.802, F.S., relating to definitions; revising
6294 definitions of "firefighter employee," "firefighter
6295 employer," and "firefighter place of employment";
6296 transferring, renumbering, and amending s. 633.803,
6297 F.S., relating to legislative intent to enhance
6298 firefighter occupational safety and health in the
6299 state; clarifying provisions; conforming cross-
6300 references; transferring, renumbering, and amending s.
6301 633.821, F.S., relating to assistance by the division
6302 in facilitating firefighter employee workplace safety;
6303 revising references to publications; removing obsolete
6304 provisions; revising requirements and responsibilities
6305 of the division; transferring, renumbering, and

360216

6306 amending s. 633.817, F.S., relating to remedies
6307 available to the division for noncompliance with part
6308 V of ch. 633, F.S.; conforming cross-references;
6309 transferring and renumbering s. 633.805, F.S.,
6310 relating to a required study by the division of
6311 firefighter employee occupational diseases;
6312 transferring, renumbering, and amending s. 633.806,
6313 F.S., relating to certain duties of the division;
6314 revising provisions that require the division to make
6315 studies, investigations, inspections, and inquiries
6316 with respect to compliance with part V of ch. 633,
6317 F.S., or rules authorized thereunder, and the causes
6318 of firefighter employee injuries, illnesses, safety-
6319 based complaints, or line-of-duty deaths in
6320 firefighter employee places of employment; authorizing
6321 the division to adopt by rule procedures for
6322 conducting inspections and inquiries of firefighter
6323 employers under part V of ch. 633, F.S.; authorizing
6324 the division to enter premises to investigate
6325 compliance; providing a criminal penalty; conforming
6326 references; transferring, renumbering, and amending s.
6327 633.807, F.S., relating to safety responsibilities of
6328 firefighter employers; revising definitions of the
6329 terms “safe” and “safety”; transferring, renumbering,
6330 and amending s. 633.809, F.S.; relating to firefighter
6331 employers with a high frequency of firefighter
6332 employee work-related injuries; revising provisions
6333 relating to required safety inspections; clarifying
6334 that the division may not assess penalties as a result

360216

6335 of such inspections; requiring firefighter employers
6336 to submit a plan for the correction of noncompliance
6337 issues to the division for approval in accordance with
6338 division rule; providing procedures if a plan is not
6339 submitted, does not provide corrective actions, is
6340 incomplete, or is not implemented; providing for
6341 workplace safety committees and coordinators,
6342 including mandatory negotiations during collective
6343 bargaining; requiring the division to adopt rules;
6344 providing for compensation of the workplace safety
6345 committee; authorizing cancellation of an insurance
6346 plan due to noncompliance; transferring, renumbering,
6347 and amending s. 633.811, F.S., relating to firefighter
6348 employer penalties; prescribing additional
6349 administrative penalties for firefighter employers for
6350 violation of, or refusal to comply with, part V of ch.
6351 633, F.S.; providing for location of hearings;
6352 transferring, renumbering, and amending s. 633.812,
6353 F.S., relating to specified cooperation by the
6354 division with the Federal Government; clarifying
6355 requirements from which private firefighter employers
6356 are exempt; eliminating a prerequisite to exemption
6357 for specified firefighter employers; requiring
6358 reinspection after specified noncompliance;
6359 transferring, renumbering, and amending s. 633.816,
6360 F.S., relating to firefighter employee rights and
6361 responsibilities; conforming cross-references;
6362 transferring, renumbering, and amending s. 633.818,
6363 F.S., relating to false statements; conforming a

360216

6364 cross-reference; prohibiting a person from committing
6365 certain fraudulent acts in any matter within the
6366 jurisdiction of the division; providing criminal
6367 penalties; providing a statute of limitation;
6368 transferring, renumbering, and amending s. 633.814,
6369 F.S., relating to disbursement of expenses to
6370 administer part V of ch. 633, F.S.; conforming a
6371 cross-reference; amending s. 112.011, F.S.; removing
6372 provisions that exclude from employment for a
6373 specified period an applicant for employment with a
6374 fire department who has a prior felony conviction;
6375 amending s. 112.191, F.S.; revising provisions
6376 relating to adjustments in payments of accidental
6377 death benefits for firefighters; amending s. 120.541,
6378 F.S.; revising a cross-reference to conform with
6379 changes made in the act; amending s. 196.081, F.S.;
6380 revising a cross-reference to conform with changes
6381 made in the act; amending s. 633.167, F.S.; deleting a
6382 provision providing for terms and conditions of
6383 probation; amending s. 633.517, F.S.; deleting a
6384 provision authorizing the State Fire Marshal to
6385 administers oaths and take testimony; amending s.
6386 791.012, F.S., relating to minimum fireworks safety
6387 standards; updating a reference; amending s. 791.015,
6388 F.S.; authorizing seasonal retailers of sparklers to
6389 submit one registration form for multiple locations;
6390 requiring each seasonal retailer of sparklers to pay
6391 an annual registration fee for each retail location
6392 registered; repealing s. 633.024, F.S., relating to

360216

6393 legislative findings and intent with respect to
6394 ensuring effective fire protection of vulnerable
6395 nursing home residents, the expedited retrofit of
6396 existing nursing homes through a limited state loan
6397 guarantee, and funding thereof; repealing s. 633.0245,
6398 F.S., relating to the State Fire Marshal Nursing Home
6399 Fire Protection Loan Guarantee Program; repealing s.
6400 633.03, F.S., relating to investigations of fire and
6401 reports; repealing s. 633.0421, F.S., relating to
6402 preemption of the reduced cigarette ignition
6403 propensity standard by the state; repealing s. 633.13,
6404 F.S., relating to the authority of State Fire Marshal
6405 agents; repealing s. 633.18, F.S., relating to
6406 hearings and investigations by the State Fire Marshal;
6407 repealing s. 633.30, F.S., relating to definitions
6408 with respect to standards for firefighting; repealing
6409 s. 633.32, F.S., relating to organization, meetings,
6410 quorum, compensation, and seal of the Firefighters
6411 Employment, Standards, and Training Council; repealing
6412 s. 633.33, F.S., relating to special powers of the
6413 Firefighters Employment, Standards, and Training
6414 Council in connection with the employment and training
6415 of firefighters; repealing s. 633.37, F.S., relating
6416 to payment of tuition at approved training programs by
6417 the employing agency; repealing s. 633.445, F.S.,
6418 relating to the State Fire Marshal Scholarship Grant
6419 Program; repealing s. 633.46, F.S., relating to
6420 authority of the Division of State Fire Marshal to fix
6421 and collect admission fees and other fees it deems

360216

6422 necessary to be charged for training; repealing s.
6423 633.514, F.S., relating to Florida Fire Safety Board
6424 duties, meetings, officers, quorum, and compensation;
6425 repealing s. 633.524, F.S., relating to certificate
6426 and permit fees assessed under ch. 633, F.S., and the
6427 use and deposit thereof; repealing s. 633.804, F.S.,
6428 relating to the adoption of rules governing
6429 firefighter employer and firefighter employee safety
6430 inspections and consultations; repealing s. 633.808,
6431 F.S., relating to division authority; repealing s.
6432 633.810, F.S., relating to workplace safety committees
6433 and safety coordinators; repealing s. 633.813, F.S.,
6434 relating to cancellation of an insurance policy for
6435 failure to implement a safety and health program;
6436 repealing s. 633.815, F.S., relating to penalties for
6437 refusing entry to a firefighter place of employment
6438 for the purposes of investigations or inspections by
6439 the division; repealing s. 633.819, F.S., relating to
6440 matters within the jurisdiction of the division and
6441 fraudulent acts, penalties, and statute of
6442 limitations; repealing s. 633.820, F.S., relating to
6443 the applicability of specified sections of ch. 633,
6444 F.S., to volunteer firefighters and volunteer fire
6445 departments; amending ss. 112.1815, 112.191, 112.81,
6446 119.071, 120.80, 121.0515, 125.01, 125.01045, 125.56,
6447 166.0446, 175.032, 175.121, 218.23, 252.515, 255.45,
6448 258.0145, 281.02, 384.287, 395.0163, 400.232, 400.915,
6449 429.41, 429.44, 429.73, 447.203, 468.602, 468.609,
6450 489.103, 489.105, 496.404, 509.032, 513.05, 553.73,

360216

6451 553.77, 553.79, 590.02, 627.4107, 893.13, 934.03,
6452 943.61, 1002.33, 1002.34, 1013.12, and 1013.38, F.S.;
6453 conforming cross-references; updating terminology;
6454 providing an effective date.

825868

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Banking and Insurance (Margolis) recommended the following:

1 **Senate Amendment to Amendment (360216) (with title**
2 **amendment)**
3
4 Delete lines 4225 - 4267.
5
6 ========== T I T L E A M E N D M E N T ==========
7 And the title is amended as follows:
8 Delete lines 6385 - 6392
9 and insert:
10 administers oaths and take testimony; repealing s.
11 633.024, F.S., relating to

By Senator Simmons

10-00317-13 20131410__

A bill to be entitled

An act relating to fire safety and prevention; providing a directive to the Division of Law Revision and Information to create part I of ch. 633, F.S., entitled "General Provisions"; transferring, renumbering, and amending s. 633.021, F.S.; revising and providing definitions; transferring, renumbering, and amending s. 633.01, F.S.; revising provisions relating to the authority of the State Fire Marshal; removing references to the Life Safety Code; revising the renewal period for firesafety inspector requirements for certification; conforming cross-references; authorizing the State Fire Marshal to administer oaths and take testimony; authorizing the State Fire Marshal to enter into contracts with private entities for the administration of examinations; transferring, renumbering, and amending s. 633.163, F.S.; revising provisions relating to the disciplinary authority of the State Fire Marshal; authorizing the State Fire Marshal to deny, suspend, or revoke the licenses of certain persons; providing terms and conditions of probation; transferring and renumbering s. 633.15, F.S., relating to the force and effect of ch. 633, F.S., and rules adopted by the State Fire Marshal on municipalities, counties, and special districts having firesafety responsibilities; transferring, renumbering, and amending s. 633.101, F.S.; revising provisions relating to hearings, investigations, and recordkeeping duties and the

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10-00317-13 20131410__

authority of the State Fire Marshal; authorizing the State Fire Marshal to designate an agent for various purposes related to hearings; providing for the issuance of subpoenas; transferring, renumbering, and amending s. 633.111, F.S.; requiring the State Fire Marshal to keep records of all fires and explosions; transferring, renumbering, and amending s. 633.02, F.S.; revising provisions relating to the authority of agents of the State Fire Marshal; transferring and renumbering s. 633.14, F.S., relating to the powers of agents of the State Fire Marshal to make arrests, conduct searches and seizures, serve summonses, and carry firearms; transferring, renumbering, and amending s. 633.121, F.S., relating to persons authorized to enforce laws and rules of the State Fire Marshal; revising terminology; transferring, renumbering, and amending s. 633.151, F.S.; clarifying provisions relating to impersonating the State Fire Marshal, a firefighter, a firesafety inspector, or a volunteer firefighter, for which a criminal penalty is provided; transferring, renumbering, and amending s. 633.171, F.S.; providing penalties for rendering a fire protection system required by statute or by rule inoperative; providing penalties for using the certificate of another person, holding a license or certificate and allowing another person to use the license or certificate, and using or allowing the use of any certificate or permit by any individual or organization other than the individual to whom the

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59 certificate or permit is issued; conforming a cross-
60 reference; transferring, renumbering, and amending s.
61 633.175, F.S., relating to investigation of fraudulent
62 insurance claims and crimes and immunity of insurance
63 companies supplying information relative thereto;
64 defining the term “consultant”; revising provisions to
65 include investigation of explosions in fraudulent
66 insurance claim investigations; authorizing the State
67 Fire Marshal to adopt rules to implement provisions
68 relating to an insurance company’s investigation of a
69 suspected fire or explosion by intentional means;
70 revising terminology; conforming a cross-reference;
71 transferring, renumbering, and amending s. 633.45,
72 F.S.; clarifying and revising the powers and duties of
73 the Division of State Fire Marshal; requiring the
74 division to establish by rule uniform minimum
75 standards for the employment and training of
76 firefighters and volunteer firefighters; requiring the
77 division to establish by rule minimum curriculum
78 requirements and criteria for the approval of
79 education or training providers; requiring the
80 division to specify by rule standards for the
81 approval, denial of approval, probation, suspension,
82 and revocation of approval of education or training
83 providers and facilities for training firefighters and
84 volunteer firefighters; requiring the division to
85 specify by rule standards for the certification,
86 denial of certification, probation, and revocation of
87 certification for instructors; requiring the division

88 to establish by rule minimum training qualifications
89 for persons serving as specified firesafety
90 coordinators; requiring the division to issue
91 specified licenses, certificates, and permits;
92 conforming cross-references; creating s. 633.132,
93 F.S.; establishing fees to be collected by the
94 division; authorizing the division to establish by
95 rule fees necessary to cover administrative costs and
96 to collect such fees in advance; providing for the
97 appropriation and deposit of all funds collected by
98 the State Fire Marshal pursuant to ch. 633, F.S.;
99 transferring and renumbering s. 633.39, F.S., relating
100 to acceptance by the division of donations of property
101 and grants of money; transferring, renumbering, and
102 amending s. 633.115, F.S., relating to the Fire and
103 Emergency Incident Information Reporting Program;
104 making technical changes; conforming a cross-
105 reference; creating s. 633.138, F.S.; providing
106 requirements with respect to notice of change of
107 address of record for, and notice of felony actions
108 against, a licensee, permittee, or certificateholder;
109 transferring, renumbering and amending s. 633.042,
110 F.S.; revising the “Reduced Cigarette Ignition
111 Propensity Standard and Firefighter Protection Act” to
112 include preemption by the act of local laws and rules;
113 providing a directive to the Division of Law Revision
114 and Information to create part II of ch. 633, F.S.,
115 entitled “Fire Safety and Prevention”; transferring,
116 renumbering, and amending s. 633.0215, F.S., relating

117 to the Florida Fire Prevention Code; conforming cross-
118 references; deleting an obsolete provision;
119 transferring, renumbering, and amending s. 633.72,
120 F.S., relating to the Florida Fire Code Advisory
121 Council; revising membership of the council; providing
122 for semiannual meetings of the council; authorizing
123 the council to review proposed changes to the Florida
124 Fire Prevention Code and specified uniform fire safety
125 standards; conforming cross-references; transferring,
126 renumbering, and amending s. 633.022, F.S., relating
127 to uniform firesafety standards; revising
128 applicability of uniform firesafety standards;
129 removing obsolete provisions; transferring,
130 renumbering, and amending s. 633.025, F.S., relating
131 to minimum firesafety standards; deleting references
132 to the Life Safety Code; conforming provisions to
133 changes made by the act; conforming a cross-reference;
134 transferring, renumbering, and amending s. 633.026,
135 F.S., relating to informal interpretations of the
136 Florida Fire Prevention Code and legislative intent
137 with respect thereto; conforming provisions to changes
138 made by the act; conforming cross-references; revising
139 terminology to provide for declaratory statements
140 rather than formal interpretations in nonbinding
141 interpretations of Florida Fire Prevention Code
142 provisions; transferring, renumbering, and amending s.
143 633.052, F.S., relating to ordinances relating to
144 firesafety and penalties for violation; conforming
145 terminology; providing that a special district may

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146 enact any ordinance relating to firesafety codes that
147 is identical to ch. 633, F.S., or any state law,
148 except as to penalty; transferring, renumbering, and
149 amending s. 633.081, F.S., relating to inspection of
150 buildings and equipment; clarifying persons authorized
151 to inspect buildings and structures; conforming cross-
152 references; revising requirements of persons
153 conducting firesafety inspections; revising the period
154 of validity of, and continuing education requirements
155 for, firesafety inspector certificates; requiring
156 repeat training for certified fire safety inspectors
157 whose certification has lapsed for a specified period;
158 revising grounds for denial, refusal to renew,
159 suspension, or revocation of a firesafety inspector
160 certificate; requiring the department to provide by
161 rule for the certification of Fire Code
162 Administrators; transferring, renumbering, and
163 amending s. 633.085, F.S., relating to inspection of
164 state buildings and premises; defining the terms
165 “high-hazard occupancy” and “state-owned building”;
166 providing for identification of state-owned buildings
167 or state-leased buildings or space; authorizing,
168 rather than requiring, the State Fire Marshal or
169 agents thereof to conduct performance tests on any
170 electronic fire warning and smoke detection system,
171 and any pressurized air-handling unit, in any state-
172 owned building or state-leased building or space on a
173 recurring basis; requiring the State Fire Marshal or
174 agents thereof to ensure that fire drills are

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175 conducted in all high-hazard state-owned buildings or
176 high-hazard state-leased occupancies at least
177 annually; requiring that all new construction or
178 renovation, alteration, or change of occupancy of any
179 existing, state-owned building or state-leased
180 building or space comply with uniform firesafety
181 standards; authorizing the division to inspect state-
182 owned buildings and spaces and state-leased buildings
183 and spaces as necessary before occupancy or during
184 construction, renovation, or alteration to ascertain
185 compliance with uniform firesafety standards;
186 requiring the division to issue orders to cease
187 construction, renovation, or alteration, or to
188 preclude occupancy, of a state-owned or state-leased
189 building or space for noncompliance; transferring,
190 renumbering, and amending s. 633.027, F.S., relating
191 to buildings with light-frame truss-type construction;
192 conforming cross-references; transferring,
193 renumbering, and amending s. 633.60, F.S., relating to
194 automatic fire sprinkler systems for one-family
195 dwellings, two-family dwellings, and mobile homes;
196 conforming a cross-reference; transferring and
197 renumbering s. 633.557, F.S., relating to the
198 nonapplicability of the act to owners of property who
199 are building or improving farm outbuildings and
200 standpipe systems installed by plumbing contractors;
201 transferring, renumbering, and amending s. 633.161,
202 F.S., relating to violations and enforcement of ch.
203 633, F.S., orders resulting from violations, and

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204 penalties for violation; conforming cross-references;
205 providing a directive to the Division of Law Revision
206 and Information to create part III of ch. 633, F.S.,
207 entitled “Fire Protection and Suppression”;
208 transferring, renumbering, and amending s. 633.511,
209 F.S., relating to the Florida Fire Safety Board;
210 conforming provisions to changes made by the act;
211 conforming cross-references; requiring the board to
212 act in an advisory capacity; authorizing the board to
213 review complaints and make recommendations; providing
214 for election of officers, quorum, and compensation of
215 the board; requiring the board to adopt a seal;
216 transferring, renumbering, and amending s. 633.061,
217 F.S., relating to licensure to install or maintain
218 fire suppression equipment; removing the fee schedule
219 from such provisions; revising provisions relating to
220 fire equipment dealers who wish to withdraw a
221 previously filed halon equipment exemption affidavit;
222 providing conditions that an applicant for a license
223 of any class who has facilities located outside the
224 state must meet in order to obtain a required
225 equipment inspection; providing for the adoption of
226 rules with respect to the establishment and
227 calculation of inspection costs; revising and
228 clarifying provisions that exclude from licensure for
229 a specified period applicants having a previous
230 criminal conviction; defining the term “convicted”;
231 providing conditions under which a licensed fire
232 equipment dealer may apply to convert the license

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233 currently held to a higher or lower licensing
234 category; providing a procedure for an applicant who
235 passes an examination for licensure or permit but
236 fails to meet remaining qualifications within 1 year
237 after the application date; transferring, renumbering,
238 and amending s. 633.065, F.S., relating to
239 requirements for installation, inspection, and
240 maintenance of fire suppression equipment; conforming
241 a cross-reference; transferring, renumbering, and
242 amending s. 633.071, F.S., relating to standard
243 service tags required on all fire extinguishers and
244 preengineered systems; conforming a cross-reference;
245 transferring, renumbering, and amending s. 633.082,
246 F.S., relating to inspection of fire control systems,
247 fire hydrants, and fire protection systems; conforming
248 a cross-reference; making technical changes;
249 transferring, renumbering, and amending s. 633.083,
250 F.S., relating to the prohibited sale or use of
251 certain types of fire extinguishers and penalty
252 therefor; making a technical change; transferring,
253 renumbering, and amending s. 633.162, F.S., relating
254 to fire suppression system contractors and
255 disciplinary actions with respect thereto; conforming
256 cross-references; clarifying provisions; transferring,
257 renumbering, and amending s. 633.521, F.S., relating
258 to certification as fire protection system contractor;
259 clarifying provisions and making technical changes;
260 conforming cross-references; transferring,
261 renumbering, and amending s. 633.551, F.S., relating

262 to county and municipal powers and the effect of ch.
263 75-240, Laws of Florida; making technical changes;
264 transferring and renumbering s. 633.527, F.S.,
265 relating to records concerning an applicant and the
266 extent of confidentiality; transferring and
267 renumbering s. 633.531, F.S., relating to statewide
268 effectiveness and nontransferability of certificates;
269 transferring, renumbering, and amending s. 633.534,
270 F.S., relating to the issuance of certificates to
271 individuals and business organizations; making a
272 technical change; transferring, renumbering, and
273 amending s. 633.537, F.S., relating to renewal and
274 expiration of certificates; deleting an obsolete
275 provision; deleting a provision which prescribes the
276 biennial renewal fee for an inactive status
277 certificate; making technical changes; transferring,
278 renumbering, and amending s. 633.539, F.S., relating
279 to requirements for installation, inspection, and
280 maintenance of fire protection systems; conforming a
281 cross-reference; transferring, renumbering, and
282 amending s. 633.541, F.S., relating to the prohibition
283 against contracting as a fire protection contractor
284 without a certificate and penalty for violation
285 thereof; conforming cross-references; making a
286 technical change; transferring, renumbering, and
287 amending s. 633.547, F.S.; relating to disciplinary
288 action concerning fire protection system contractors;
289 revising provisions that authorize the State Fire
290 Marshal to suspend a fire protection system

291 contractor's or permittee's certificate; deleting
292 provisions authorizing revocation of a certificate for
293 a specified period; conforming a cross-reference;
294 transferring, renumbering, and amending s. 633.549,
295 F.S., relating to violations that are subject to
296 injunction; making a technical change; transferring
297 and renumbering s. 633.554, F.S., relating to
298 application of ch. 633, F.S., regulating contracting
299 and contractors; transferring, renumbering, and
300 amending s. 633.70, F.S., relating to jurisdiction of
301 the State Fire Marshal over alarm system contractors
302 and certified unlimited electrical contractors;
303 conforming a cross-reference; transferring and
304 renumbering s. 633.701, F.S., relating to requirements
305 for fire alarm system equipment; transferring,
306 renumbering, and amending s. 633.702, F.S., relating
307 to prohibited acts regarding alarm system contractors
308 or certified unlimited electrical contractors and
309 penalties for violations; making technical changes;
310 providing a directive to the Division of Law Revision
311 and Information to create part IV of ch. 633, F.S.,
312 entitled "Fire Standards and Training"; transferring,
313 renumbering, and amending s. 633.31, F.S.; revising
314 provisions relating to the Firefighters Employment,
315 Standards, and Training Council; providing for an
316 additional member of the council; providing for
317 organization of the council, meetings, quorum,
318 compensation, and adoption of a seal; providing for
319 special powers of the council in connection with the

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320 employment and training of firefighters; transferring,
321 renumbering, and amending s. 633.42, F.S., relating to
322 the authority of fire service providers to establish
323 qualifications and standards for hiring, training, or
324 promoting firefighters which exceed the minimum set by
325 the department; conforming terminology; creating s.
326 633.406, F.S.; specifying classes of certification
327 awarded by the division; authorizing the division to
328 establish specified additional certificates by rule;
329 transferring, renumbering, and amending s. 633.35,
330 F.S.; revising provisions relating to firefighter and
331 volunteer firefighter training and certification;
332 requiring the division to establish by rule specified
333 courses and course examinations; providing that
334 courses may only be administered by specified
335 education or training providers and taught by
336 certified instructors; revising provisions with
337 respect to payment of training costs and payment of
338 tuition for attendance at approved courses; providing
339 requirements for issuance by the division of a
340 firefighter certificate of compliance; providing
341 requirements for issuance by the division of a
342 Volunteer Firefighter Certificate of Completion;
343 authorizing the division to issue a Special
344 Certificate of Compliance; providing requirements and
345 limitations with respect thereto; providing procedures
346 and requirements for reexamination after failure of an
347 examination; increasing the required number of hours
348 of the structural fire training program; providing for

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349 a Forestry Certificate of Compliance and prescribing
350 the rights, privileges, and benefits thereof;
351 transferring, renumbering, and amending s. 633.34,
352 F.S., relating to qualifications for certification as
353 a firefighter; revising provisions relating to
354 disqualifying offenses; providing requirements of the
355 division with respect to suspension or revocation of a
356 certificate; making technical changes; conforming
357 cross-references; transferring, renumbering, and
358 amending s. 633.352, F.S., relating to firefighter
359 employment and volunteer firefighter service; revising
360 provisions relating to retention of certification as a
361 firefighter; defining the term "active"; transferring,
362 renumbering, and amending s. 633.41, F.S.; prohibiting
363 a fire service provider from employing an individual
364 as a firefighter or supervisor of firefighters and
365 from retaining the services of an individual
366 volunteering as a firefighter or a supervisor of
367 firefighters without required certification; requiring
368 a fire service provider to make a diligent effort to
369 determine possession of required certification prior
370 to employing or retaining an individual for specified
371 services; defining the term "diligent effort";
372 requiring a fire service provider to notify the
373 division of specified hirings, retentions,
374 terminations, decisions not to retain a firefighter,
375 and determinations of failure to meet certain
376 requirements; authorizing the division to conduct site
377 visits to fire departments to monitor compliance;

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378 defining the term "employ"; conforming cross-
379 references; transferring, renumbering, and amending s.
380 633.38, F.S., relating to curricula and standards for
381 advanced and specialized training prescribed by the
382 division; revising terminology to conform; conforming
383 cross-references; transferring, renumbering, and
384 amending s. 633.382, F.S., relating to supplemental
385 compensation for firefighters who pursue specified
386 higher educational opportunities; removing
387 definitions; requiring the State Fire Marshal to
388 determine, and adopt by rule, course work or degrees
389 that represent the best practices toward supplemental
390 compensation goals; specifying that supplemental
391 compensation shall be paid to qualifying full-time
392 employees of a fire service provider; conforming
393 terminology; clarifying provisions; specifying that
394 policy guidelines be adopted by rule; classifying the
395 division as a fire service provider responsible for
396 the payment of supplemental compensation to full-time
397 firefighters employed by the division; transferring,
398 renumbering, and amending s. 633.353, F.S., relating
399 to falsification of qualifications; clarifying
400 provisions that provide a penalty for falsification of
401 qualifications provided to the Bureau of Fire
402 Standards and Training of the division; transferring,
403 renumbering, and amending s. 633.351, F.S., relating
404 to disciplinary action and standards for revocation of
405 certification; providing definitions; providing
406 conditions for ineligibility to apply for

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407 certification under ch. 633, F.S.; providing
408 conditions for permanent revocation of certification,
409 prospective application of such provisions, and
410 retroactive application with respect to specified
411 convictions; revising provisions relating to
412 revocation of certification; providing requirements
413 with respect to application for certification;
414 requiring specified submission of fingerprints;
415 providing a fee; providing requirements of the
416 Department of Law Enforcement with respect to
417 submitted fingerprints; transferring, renumbering, and
418 amending s. 633.43, F.S., relating to the
419 establishment of the Florida State Fire College;
420 conforming a provision to changes made by the act;
421 transferring, renumbering, and amending s. 633.44,
422 F.S., relating to the purposes of the Florida State
423 Fire College and part IV of ch. 633, F.S.; expanding
424 such purpose; conforming a cross-reference;
425 transferring, renumbering, and amending s. 633.48,
426 F.S., relating to the superintendent of the Florida
427 State Fire College; conforming a cross-reference;
428 transferring, renumbering, and amending s. 633.461,
429 F.S., relating to uses of funds from the Insurance
430 Regulatory Trust Fund; clarifying provisions;
431 transferring and renumbering s. 633.47, F.S., relating
432 to the procedure for making expenditures on behalf of
433 the Florida State Fire College; transferring,
434 renumbering, and amending s. 633.49, F.S., relating to
435 the use of buildings, equipment, and other facilities

436 of the fire college; conforming a cross-reference;
437 transferring, renumbering, and amending s. 633.50,
438 F.S., relating to additional duties of the Division of
439 State Fire Marshal related to the Florida State Fire
440 College; conforming cross-references; providing a
441 directive to the Division of Law Revision and
442 Information to create part V of ch. 633, F.S.,
443 entitled "Florida Firefighters Occupational Safety and
444 Health Act"; transferring, renumbering, and amending
445 s. 633.801, F.S., relating to a short title;
446 conforming a cross-reference; transferring,
447 renumbering, and amending s. 633.802, F.S., relating
448 to definitions; revising definitions of "firefighter
449 employee," "firefighter employer," and "firefighter
450 place of employment"; transferring, renumbering, and
451 amending s. 633.803, F.S., relating to legislative
452 intent to enhance firefighter occupational safety and
453 health in the state; clarifying provisions; conforming
454 cross-references; transferring, renumbering, and
455 amending s. 633.821, F.S., relating to assistance by
456 the division in facilitating firefighter employee
457 workplace safety; revising references to publications;
458 removing obsolete provisions; revising requirements
459 and responsibilities of the division; transferring,
460 renumbering, and amending s. 633.817, F.S., relating
461 to remedies available to the division for
462 noncompliance with part V of ch. 633, F.S.; conforming
463 cross-references; transferring and renumbering s.
464 633.805, F.S., relating to a required study by the

465 division of firefighter employee occupational
466 diseases; transferring, renumbering, and amending s.
467 633.806, F.S., relating to certain duties of the
468 division; revising provisions that require the
469 division to make studies, investigations, inspections,
470 and inquiries with respect to compliance with part V
471 of ch. 633, F.S., or rules authorized thereunder, and
472 the causes of firefighter employee injuries,
473 illnesses, safety-based complaints, or line-of-duty
474 deaths in firefighter employee places of employment;
475 authorizing the division to adopt by rule procedures
476 for conducting inspections and inquiries of
477 firefighter employers under part V of ch. 633, F.S.;
478 authorizing the division to enter premises to
479 investigate compliance; providing a criminal penalty;
480 conforming references; transferring, renumbering, and
481 amending s. 633.807, F.S., relating to safety
482 responsibilities of firefighter employers; revising
483 definitions of the terms “safe” and “safety”;
484 transferring, renumbering, and amending s. 633.809,
485 F.S.; relating to firefighter employers with a high
486 frequency of firefighter employee work-related
487 injuries; revising provisions relating to required
488 safety inspections; clarifying that the division may
489 not assess penalties as a result of such inspections;
490 requiring firefighter employers to submit a plan for
491 the correction of noncompliance issues to the division
492 for approval in accordance with division rule;
493 providing procedures if a plan is not submitted, does

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494 not provide corrective actions, is incomplete, or is
495 not implemented; providing for workplace safety
496 committees and coordinators, including mandatory
497 negotiations during collective bargaining; requiring
498 the division to adopt rules; providing for
499 compensation of the workplace safety committee;
500 authorizing cancellation of an insurance plan due to
501 noncompliance; transferring, renumbering, and amending
502 s. 633.811, F.S., relating to firefighter employer
503 penalties; prescribing additional administrative
504 penalties for firefighter employers for violation of,
505 or refusal to comply with, part V of ch. 633, F.S.;
506 providing for location of hearings; transferring,
507 renumbering, and amending s. 633.812, F.S., relating
508 to specified cooperation by the division with the
509 Federal Government; clarifying requirements from which
510 private firefighter employers are exempt; eliminating
511 a prerequisite to exemption for specified firefighter
512 employers; requiring reinspection after specified
513 noncompliance; transferring, renumbering, and amending
514 s. 633.816, F.S., relating to firefighter employee
515 rights and responsibilities; conforming cross-
516 references; transferring, renumbering, and amending s.
517 633.818, F.S., relating to false statements;
518 conforming a cross-reference; prohibiting a person
519 from committing certain fraudulent acts in any matter
520 within the jurisdiction of the division; providing
521 criminal penalties; providing a statute of limitation;
522 transferring, renumbering, and amending s. 633.814,

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523 F.S., relating to disbursement of expenses to
524 administer part V of ch. 633, F.S.; conforming a
525 cross-reference; amending s. 112.011, F.S.; removing
526 provisions that exclude from employment for a
527 specified period an applicant for employment with a
528 fire department who has a prior felony conviction;
529 amending s. 112.191, F.S.; revising provisions
530 relating to adjustments in payments of accidental
531 death benefits for firefighters; amending s. 120.541,
532 F.S.; providing that certain rules concerning
533 statements of regulatory costs do not apply to the
534 updates and amendments to the Florida Fire Prevention
535 Code; amending s. 196.081, F.S.; revising provisions
536 relating to the homestead exemption for spouses of
537 veterans who died in the line of duty; creating a
538 homestead exemption for surviving spouses of first
539 responders who die in the line of duty; amending s.
540 554.103, F.S.; revising provisions of the State Boiler
541 Code; establishing construction standards for new
542 boilers installed or imported into this state;
543 requiring the installer, rather than the owner, of a
544 boiler placed in use after a specified date to submit
545 a data report before operation; amending s. 633.167,
546 F.S.; deleting a provision providing for terms and
547 conditions of probation; amending s. 633.517, F.S.;
548 deleting a provision authorizing the State Fire
549 Marshal to administers oaths and take testimony;
550 amending s. 791.012, F.S., relating to minimum
551 fireworks safety standards; updating a reference;

552 amending s. 791.015, F.S.; authorizing seasonal
553 retailers of sparklers to submit one registration form
554 for multiple locations; requiring each seasonal
555 retailer of sparklers to pay an annual registration
556 fee for each retail location registered; repealing s.
557 633.024, F.S., relating to legislative findings and
558 intent with respect to ensuring effective fire
559 protection of vulnerable nursing home residents, the
560 expedited retrofit of existing nursing homes through a
561 limited state loan guarantee, and funding thereof;
562 repealing s. 633.0245, F.S., relating to the State
563 Fire Marshal Nursing Home Fire Protection Loan
564 Guarantee Program; repealing s. 633.03, F.S., relating
565 to investigations of fire and reports; repealing s.
566 633.0421, F.S., relating to preemption of the reduced
567 cigarette ignition propensity standard by the state;
568 repealing s. 633.13, F.S., relating to the authority
569 of State Fire Marshal agents; repealing s. 633.18,
570 F.S., relating to hearings and investigations by the
571 State Fire Marshal; repealing s. 633.30, F.S.,
572 relating to definitions with respect to standards for
573 firefighting; repealing s. 633.32, F.S., relating to
574 organization, meetings, quorum, compensation, and seal
575 of the Firefighters Employment, Standards, and
576 Training Council; repealing s. 633.33, F.S., relating
577 to special powers of the Firefighters Employment,
578 Standards, and Training Council in connection with the
579 employment and training of firefighters; repealing s.
580 633.37, F.S., relating to payment of tuition at

581 approved training programs by the employing agency;
582 repealing s. 633.445, F.S., relating to the State Fire
583 Marshal Scholarship Grant Program; repealing s.
584 633.46, F.S., relating to authority of the Division of
585 State Fire Marshal to fix and collect admission fees
586 and other fees it deems necessary to be charged for
587 training; repealing s. 633.514, F.S., relating to
588 Florida Fire Safety Board duties, meetings, officers,
589 quorum, and compensation; repealing s. 633.524, F.S.,
590 relating to certificate and permit fees assessed under
591 ch. 633, F.S., and the use and deposit thereof;
592 repealing s. 633.804, F.S., relating to the adoption
593 of rules governing firefighter employer and
594 firefighter employee safety inspections and
595 consultations; repealing s. 633.808, F.S., relating to
596 division authority; repealing s. 633.810, F.S.,
597 relating to workplace safety committees and safety
598 coordinators; repealing s. 633.813, F.S., relating to
599 cancellation of an insurance policy for failure to
600 implement a safety and health program; repealing s.
601 633.815, F.S., relating to penalties for refusing
602 entry to a firefighter place of employment for the
603 purposes of investigations or inspections by the
604 division; repealing s. 633.819, F.S., relating to
605 matters within the jurisdiction of the division and
606 fraudulent acts, penalties, and statute of
607 limitations; repealing s. 633.820, F.S., relating to
608 the applicability of specified sections of ch. 633,
609 F.S., to volunteer firefighters and volunteer fire

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610 departments; amending ss. 112.1815, 112.191, 112.81,
611 119.071, 120.80, 121.0515, 125.01, 125.01045, 125.56,
612 166.0446, 175.032, 175.121, 218.23, 252.515, 255.45,
613 258.0145, 281.02, 384.287, 395.0163, 400.232, 400.915,
614 429.41, 429.44, 429.73, 447.203, 468.602, 468.609,
615 489.103, 489.105, 496.404, 509.032, 513.05, 553.73,
616 553.77, 553.79, 590.02, 627.4107, 893.13, 934.03,
617 943.61, 1002.33, 1002.34, 1013.12, and 1013.38, F.S.;
618 conforming cross-references; updating terminology;
619 providing an effective date.
620
621 Be It Enacted by the Legislature of the State of Florida:
622
623 Section 1. The Division of Law Revision and Information is
624 requested to create part I of chapter 633, Florida Statutes,
625 consisting of sections 633.102, 633.104, 633.106, 633.108,
626 633.112, 633.114, 633.116, 633.118, 633.122, 633.124, 633.126,
627 633.128, 633.132, 633.134, 633.136, and 633.138, Florida
628 Statutes, to be entitled "General Provisions."
629 Section 2. Section 633.021, Florida Statutes, is
630 transferred, renumbered as section 633.102, Florida Statutes,
631 and amended to read:
632 633.102 ~~633.021~~ Definitions.—As used in this chapter, the
633 term:
634 (1) "Board" means the Florida Fire Safety Board.
635 ~~(2) "Certificate" means a certificate of competency issued~~
636 ~~by the State Fire Marshal.~~
637 ~~(3) "Certification" means the act of obtaining or holding a~~
638 ~~certificate of competency from the State Fire Marshal.~~

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639 (2) ~~(4)~~ "Contracting" means engaging in business as a
640 contractor.
641 (3) ~~(5)~~(a) "Contractor I" means a contractor whose business
642 includes the execution of contracts requiring the ability to lay
643 out, fabricate, install, inspect, alter, repair, and service all
644 types of fire protection systems, excluding preengineered
645 systems.
646 (b) "Contractor II" means a contractor whose business is
647 limited to the execution of contracts requiring the ability to
648 lay out, fabricate, install, inspect, alter, repair, and service
649 water sprinkler systems, water spray systems, foam-water
650 sprinkler systems, foam -water spray systems, standpipes,
651 combination standpipes and sprinkler risers, all piping that is
652 an integral part of the system beginning at the point of service
653 as defined in this section, sprinkler tank heaters, air lines,
654 thermal systems used in connection with sprinklers, and tanks
655 and pumps connected thereto, excluding preengineered systems.
656 (c) "Contractor III" means a contractor whose business is
657 limited to the execution of contracts requiring the ability to
658 fabricate, install, inspect, alter, repair, and service carbon
659 dioxide ~~CO_2~~ systems, foam extinguishing systems, dry chemical
660 systems, and Halon and other chemical systems, excluding
661 preengineered systems.
662 (d) "Contractor IV" means a contractor whose business is
663 limited to the execution of contracts requiring the ability to
664 lay out, fabricate, install, inspect, alter, repair, and service
665 automatic fire sprinkler systems for detached one-family
666 dwellings, detached two-family dwellings, and mobile homes,
667 excluding preengineered systems and excluding single-family

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668 homes in cluster units, such as apartments, condominiums, and
669 assisted living facilities or any building that is connected to
670 other dwellings.
671 (e) "Contractor V" means a contractor whose business is
672 limited to the execution of contracts requiring the ability to
673 fabricate, install, inspect, alter, repair, and service the
674 underground piping for a fire protection system using water as
675 the extinguishing agent beginning at the point of service as
676 defined in this act and ending no more than 1 foot above the
677 finished floor.
678
679 The definitions in this subsection may ~~must~~ not be construed to
680 include ~~fire protection~~ engineers or architects and do not limit
681 or prohibit a licensed fire protection engineer or architect
682 with fire protection design experience from designing any type
683 of fire protection system. A distinction is made between system
684 design concepts prepared by the design professional and system
685 layout as defined in this section and typically prepared by the
686 contractor. However, a person ~~persons~~ certified as a Contractor
687 I, Contractor II, or Contractor IV under this chapter may design
688 fire protection systems of 49 or fewer sprinklers, and may
689 design the alteration of an existing fire sprinkler system if
690 the alteration consists of the relocation, addition, or deletion
691 of not more than 49 sprinklers, notwithstanding the size of the
692 existing fire sprinkler system. A person certified as a
693 Contractor I, Contractor II, or Contractor IV may design a fire
694 protection system the scope of which complies with NFPA 13D,
695 Standard for the Installation of Sprinkler Systems in One- and
696 Two-Family Dwellings and Manufactured Homes, as adopted by the

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697 State Fire Marshal, notwithstanding the number of fire
698 sprinklers. Contractor-developed plans may not be required by
699 any local permitting authority to be sealed by a registered
700 professional engineer.
701 (4) "Department" means the Department of Financial
702 Services.
703 (5) "Division" means the Division of State Fire Marshal
704 within the Department of Financial Services.
705 (6) "Explosives" means any chemical compound or mixture
706 that has the property of yielding readily to combustion or
707 oxidation upon the application of heat, flame, or shock and is
708 capable of producing an explosion and is commonly used for that
709 purpose, including but not limited to dynamite, nitroglycerin,
710 trinitrotoluene, ammonium nitrate when combined with other
711 ingredients to form an explosive mixture, blasting caps, and
712 detonators; but the term does not include cartridges for
713 firearms or fireworks as defined in chapter 791.
714 (7)(a) "Fire equipment dealer Class A" means a licensed
715 fire equipment dealer whose business is limited to servicing,
716 recharging, repairing, installing, or inspecting all types of
717 fire extinguishers and conducting hydrostatic tests on all types
718 of fire extinguishers.
719 (b) "Fire equipment dealer Class B" means a licensed fire
720 equipment dealer whose business is limited to servicing,
721 recharging, repairing, installing, or inspecting all types of
722 fire extinguishers, including recharging carbon dioxide units
723 and conducting hydrostatic tests on all types of fire
724 extinguishers, except carbon dioxide units.
725 (c) "Fire equipment dealer Class C" means a licensed fire

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726 equipment dealer whose business is limited to servicing,
727 recharging, repairing, installing, or inspecting all types of
728 fire extinguishers, except recharging carbon dioxide units, and
729 conducting hydrostatic tests on all types of fire extinguishers,
730 except carbon dioxide units.
731 (d) "Fire equipment dealer Class D" means a licensed fire
732 equipment dealer whose business is limited to servicing,
733 recharging, repairing, installing, hydrotesting, or inspecting
734 of all types of preengineered fire extinguishing systems.
735 (8) ~~A~~ "Fire extinguisher" means ~~is~~ a cylinder that:
736 (a) Is portable and can be carried or is on wheels.
737 (b) Is manually operated.
738 (c) May use a variety of extinguishing agents that are
739 expelled under pressure.
740 (d) Is rechargeable or nonrechargeable.
741 (e) Is installed, serviced, repaired, recharged, inspected,
742 and hydrotested according to applicable procedures of the
743 manufacturer, standards of the National Fire Protection
744 Association, and the Code of Federal Regulations.
745 (f) Is listed by a nationally recognized testing
746 laboratory.
747 (9) "Firefighter" means an individual who holds a current
748 and valid Firefighter Certificate of Compliance or Special
749 Certificate of Compliance issued by the division under s.
750 633.408.
751 (10) "Fire service support personnel" means an individual
752 who does not hold a current and valid certificate issued by the
753 division and who may only perform support services.
754 (11)~~(9)~~ ~~A~~ "Fire hydrant" means ~~is~~ a connection to a water

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755 main, elevated water tank, or other source of water for the
756 purpose of supplying water to a fire hose or other fire
757 protection apparatus for fire suppression operations. The term
758 does not include a fire protection system.
759 (12)~~(10)~~ ~~A~~ "Fire protection system" means ~~is~~ a system
760 individually designed to protect the interior or exterior of a
761 specific building or buildings, structure, or other special
762 hazard from fire. Such systems include, but are not limited to,
763 water sprinkler systems, water spray systems, foam-water
764 sprinkler systems, foam-water spray systems, carbon dioxide ~~CO2~~
765 systems, foam extinguishing systems, dry chemical systems, and
766 Halon and other chemical systems used for fire protection use.
767 Such systems also include any overhead and underground fire
768 mains, fire hydrants and hydrant mains, standpipes and hoses
769 connected to sprinkler systems, sprinkler tank heaters, air
770 lines, thermal systems used in connection with fire sprinkler
771 systems, and tanks and pumps connected to fire sprinkler
772 systems.
773 (13)~~(11)~~ ~~A~~ "Firesafety inspector" means ~~is~~ an individual
774 who holds a current and valid Fire Safety Inspector Certificate
775 of Compliance issued ~~certified~~ by the division ~~State Fire~~
776 ~~Marshal~~ under s. 633.216 ~~s. 633.081~~ who is officially assigned
777 the duties of conducting firesafety inspections of buildings and
778 facilities on a recurring or regular basis on behalf of the
779 state or any county, municipality, or special district with fire
780 safety responsibilities.
781 (14) "Fire service provider" means a municipality or
782 county, the state, or any political subdivision of the state,
783 including authorities and special districts, employing

784 firefighters or utilizing volunteer firefighters to provide fire
785 extinguishment for the protection of life and property. The term
786 includes any organization under contract or other agreement with
787 such entity to provide such services.
788 (15)~~(12)~~ "Handling" means touching, holding, taking up,
789 moving, controlling, or otherwise affecting with the hand or by
790 any other agency.
791 ~~(13)(a) For the purposes of s. 633.085(1), the term "high-~~
792 ~~hazard occupancy" means any building or structure:~~
793 ~~1. That contains combustible or explosive matter or~~
794 ~~flammable conditions dangerous to the safety of life or~~
795 ~~property.~~
796 ~~2. In which persons receive educational instruction.~~
797 ~~3. In which persons reside, excluding private dwellings.~~
798 ~~4. Containing three or more floor levels.~~
799
800 ~~Such buildings or structures include, but are not limited to,~~
801 ~~all hospitals and residential health care facilities, nursing~~
802 ~~homes and other adult care facilities, correctional or detention~~
803 ~~facilities, public schools, public lodging establishments,~~
804 ~~migrant labor camps, residential child care facilities, and~~
805 ~~self-service gasoline stations.~~
806 ~~(b) For the purposes of this subsection, the term "high-~~
807 ~~hazard occupancy" does not include any residential condominium~~
808 ~~where the declaration of condominium or the bylaws provide that~~
809 ~~the rental of units shall not be permitted for less than 90~~
810 ~~days.~~
811 (16)~~(14)~~ "Highway" means every way or place of whatever
812 nature within the state open to the use of the public, as a

813 matter of right, for purposes of vehicular traffic and includes
814 public streets, alleys, roadways, or driveways upon grounds of
815 colleges, universities, and institutions and other ways open to
816 travel by the public, notwithstanding that the same have been
817 temporarily closed for the purpose of construction,
818 reconstruction, maintenance, or repair. The term does not
819 include a roadway or driveway upon grounds owned by a private
820 person.
821 (17) "Hot zone" means the area immediately around an
822 incident where serious threat of harm exists, which includes the
823 collapse zone for a structure fire.
824 (18)~~(15)~~ "Keeping" means possessing, holding, retaining,
825 maintaining, or having habitually in stock for sale.
826 (19)~~(16)~~ "Layout" ~~as used in this chapter~~ means the layout
827 of risers, cross mains, branch lines, sprinkler heads, sizing of
828 pipe, hanger locations, and hydraulic calculations in accordance
829 with the design concepts established through ~~the provisions of~~
830 the Responsibility Rules adopted by the Board of Professional
831 Engineers.
832 (20)~~(17)~~ "Manufacture" means the compounding, combining,
833 producing, or making of anything or the working of anything by
834 hand, by machinery, or by any other agency into forms suitable
835 for use.
836 (21)~~(18)~~ ~~A~~ "Minimum firesafety standard" means ~~is~~ a
837 requirement or group of requirements adopted pursuant to s.
838 633.208 ~~633.025~~ by a county, municipality, or special district
839 with firesafety responsibilities, or by the State Fire Marshal
840 pursuant to s. 394.879, for the protection of life and property
841 from loss by fire which shall be met, as a minimum, by every

842 occupancy, facility, building, structure, premises, device, or
843 activity to which it applies.
844 (22) "Minimum Standards Course" means training of at least
845 360 hours as prescribed by rule adopted by the division which is
846 required to obtain a Firefighter Certificate of Compliance under
847 s. 633.408.
848 (23)~~(19)~~ "Motor vehicle" means any device propelled by
849 power other than muscular power in, upon, or by which any
850 individual ~~person~~ or property is or may be transported or drawn
851 upon a highway, except a device moved or used exclusively upon
852 stationary rails or tracks.
853 (24)~~(20)~~ "Point-of-service" means the point at which the
854 underground piping for a fire protection system as defined in
855 this section using water as the extinguishing agent becomes used
856 exclusively for the fire protection system.
857 (25)~~(21)~~(a) ~~A~~ "Preengineered system" means ~~is~~ a fire
858 suppression system which:
859 1. Uses any of a variety of extinguishing agents.
860 2. Is designed to protect specific hazards.
861 3. Must be installed according to pretested limitations and
862 configurations specified by the manufacturer and applicable
863 National Fire Protection Association (NFPA) standards. Only
864 those chapters within the National Fire Protection Association
865 standards which ~~that~~ pertain to servicing, recharging,
866 repairing, installing, hydrotesting, or inspecting any type of
867 preengineered fire extinguishing system may be used.
868 4. Must be installed using components specified by the
869 manufacturer or components that are listed as equal parts by a
870 nationally recognized testing laboratory such as Underwriters

871 Laboratories, Inc., or Factory Mutual Laboratories, Inc.
872 5. Must be listed by a nationally recognized testing
873 laboratory.
874 (b) Preengineered systems consist of and include all of the
875 components and parts providing fire suppression protection, but
876 do not include the equipment being protected, and may
877 incorporate special nozzles, flow rates, methods of application,
878 pressurization levels, and quantities of agents designed by the
879 manufacturer for specific hazards.
880 (26)~~(22)~~ "Private carrier" means a ~~any~~ motor vehicle,
881 aircraft, or vessel operating intrastate in which there is
882 identity of ownership between freight and carrier.
883 (27)~~(23)~~ "Sale" means the act of selling; the act whereby
884 the ownership of property is transferred from one person to
885 another for a sum of money or, loosely, for any consideration.
886 The term includes the delivery of merchandise with or without
887 consideration.
888 (28)~~(24)~~ "Special state firesafety inspector" means an
889 individual officially assigned to the duties of conducting
890 firesafety inspections required by law on behalf of or by an
891 agency of the state having authority for inspections other than
892 the division ~~of State Fire Marshal~~.
893 (29)~~(25)~~ ~~A~~ "Sprinkler system" means ~~is~~ a type of fire
894 protection system, ~~either~~ manual or automatic, using water as an
895 extinguishing agent and installed in accordance with applicable
896 National Fire Protection Association standards.
897 (30)~~(26)~~ "Storing" means accumulating, laying away, or
898 depositing for preservation or as a reserve fund in a store,
899 warehouse, or other source from which supplies may be drawn or

900 within which they may be deposited. The term is limited in
901 meaning and application to storage having a direct relationship
902 to transportation.
903 (31) "Support services" means those activities that a fire
904 service provider has trained an individual to perform safely
905 outside the hot zone of an emergency scene, including pulling
906 hoses, opening and closing fire hydrants, driving and operating
907 apparatus, carrying tools, carrying or moving equipment,
908 directing traffic, manning a resource pool, or similar
909 activities.
910 (32) "Suspension" means the temporary withdrawal of a
911 license, certificate, or permit issued pursuant to this chapter.
912 (33)~~(27)~~ "Transportation" means the conveying or carrying
913 of property from one place to another by motor vehicle (except a
914 motor vehicle subject to ~~the provisions of~~ s. 316.302),
915 aircraft, or vessel, subject to such limitations as are set
916 forth in s. 552.12, in which only the motor vehicles, aircraft,
917 or vessels of the Armed Forces and other federal agencies are
918 specifically exempted.
919 (34)~~(28)~~ ~~A~~ "Uniform firesafety standard" means ~~is~~ a
920 requirement or group of requirements for the protection of life
921 and property from loss by fire which shall be met by every
922 building and structure specified in s. 633.206 ~~633.022(1)~~, and
923 is not ~~neither~~ weakened or ~~nor~~ exceeded by law, rule, or
924 ordinance of any other state agency or political subdivision or
925 county, municipality, or special district with firesafety
926 responsibilities.
927 (35)~~(29)~~ "Use" means application, employment; that
928 enjoyment of property which consists of its employment,

929 occupation, exercise, or practice.
930 (36) "Volunteer firefighter" means an individual who holds
931 a current and valid Volunteer Firefighter Certificate of
932 Completion issued by the division under s. 633.408.
933 Section 3. Section 633.01, Florida Statutes, is transferred
934 and renumbered as section 633.104, Florida Statutes, subsections
935 (1), (3), (5), (6), and (7) of that section are amended, and
936 subsections (8) and (9) are added to that section, to read:
937 633.104 ~~633.01~~ State Fire Marshal; authority; ~~powers and~~
938 duties; rules.—
939 (1) The Chief Financial Officer is designated as "State
940 Fire Marshal." The State Fire Marshal has authority to adopt
941 rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the~~
942 ~~provisions of~~ this chapter ~~conferring powers or duties upon the~~
943 ~~department~~. Rules must ~~shall~~ be in substantial conformity with
944 generally accepted standards of firesafety; must ~~shall~~ take into
945 consideration the direct supervision of children in
946 nonresidential child care facilities; and must ~~shall~~ balance and
947 temper the need of the State Fire Marshal to protect all
948 Floridians from fire hazards with the social and economic
949 inconveniences that may be caused or created by the rules. The
950 department shall adopt the Florida Fire Prevention Code ~~and the~~
951 ~~Life Safety Code~~.
952 (3) The State Fire Marshal shall establish by rule
953 guidelines and procedures for ~~triennial~~ renewal of firesafety
954 inspector requirements for certification every four years.
955 (5) It is the intent of the Legislature that there are to
956 be no conflicting requirements between the Florida Fire
957 Prevention Code ~~and the Life Safety Code authorized by this~~

958 ~~chapter~~ and ~~the provisions of~~ the Florida Building Code or
959 conflicts in their enforcement and interpretation. Potential
960 conflicts shall be resolved through coordination and cooperation
961 of the State Fire Marshal and the Florida Building Commission as
962 provided by this chapter and part IV of chapter 553.
963 (6) Only the State Fire Marshal may issue, and, when
964 requested in writing by any substantially affected person or a
965 local enforcing agency, the State Fire Marshal shall issue
966 declaratory statements pursuant to s. 120.565 relating to the
967 Florida Fire Prevention Code ~~and the Life Safety Code~~.
968 (7) The State Fire Marshal, in consultation with the
969 Department of Education, shall adopt and administer rules
970 prescribing standards for the safety and health of occupants of
971 educational and ancillary facilities pursuant to ss. 633.206
972 ~~633.022~~, 1013.12, 1013.37, and 1013.371. In addition, in any
973 county, municipality, or special district that does not employ
974 or appoint a firesafety inspector certified under s. 633.216
975 ~~633.081~~, the State Fire Marshal shall assume the duties of the
976 local county, municipality, or independent special fire control
977 district as defined in s. 191.003 with respect to firesafety
978 inspections of educational property required under s.
979 1013.12(3)(b), and the State Fire Marshal may take necessary
980 corrective action as authorized under s. 1013.12(7).
981 (8) The State Fire Marshal or her or his duly appointed
982 hearing officer may administer oaths and take testimony about
983 all matters within the jurisdiction of this chapter. Chapter 120
984 governs hearings conducted by or on behalf of the State Fire
985 Marshal.
986 (9) The State Fire Marshal may contract with any qualified

987 public entity or private company in accordance with chapter 287
988 to provide examinations for any applicant for any examination
989 administered under the jurisdiction of the State Fire Marshal.
990 The State Fire Marshal may direct payments from each applicant
991 for each examination directly to such contracted entity or
992 company.
993 Section 4. Section 633.163, Florida Statutes, is
994 transferred, renumbered as section 633.106, Florida Statutes,
995 and amended to read:
996 633.106 ~~633.163~~ State Fire Marshal; disciplinary authority;
997 administrative fine and probation in lieu of suspension,
998 revocation, or refusal to issue a license, permit, or
999 certificate.—
1000 (1) The State Fire Marshal may deny, suspend, or revoke the
1001 license, certificate, or permit of any individual who does not
1002 meet the qualifications established by, or who violates any
1003 provision under, this chapter or any rule authorized by this
1004 chapter.
1005 (2)~~(1)~~ If the State Fire Marshal finds that one or more
1006 grounds exist for the suspension, revocation, or refusal to
1007 issue, renew, or continue any license, certificate, or permit
1008 issued under this chapter, the State Fire Marshal may, in its
1009 discretion, in lieu of the suspension, revocation, or refusal to
1010 issue, renew, or continue, and, except on a second offense or
1011 when the suspension, revocation, or refusal to issue, renew, or
1012 continue is mandatory, impose upon the licensee,
1013 certificateholder, or permittee one or more of the following:
1014 (a) An administrative fine not to exceed $1,000 for each
1015 violation, and not to exceed a total of $10,000 in any one

1016 proceeding.
1017 (b) Probation for a period not to exceed 2 years, as
1018 specified by the State Fire Marshal in her or his order.
1019 (3)~~(2)~~ The State Fire Marshal may allow the licensee,
1020 certificateholder, or permittee a reasonable period, not to
1021 exceed 30 days, within which to pay to the State Fire Marshal
1022 the amount of the fine. If the licensee, certificateholder, or
1023 permittee fails to pay the administrative fine in its entirety
1024 to the State Fire Marshal within such period, the license,
1025 permit, or certificate shall stand suspended until payment of
1026 the administrative fine.
1027 (4) As a condition to probation or in connection therewith,
1028 the State Fire Marshal may specify in her or his order
1029 reasonable terms and conditions to be fulfilled by the
1030 probationer during the probation period. If during the probation
1031 period the State Fire Marshal has good cause to believe that the
1032 probationer has violated any of the terms and conditions, she or
1033 he shall suspend, revoke, or refuse to issue, renew, or continue
1034 the license, certificate, or permit of the probationer, as upon
1035 the original ground or grounds referred to in subsection (2).
1036 Section 5. Section 633.15, Florida Statutes, is transferred
1037 and renumbered as section 633.108, Florida Statutes.
1038 Section 6. Section 633.101, Florida Statutes, is
1039 transferred, renumbered as section 633.112, Florida Statutes,
1040 and amended to read:
1041 633.112 ~~633.101~~ State Fire Marshal; hearings;
1042 investigations; recordkeeping and reports; subpoenas of
1043 witnesses; orders of circuit court ~~investigatory powers of State~~
1044 ~~Fire Marshal; costs of service and witness fees~~.—

1045 (1) The State Fire Marshal may in his or her discretion
1046 take or cause to be taken the testimony on oath of a person ~~all~~
1047 ~~persons~~ whom he or she believes to be cognizant of any facts in
1048 relation to matters under investigation.
1049 (2) If the State Fire Marshal is ~~shall be~~ of the opinion
1050 that there is sufficient evidence to charge a ~~any~~ person with an
1051 offense, he or she must ~~shall~~ cause the arrest of such person
1052 and must ~~shall~~ furnish to the prosecuting officer of any court
1053 having jurisdiction of the ~~said~~ offense all information obtained
1054 by him or her, including a copy of all pertinent and material
1055 testimony taken, together with the names and addresses of all
1056 witnesses. In the conduct of such investigations, the State Fire
1057 Marshal may request such assistance as may reasonably be given
1058 by such prosecuting officers and other local officials.
1059 (3) The State Fire Marshal may summon and compel the
1060 attendance of witnesses before him or her to testify in relation
1061 to any matter ~~manner~~ which is, by ~~the provisions of~~ this
1062 chapter, a subject of inquiry and investigation, and he or she
1063 may require the production of any book, paper, or document
1064 deemed pertinent thereto by him or her, and may seize furniture
1065 and other personal property to be held for evidence.
1066 (4) A person ~~All persons~~ so summoned and so testifying
1067 shall be entitled to the same witness fees and mileage as
1068 provided for witnesses testifying in the circuit courts of this
1069 state, and officers serving subpoenas or orders of the State
1070 Fire Marshal shall be paid in like manner for like services in
1071 such courts, from the funds herein provided.
1072 (5) Any agent designated by the State Fire Marshal for such
1073 purposes, may hold hearings, sign and issue subpoenas,

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1074 administer oaths, examine witnesses, receive evidence, and
1075 require by subpoena the attendance and testimony of witnesses
1076 and the production of such accounts, records, memoranda, or
1077 other evidence, as may be material for the determination of any
1078 complaint or conducting any inquiry or investigation under this
1079 chapter. In the case of disobedience to a subpoena, the State
1080 Fire Marshal or her or his agent may invoke the aid of any court
1081 of competent jurisdiction in requiring the attendance and
1082 testimony of witnesses and the production of accounts, records,
1083 memoranda, or other evidence and any such court may in case of
1084 refusal to obey a subpoena issued to a person, issue an order
1085 requiring the person to appear before the State Fire Marshal's
1086 agent or produce accounts, records, memoranda, or other
1087 evidence, as so ordered, or to give evidence touching any matter
1088 pertinent to any complaint or the subject of any inquiry or
1089 investigation, and any failure to obey such order of the court
1090 shall be punished by the court as contempt.
1091 (6) The State Fire Marshal shall investigate the cause,
1092 origin, and circumstances of every fire or explosion occurring
1093 in this state if property has been damaged or destroyed and
1094 there is probable cause to believe that the fire or explosion
1095 was the result of carelessness or design. Report of all such
1096 investigations shall be made on approved forms to be furnished
1097 by the State Fire Marshal.
1098 Section 7. Section 633.111, Florida Statutes, is
1099 transferred, renumbered as subsections (7) and (8) of section
1100 633.112, Florida Statutes, and amended to read:
1101 633.112 State Fire Marshal; hearings; investigations;
1102 recordkeeping and reports; subpoenas of witnesses; orders of

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1103 circuit court ~~investigatory powers of State Fire Marshal; costs~~
1104 ~~of service and witness fees~~.—
1105 (7) The State Fire Marshal shall keep ~~in her or his office~~
1106 a record of all fires and explosions occurring in this state
1107 upon which she or he had caused an investigation to be made and
1108 all facts concerning the same. These records, obtained or
1109 prepared by the State Fire Marshal pursuant to her or his
1110 investigation, include documents, papers, letters, maps,
1111 diagrams, tapes, photographs, films, sound recordings, and
1112 evidence. These records are confidential and exempt from the
1113 provisions of s. 119.07(1) until the investigation is completed
1114 or ceases to be active. For purposes of this section, an
1115 investigation is considered "active" while such investigation is
1116 being conducted by the department with a reasonable, good faith
1117 belief that it may lead to the filing of administrative, civil,
1118 or criminal proceedings. An investigation does not cease to be
1119 active if the department is proceeding with reasonable dispatch,
1120 and there is a good faith belief that action may be initiated by
1121 the department or other administrative or law enforcement
1122 agency. Further, these documents, papers, letters, maps,
1123 diagrams, tapes, photographs, films, sound recordings, and
1124 evidence relative to the subject of an investigation shall not
1125 be subject to subpoena until the investigation is completed or
1126 ceases to be active, unless the State Fire Marshal consents.
1127 These records shall be made daily from the reports furnished the
1128 State Fire Marshal by her or his agents or others.
1129 (8) Whenever the State Fire Marshal releases an
1130 investigative report, any person requesting a copy of the report
1131 shall pay in advance, and the State Fire Marshal shall collect

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1132 in advance, notwithstanding the provisions of s. 624.501(19)(a)
1133 and (b), a fee of $10 for the copy of the report, which fee
1134 shall be deposited into the Insurance Regulatory Trust Fund. The
1135 State Fire Marshal may release the report without charge to any
1136 state attorney or to any law enforcement agency or fire
1137 department assisting in the investigation.
1138 Section 8. Section 633.02, Florida Statutes, is
1139 transferred, renumbered as section 633.114, Florida Statutes,
1140 and amended to read:
1141 633.114 ~~633.02~~ State Fire Marshal agents ~~Agents~~; authority;
1142 ~~powers and~~ duties; compensation.—
1143 (1) The State Fire Marshal shall appoint such agents as may
1144 be necessary to carry out effectively ~~the provisions of~~ this
1145 chapter, who shall be reimbursed for travel expenses as provided
1146 in s. 112.061, in addition to their salary, when traveling or
1147 making investigations in the performance of their duties. Such
1148 agents shall be at all times under the direction and control of
1149 the State Fire Marshal, who shall fix their compensation, and
1150 all orders shall be issued in the State Fire Marshal's name and
1151 by her or his authority.
1152 (2) The authority given the State Fire Marshal under this
1153 chapter may be exercised by her or his agents, individually or
1154 in conjunction with any other state or local official charged
1155 with similar responsibilities.
1156 Section 9. Section 633.14, Florida Statutes, is transferred
1157 and renumbered as section 633.116, Florida Statutes.
1158 Section 10. Section 633.121, Florida Statutes, is
1159 transferred, renumbered as section 633.118, Florida Statutes,
1160 and amended to read:

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1161 633.118 ~~633.121~~ Persons authorized to enforce laws and
1162 rules of State Fire Marshal.—The chiefs of county, municipal,
1163 and special-district fire service providers ~~departments~~; other
1164 fire service provider ~~department~~ personnel designated by their
1165 respective chiefs; and personnel designated by local governments
1166 having no organized fire service providers ~~departments~~ are
1167 authorized to enforce this chapter ~~law~~ and all rules prescribed
1168 by the State Fire Marshal within their respective jurisdictions.
1169 Such personnel acting under the authority of this section shall
1170 be ~~deemed to be~~ agents of their respective jurisdictions, not
1171 agents of the State Fire Marshal.
1172 Section 11. Section 633.151, Florida Statutes, is
1173 transferred, renumbered as section 633.122, Florida Statutes,
1174 and amended to read:
1175 633.122 ~~633.151~~ Impersonating State Fire Marshal,
1176 firefighter ~~firefighters~~, volunteer firefighter, or firesafety
1177 inspector; criminal penalties.—A person who falsely assumes or
1178 pretends to be the State Fire Marshal, an agent of the division
1179 ~~of State Fire Marshal~~, a firefighter ~~as defined in s. 112.81~~, a
1180 volunteer firefighter, or a firesafety inspector by identifying
1181 himself or herself as the State Fire Marshal, an agent of the
1182 division, a firefighter, a volunteer firefighter, or a
1183 firesafety inspector by wearing a uniform or presenting or
1184 displaying a badge as credentials that would cause a reasonable
1185 person to believe that he or she is a State Fire Marshal, an
1186 agent of the division, a firefighter, a volunteer firefighter,
1187 or firesafety inspector commits ~~and who acts as such to require~~
1188 ~~a person to aid or assist him or her in any matter relating to~~
1189 ~~the duties of the State Fire Marshal, an agent of the division,~~

1190 ~~a firefighter, or a firesafety inspector is guilty of~~ a felony
1191 of the third degree, punishable as provided in ss. 775.082 and
1192 775.083 or, if the impersonation occurs during the commission of
1193 a separate felony by that person, commits ~~is guilty of~~ a felony
1194 of the first degree, punishable as provided in ss. 775.082 and
1195 775.083.
1196 Section 12. Section 633.171, Florida Statutes, is
1197 transferred and renumbered as section 633.124, Florida Statutes,
1198 and subsections (1) and (2) and paragraph (b) of subsection (3)
1199 of that section are amended, to read:
1200 633.124 ~~633.171~~ Penalty for violation of law, rule, or
1201 order to cease and desist or for failure to comply with
1202 corrective order.—
1203 (1) A ~~Any~~ person who violates any provision of this chapter
1204 ~~law~~, any order or rule of the State Fire Marshal, or any order
1205 to cease and desist or to correct conditions issued under this
1206 chapter commits a misdemeanor of the second degree, punishable
1207 as provided in s. 775.082 or s. 775.083.
1208 (2) It is a misdemeanor of the first degree, punishable as
1209 provided in s. 775.082 or s. 775.083, to intentionally or
1210 willfully:
1211 (a) Render a fire protection system, fire extinguisher, or
1212 preengineered system required by statute or by rule inoperative
1213 except while ~~during such time as~~ the fire protection system,
1214 fire extinguisher, or preengineered system is being serviced,
1215 hydrotested, tested, repaired, or recharged, except pursuant to
1216 court order.
1217 (b) Obliterate the serial number on a fire extinguisher for
1218 purposes of falsifying service records.

1219 (c) Improperly service, recharge, repair, hydrotest, test,
1220 or inspect a fire extinguisher or preengineered system.
1221 (d) Use the license, certificate, or permit ~~number~~ of
1222 another person.
1223 (e) Hold a license, certificate, or permit and allow
1224 another person to use the license, certificate, or ~~said~~ permit
1225 ~~number~~.
1226 (f) Use, or allow ~~permit~~ the use of, any license,
1227 certificate, or permit by any individual or organization other
1228 than the one to whom the license, certificate, or permit is
1229 issued.
1230 (3)
1231 (b) A person who initiates a pyrotechnic display within any
1232 structure commits a felony of the third degree, punishable as
1233 provided in s. 775.082, s. 775.083, or s. 775.084, unless:
1234 1. The structure has a fire protection system installed in
1235 compliance with s. 633.334 ~~633.065~~.
1236 2. The owner of the structure has authorized in writing the
1237 pyrotechnic display.
1238 3. If the local jurisdiction requires a permit for the use
1239 of a pyrotechnic display in an occupied structure, such permit
1240 has been obtained and all conditions of the permit complied with
1241 or, if the local jurisdiction does not require a permit for the
1242 use of a pyrotechnic display in an occupied structure, the
1243 person initiating the display has complied with National Fire
1244 Protection Association, Inc., Standard 1126, 2001 Edition,
1245 Standard for the Use of Pyrotechnics before a Proximate
1246 Audience.
1247 Section 13. Section 633.175, Florida Statutes, is

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1248 transferred and renumbered as section 633.126, Florida Statutes,
1249 and subsections (1), (2), (3), (6), and (9) of that section are
1250 amended, to read:
1251 633.126 ~~633.175~~ Investigation of fraudulent insurance
1252 claims and crimes; immunity of insurance companies supplying
1253 information.—
1254 (1)(a) As used in this section, the term "consultant" means
1255 any individual or entity, or employee of the individual or
1256 entity, retained by an insurer to assist in the investigation of
1257 a fire, explosion, or suspected fraudulent insurance act.
1258 (b) The State Fire Marshal or an agent appointed pursuant
1259 to s. 633.114 ~~633.02~~, any law enforcement officer as defined in
1260 s. 111.065, any law enforcement officer of a federal agency, or
1261 any fire service provider ~~department~~ official who is engaged in
1262 the investigation of a fire or explosion loss may request any
1263 insurance company or its agent, adjuster, employee, or attorney,
1264 investigating a claim under an insurance policy or contract with
1265 respect to a fire or explosion to release any information
1266 whatsoever in the possession of the insurance company or its
1267 agent, adjuster, employee, or attorney relative to a loss from
1268 that fire or explosion. The insurance company shall release the
1269 available information to and cooperate with any official
1270 authorized to request such information pursuant to this section.
1271 The information shall include, but shall not be limited to:
1272 1.~~(a)~~ Any insurance policy relevant to a loss under
1273 investigation and any application for such a policy.
1274 2.~~(b)~~ Any policy premium payment records.
1275 3.~~(c)~~ The records, reports, and all material pertaining to
1276 any previous claims made by the insured with the reporting

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1277 company.
1278 4.~~(d)~~ Material relating to the investigation of the loss,
1279 including statements of a ~~any~~ person, proof of loss, and other
1280 relevant evidence.
1281 5.~~(e)~~ Memoranda, notes, and correspondence relating to the
1282 investigation of the loss in the possession of the insurance
1283 company or its agents, adjusters, employees, or attorneys.
1284 (2) If an insurance company has reason to suspect that a
1285 fire or explosion loss to its insured's real or personal
1286 property was caused by intentional ~~incendiary~~ means, the company
1287 shall notify the State Fire Marshal and shall furnish her or him
1288 with all material acquired by the company during ~~the course of~~
1289 its investigation. The State Fire Marshal may adopt rules to
1290 implement this subsection.
1291 (3) In the absence of fraud, bad faith, or malice, a ~~no~~
1292 representative of or consultant to an insurance company or of
1293 the National Insurance Crime Bureau employed to adjust or
1294 investigate losses caused by fire or explosion is not ~~shall be~~
1295 liable for damages in a civil action for furnishing information
1296 concerning fires or explosion suspected to be other than
1297 accidental to investigators employed by other insurance
1298 companies or the National Insurance Crime Bureau.
1299 (6) The actions of an insurance company or of its agents,
1300 employees, adjusters, consultants, or attorneys, in complying
1301 with the statutory obligation of this section may not ~~shall in~~
1302 ~~no way~~ be construed by a court as a waiver or abandonment of any
1303 privilege or confidentiality of attorney work product, attorney-
1304 client communication, or such other privilege or immunity as is
1305 provided by law.

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1306 (9) A ~~Any~~ person who willfully violates ~~the provisions of~~
1307 this section commits ~~is guilty of~~ a misdemeanor of the first
1308 degree, punishable as provided in s. 775.082 or s. 775.083.
1309 Section 14. Section 633.45, Florida Statutes, is
1310 transferred, renumbered as section 633.128, Florida Statutes,
1311 and amended to read:
1312 633.128 ~~633.45~~ Division of State Fire Marshal; powers,
1313 duties.—
1314 (1) The division shall:
1315 (a) Establish, by rule, uniform minimum standards for the
1316 ~~employment and~~ training of firefighters and volunteer
1317 firefighters.
1318 (b) Establish, by rule, minimum curriculum requirements and
1319 criteria used to approve education or training providers,
1320 including ~~for~~ schools operated by or for any fire service
1321 provider, ~~employing agency~~ for the specific purpose of training
1322 individuals seeking to become a firefighter ~~recruits~~ or
1323 volunteer firefighter ~~firefighters~~.
1324 (c) Specify, by rule, standards for the approval, denial of
1325 approval, probation, suspension, and revocation of approval of
1326 education or training providers and facilities for training
1327 firefighters and volunteer firefighters ~~Approve institutions,~~
1328 ~~instructors, and facilities for school operation by or for any~~
1329 ~~employing agency for the specific purpose of training~~
1330 ~~firefighters and firefighter recruits~~.
1331 (d) Specify, by rule, standards for the certification,
1332 denial of certification, probation, and revocation of
1333 certification for instructors, ~~approval, denial of approval,~~
1334 ~~probation, and revocation of approval of institutions,~~

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1335 ~~instructors, and facilities for training firefighters and~~
1336 ~~firefighter recruits;~~ including a rule requiring each ~~that an~~
1337 instructor to ~~must~~ complete 40 hours of continuing education
1338 every 3 years in order to maintain her or his certification ~~the~~
1339 ~~approval of the department~~.
1340 (e) Issue certificates of competency to persons who, by
1341 reason of experience and completion of basic inservice training,
1342 advanced education, or specialized training, are especially
1343 qualified for particular aspects or classes of firefighting
1344 ~~firefighter~~ duties.
1345 (f) Establish, by rule, minimum training qualifications for
1346 persons serving as firesafety coordinators for their respective
1347 departments of state government and certify ~~all~~ persons who
1348 satisfy such qualifications.
1349 (g) Establish a uniform lesson plan to be followed by
1350 firesafety instructors in the training of state employees in
1351 firesafety and emergency evacuation procedures.
1352 (h) Have complete jurisdiction over, and complete
1353 management and control of, the Florida State Fire College and be
1354 invested with full power and authority to make all rules ~~and~~
1355 ~~regulations~~ necessary for the governance of the ~~said~~
1356 institution.
1357 (i) Appoint a superintendent of the Florida State Fire
1358 College and such other instructors, experimental helpers, and
1359 laborers as may be necessary and remove the same as in the
1360 division's ~~its~~ judgment and discretion may be best, fix their
1361 compensation, and provide for their payment.
1362 (j) Have full management, possession, and control of the
1363 lands, buildings, structures, and property belonging to the

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1364 Florida State Fire College.
1365 (k) Provide for the courses of study and curriculum of the
1366 Florida State Fire College.
1367 (l) Make rules ~~and regulations~~ for the admission of
1368 trainees to the Florida State Fire College.
1369 (m) Visit and inspect the Florida State Fire College ~~and~~
1370 ~~every department thereof~~ and provide for the proper keeping of
1371 accounts and records thereof.
1372 (n) Make and prepare all necessary budgets of expenditures
1373 for the enlargement, proper furnishing, maintenance, support,
1374 and conduct of the Florida State Fire College.
1375 (o) Select and purchase all property, furniture, fixtures,
1376 and paraphernalia necessary for the Florida State Fire College.
1377 (p) Build, construct, change, enlarge, repair, and maintain
1378 any and all buildings or structures of the Florida State Fire
1379 College that may at any time be necessary for the ~~said~~
1380 institution and purchase and acquire all lands and property
1381 necessary for same, of every nature and description whatsoever.
1382 (q) Care for and maintain the Florida State Fire College
1383 and do and perform every other matter or thing requisite to the
1384 proper management, maintenance, support, and control of the ~~said~~
1385 institution, necessary or requisite to carry out fully the
1386 purpose of this chapter ~~act~~ and for raising it to, and
1387 maintaining it at, the proper efficiency and standard as
1388 required in and by part IV ~~the provisions of ss. 633.43-633.49~~.
1389 (r) Issue a license, certificate, or permit of a specific
1390 class to an individual who successfully completes the training,
1391 education, and examination required under this chapter or by
1392 rule for such class of license, certificate, or permit.

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1393 (2) The division, subject to the limitations and
1394 restrictions ~~elsewhere herein~~ imposed in this chapter, may:
1395 (a) Adopt rules ~~and regulations~~ for the administration of
1396 this chapter ~~ss. 633.30-633.49~~ pursuant to chapter 120.
1397 (b) Adopt a seal and alter the same at its pleasure.
1398 (c) Sue and be sued.
1399 (d) Acquire any real or personal property by purchase,
1400 gift, or donation, and have water rights.
1401 (e) Exercise the right of eminent domain to acquire any
1402 property and lands necessary to the establishment, operation,
1403 and expansion of the Florida State Fire College.
1404 (f) Make contracts and execute necessary or convenient
1405 instruments.
1406 (g) Undertake by contract or contracts, or by its own agent
1407 and employees, and otherwise than by contract, any project or
1408 projects, and operate and maintain such projects.
1409 (h) Accept grants of money, materials, or property of any
1410 kind from a federal agency, private agency, county, municipality
1411 ~~city, town,~~ corporation, partnership, or individual upon such
1412 terms and conditions as the grantor may impose.
1413 (i) Perform all acts and do all things necessary or
1414 convenient to carry out the powers granted herein and the
1415 purposes of this chapter ~~ss. 633.30-633.49~~.
1416 (3) The title to all property referred to in part IV ~~ss.~~
1417 ~~633.43-633.49~~, however acquired, shall be vested in the
1418 department and shall only be transferred and conveyed by it.
1419 Section 15. Section 633.132, Florida Statutes, is created
1420 to read:
1421 633.132 Fees.—

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1422 (1) The division shall collect in advance the following
1423 fees that it deems necessary to be charged:
1424 (a) Pursuant to part III of this chapter:
1425 1. Contractor certificate initial application: $300 for
1426 each class of certificate.
1427 2. Contractor biennial renewal fee: $150 for each class of
1428 certificate.
1429 3. Contractor permit initial application fee: $100 for each
1430 class of permit.
1431 4. Contractor permit biennial renewal fee: $50 for each
1432 class of permit.
1433 5. Contractor examination or reexamination fee: $100 for
1434 each class of certificate.
1435 6. Fire equipment dealer license:
1436 a. Class A: $250.
1437 b. Class B: $150.
1438 c. Class C: $150.
1439 d. Class D: $200.
1440 7. Fire equipment dealer or contractor application and
1441 renewal fee for an inactive license: $75.
1442 8. Fire equipment dealer license or permit exam or
1443 reexamination: $50.
1444 9. Reinspection fee for a dealer equipment inspection
1445 conducted by the State Fire Marshal under s. 633.304(1): $50 for
1446 each reinspection.
1447 10. Permit for a portable fire extinguisher
1448 installer/repairer/inspector: $90.
1449 11. Permit for a preengineered fire extinguishing system
1450 installer/repairer/inspector: $120.

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1451 12. Conversion of a fire equipment dealer's license to a
1452 different category: $10 for each permit and license.
1453 (b) Pursuant to part IV of this chapter:
1454 1. Certificate of compliance: $30.
1455 2. Certificate of competency: $30.
1456 3. Renewal fee for a certificate of compliance, competency,
1457 or instruction: $15.
1458 (c) Duplicate or change of address for any license, permit,
1459 or certificate: $10.
1460 (2) The division may establish by rule any fee necessary to
1461 cover administrative costs associated with administering this
1462 chapter and may provide by rule for the advance collection of
1463 such fees.
1464 (3) All moneys collected by the State Fire Marshal pursuant
1465 to this chapter are appropriated for the use of the State Fire
1466 Marshal in the administration of this chapter and shall be
1467 deposited in the Insurance Regulatory Trust Fund.
1468 Section 16. Section 633.39, Florida Statutes, is
1469 transferred and renumbered as section 633.134, Florida Statutes.
1470 Section 17. Section 633.115, Florida Statutes, is
1471 transferred, renumbered as section 633.136, Florida Statutes,
1472 and amended to read:
1473 633.136 ~~633.115~~ Fire and Emergency Incident Information
1474 Reporting Program; duties; fire reports.—
1475 (1)(a) The Fire and Emergency Incident Information
1476 Reporting Program is created within the division ~~of State Fire~~
1477 ~~Marshal~~. The program shall:
1478 1. Establish and maintain an electronic communication
1479 system capable of transmitting fire and emergency incident

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1480 information to and between fire protection agencies.
1481 2. Initiate a Fire and Emergency Incident Information
1482 Reporting System that shall be responsible for:
1483 a. Receiving fire and emergency incident information from
1484 fire protection agencies.
1485 b. Preparing and disseminating annual reports to the
1486 Governor, the President of the Senate, the Speaker of the House
1487 of Representatives, fire protection agencies, and, upon request,
1488 the public. Each report shall include, but not be limited to,
1489 the information listed in the National Fire Incident Reporting
1490 System.
1491 c. Upon request, providing other states and federal
1492 agencies with fire and emergency incident data of this state.
1493 3. Adopt rules to effectively and efficiently implement,
1494 administer, manage, maintain, and use the Fire and Emergency
1495 Incident Information Reporting Program. The rules shall be
1496 considered minimum requirements and shall not preclude a fire
1497 protection agency from implementing its own requirements which
1498 may ~~shall~~ not conflict with the rules of the division ~~of State~~
1499 ~~Fire Marshal~~.
1500 4. By rule, establish procedures and a format for each fire
1501 protection agency to voluntarily monitor its records and submit
1502 reports to the program.
1503 5. Establish an electronic information database that ~~which~~
1504 is accessible and searchable by fire protection agencies.
1505 (b) The division ~~of State Fire Marshal~~ shall consult with
1506 the Florida Forest Service of the Department of Agriculture and
1507 Consumer Services and the State Surgeon General of the
1508 Department of Health to coordinate data, ensure accuracy of the

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1509 data, and limit duplication of efforts in data collection,
1510 analysis, and reporting.
1511 (2) The Fire and Emergency Incident Information System
1512 Technical Advisory Panel is created within the division ~~of State~~
1513 ~~Fire Marshal~~. The panel shall advise, review, and recommend to
1514 the State Fire Marshal with respect to the requirements of this
1515 section. The membership of the panel shall consist of the
1516 following 15 members:
1517 (a) The current 13 members of the Firefighters Employment,
1518 Standards, and Training Council as established in s. 633.402
1519 ~~633.31~~.
1520 (b) One member from the Florida Forest Service of the
1521 Department of Agriculture and Consumer Services, appointed by
1522 the director of the Florida Forest Service.
1523 (c) One member from the Department of Health, appointed by
1524 the State Surgeon General.
1525 (3) For the purpose of this section, the term "fire
1526 protection agency" shall be defined by rule by the division ~~of~~
1527 ~~State Fire Marshal~~.
1528 Section 18. Section 633.138, Florida Statutes, is created
1529 to read:
1530 633.138 Notice of change of address of record; notice of
1531 felony actions.—
1532 (1) Any individual issued a license, permit, or certificate
1533 under this chapter shall notify the division in writing of any
1534 changes to her or his current mailing address, e-mail address,
1535 and place of practice as specified in rule adopted by the
1536 division.
1537 (2) Notwithstanding any other provision of law, delivery by

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1538 regular mail or e-mail to a licensee, permittee, or
1539 certificateholder, using the last known mailing address or e-
1540 mail address on record with the division, constitutes adequate
1541 and sufficient notice to the licensee, permittee, or
1542 certificateholder of any official communication by the division.
1543 (3) Any individual issued a license, permit, or certificate
1544 under this chapter shall notify the division in writing within
1545 30 days after pleading guilty or nolo contendere to, or being
1546 convicted or found guilty of, any felony or a crime punishable
1547 by imprisonment of 1 year or more under the law of the United
1548 States or of any state thereof, or under the law of any other
1549 country, without regard to whether a judgment of conviction has
1550 been entered by the court having jurisdiction of the case.
1551 Section 19. Section 633.042, Florida Statutes, is
1552 transferred and renumbered as section 633.142, Florida Statutes,
1553 and subsection (11) of that section is amended, to read:
1554 633.142 ~~633.042~~ Reduced Cigarette Ignition Propensity
1555 Standard and Firefighter Protection Act; preemption.—
1556 (11) PREEMPTION.—
1557 (a) This section shall be repealed if a federal reduced
1558 cigarette ignition propensity standard that preempts this
1559 section is adopted and becomes effective.
1560 (b) Notwithstanding any other provision of law, local
1561 governmental units of this state may not enact or enforce any
1562 ordinance or other local law or rule conflicting with, or
1563 preempted by, any provision of this act or any policy of this
1564 state expressed by this act, whether that policy be expressed by
1565 inclusion of a provision in this act or by exclusion of that
1566 subject from this act.

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1567 Section 20. The Division of Law Revision and Information is
1568 requested to create part II of chapter 633, Florida Statutes,
1569 consisting of sections 633.202, 633.204, 633.206, 633.208,
1570 633.212, 633.214, 633.216, 633.218, 633.222, 633.224, 633.226,
1571 and 633.228, Florida Statutes, to be entitled "Fire Safety and
1572 Prevention."
1573 Section 21. Section 633.0215, Florida Statutes, is
1574 transferred and renumbered as section 633.202, Florida Statutes,
1575 and subsections (2), (4), (7), (9), (10), and (12) through (15)
1576 of that section are amended, to read:
1577 633.202 ~~633.0215~~ Florida Fire Prevention Code.—
1578 (2) The State Fire Marshal shall adopt the current edition
1579 of the National Fire Protection Association's Standard 1, Fire
1580 Prevention Code but may ~~shall~~ not adopt a building, mechanical,
1581 or plumbing code. The State Fire Marshal shall adopt the current
1582 edition of the Life Safety Code, NFPA ~~Pamphlet~~ 101, current
1583 editions, by reference. The State Fire Marshal may modify the
1584 selected codes and standards as needed to accommodate the
1585 specific needs of the state. Standards or criteria in the
1586 selected codes shall be similarly incorporated by reference. The
1587 State Fire Marshal shall incorporate within sections of the
1588 Florida Fire Prevention Code provisions that address uniform
1589 firesafety standards as established in s. 633.206 ~~633.022~~. The
1590 State Fire Marshal shall incorporate within sections of the
1591 Florida Fire Prevention Code provisions addressing regional and
1592 local concerns and variations.
1593 (4) The State Fire Marshal shall update, by rule adopted
1594 pursuant to ss. 120.536(1) and 120.54, the Florida Fire
1595 Prevention Code every 3 years. Once initially adopted and

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1596 subsequently updated, the Florida Fire Prevention Code ~~and the~~
1597 ~~Life Safety Code~~ shall be adopted for use statewide without
1598 adoptions by local governments. When updating the Florida Fire
1599 Prevention Code ~~and the most recent edition of the Life Safety~~
1600 ~~Code~~, the State Fire Marshal shall consider changes made by the
1601 national model fire codes incorporated into the Florida Fire
1602 Prevention Code, the State Fire Marshal's own interpretations,
1603 declaratory statements, appellate decisions, and approved
1604 statewide and local technical amendments.
1605 (7) Any local amendment adopted by a local government must
1606 strengthen the Fire Prevention Code requirements of the minimum
1607 firesafety code.
1608 (9) The State Fire Marshal shall make rules that implement
1609 this section and ss. 633.104 and 633.208 ~~633.01 and 633.025~~ for
1610 the purpose of accomplishing the objectives set forth in those
1611 sections.
1612 (10) Notwithstanding other provisions of this chapter, if a
1613 county or a municipality within that county adopts an ordinance
1614 providing for a local amendment to the Florida Fire Prevention
1615 Code and that amendment provides a higher level of protection to
1616 the public than the level specified in the Florida Fire
1617 Prevention Code, the local amendment becomes effective without
1618 approval of the State Fire Marshal and is not rescinded pursuant
1619 to ~~the provisions of~~ this section, provided that the ordinance
1620 meets one or more of the following criteria:
1621 (a) The local authority has adopted, by ordinance, a fire
1622 service facilities and operation plan that outlines goals and
1623 objectives for related equipment, personnel, and capital
1624 improvement needs of the local authority related to the specific

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1625 amendment for the next 5 years;
1626 (b) The local authority has adopted, by ordinance, a
1627 provision requiring proportionate reduction in, or rebate or
1628 waivers of, impact or other fees or assessments levied on
1629 buildings that are built or modified in compliance with the more
1630 stringent firesafety standards required by the local amendment;
1631 or
1632 (c) The local authority has adopted, by ordinance, a growth
1633 management plan that requires buildings and structures to be
1634 equipped with more stringent firesafety requirements required by
1635 the local amendment when these firesafety requirements are used
1636 as the basis for planning infrastructure development, uses, or
1637 housing densities.
1638
1639 Except as provided in s. 633.206 ~~633.022~~, the local appeals
1640 process shall be the venue if there is a dispute between parties
1641 affected by the provisions of the more stringent local
1642 firesafety amendment adopted as part of the Florida Fire
1643 Prevention Code pursuant to the authority in this subsection.
1644 Local amendments adopted pursuant to this subsection shall be
1645 deemed local or regional variations and published as such in the
1646 Florida Fire Prevention Code. The act of publishing locally
1647 adopted firesafety amendments to the Florida Fire Prevention
1648 Code may ~~shall~~ not be construed to mean that the State Fire
1649 Marshal approves or denies the authenticity or appropriateness
1650 of the locally adopted firesafety provision, and the burden of
1651 protecting the local firesafety amendment remains solely with
1652 the adopting local governmental authority.
1653 ~~(12) Notwithstanding other provisions of this section, the~~

1654 ~~State Fire Marshal shall study the use of managed, facilities-~~
1655 ~~based, voice over Internet protocol telephone service for~~
1656 ~~monitoring fire alarm signals. If the study determines that~~
1657 ~~voice-over-Internet-protocol telephone service technology~~
1658 ~~provides a level of protection equivalent to that required by~~
1659 ~~NFPA 72: National Fire Alarm Code, the State Fire Marshal shall~~
1660 ~~initiate rulemaking pursuant to ss. 120.536(1) and 120.54 by~~
1661 ~~December 1, 2008, to allow the use of this technology as an~~
1662 ~~additional method of monitoring fire alarm systems.~~
1663 (12) ~~(13)~~ (a) The State Fire Marshal shall issue an expedited
1664 declaratory statement relating to interpretations of ~~provisions~~
1665 ~~of~~ the Florida Fire Prevention Code according to the following
1666 guidelines:
1667 1. The declaratory statement shall be rendered in
1668 accordance with s. 120.565, except that a final decision must be
1669 issued by the State Fire Marshal within 45 days after the
1670 division's receipt of a petition seeking an expedited
1671 declaratory statement. The State Fire Marshal shall give notice
1672 of the petition and the expedited declaratory statement or the
1673 denial of the petition in the next available issue of the
1674 Florida Administrative Register ~~Weekly~~ after the petition is
1675 filed and after the statement or denial is rendered.
1676 2. The petitioner must be the owner of the disputed project
1677 or the owner's representative.
1678 3. The petition for an expedited declaratory statement must
1679 be:
1680 a. Related to an active project that is under construction
1681 or must have been submitted for a permit.
1682 b. The subject of a written notice citing a specific

1683 provision of the Florida Fire Prevention Code which is in
1684 dispute.
1685 c. Limited to a single question that is capable of being
1686 answered with a "yes" or "no" response.
1687 (b) A petition for a declaratory statement which does not
1688 meet all of the requirements of this subsection must be denied
1689 without prejudice. This subsection does not affect the right of
1690 the petitioner as a substantially affected person to seek a
1691 declaratory statement under s. 633.104(6) ~~633.01(6)~~.
1692 (13)~~(14)~~ A condominium, cooperative, or multifamily
1693 residential building that is less than four stories in height
1694 and has an exterior corridor providing a means of egress is
1695 exempt from installing a manual fire alarm system as required in
1696 s. 9.6 of the most recent edition of the Life Safety Code
1697 adopted in the Florida Fire Prevention Code. ~~This is intended to~~
1698 ~~clarify existing law.~~
1699 (14)~~(15)~~ The Legislature finds that the electronic filing
1700 of construction plans will increase governmental efficiency,
1701 reduce costs, and increase timeliness of processing permits. If
1702 the fire code administrator or fire official provides for
1703 electronic filing, any construction plans, drawings,
1704 specifications, reports, final documents, or documents prepared
1705 or issued by a licensee may be dated and electronically signed
1706 and sealed by the licensee in accordance with part I of chapter
1707 668, and may be transmitted electronically to the fire code
1708 administrator or fire official for approval.
1709 Section 22. Section 633.72, Florida Statutes, is
1710 transferred, renumbered as section 633.204, Florida Statutes,
1711 and amended to read:

1712 633.204 ~~633.72~~ Florida Fire Code Advisory Council.—
1713 (1) There is created within the department the Florida Fire
1714 Code Advisory Council with 11 members appointed by the State
1715 Fire Marshal. The council shall advise and recommend to the
1716 State Fire Marshal changes to and interpretation of the uniform
1717 firesafety standards adopted under s. 633.206 ~~633.022~~, the
1718 Florida Fire Prevention Code, and those portions of the Florida
1719 Fire Prevention Code that have the effect of conflicting with
1720 building construction standards that are adopted pursuant to ss.
1721 633.202 and 633.206 ~~633.0215 and 633.022~~. The members of the
1722 council shall represent the following groups and professions:
1723 (a) One member shall be the State Fire Marshal, or his or
1724 her designated appointee who shall be an administrative employee
1725 of the marshal.~~;~~
1726 (b) One member shall be an administrative officer from a
1727 fire department representing a municipality, ~~or~~ a county, or a
1728 special district selected from a list of persons submitted by
1729 the Florida Fire Chiefs Association.~~;~~
1730 (c) One member shall be an architect licensed in the state
1731 selected from a list of persons submitted by the Florida
1732 Association/American Institute of Architects.~~;~~
1733 (d) One member shall be an engineer with fire protection
1734 design experience registered to practice in the state selected
1735 from a list of persons submitted by the Florida Engineering
1736 Society.~~;~~
1737 (e) One member shall be an administrative officer from a
1738 building department of a county or municipality selected from a
1739 list of persons submitted by the Building Officials Association
1740 of Florida.~~;~~

1741 (f) One member shall be a contractor licensed in the state
1742 selected from a list submitted by the Florida Home Builders
1743 Association.~~;~~
1744 (g) One member shall be a Florida ~~certified~~ firefighter
1745 selected from a list submitted by the Florida Professional
1746 Firefighters' Association.~~;~~
1747 (h) One member shall be a Florida certified firesafety
1748 ~~municipal fire~~ inspector selected from a list submitted by the
1749 Florida Fire Marshals' and Inspectors' ~~Marshal's~~ Association.~~;~~
1750 (i) One member shall be selected from a list submitted by
1751 the Department of Education.~~;~~
1752 (j) One member shall be selected from a list submitted by
1753 the Chancellor of the State University System.~~; and~~
1754 (k) One member shall be representative of the general
1755 public.
1756 (2) The State Fire Marshal and the Florida Building
1757 Commission shall coordinate efforts to provide consistency
1758 between the Florida Building Code and the Florida Fire
1759 Prevention Code ~~and the Life Safety Code~~.
1760 (3) The council shall meet at least semiannually if
1761 necessary to advise the State Fire Marshal's Office on matters
1762 subject to this section.
1763 (4) The council may review proposed changes to the Florida
1764 Fire Prevention Code and the uniform fire safety standards
1765 pursuant to s. 633.202(4).
1766 (5)~~(3)~~ The council and Florida Building Commission shall
1767 cooperate through joint representation and coordination of codes
1768 and standards to resolve conflicts in their development,
1769 updating, and interpretation.

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1770 (6)~~(4)~~ Each appointee shall serve a 4-year term. No member
1771 shall serve more than two consecutive terms. A ~~No~~ member of the
1772 council may not ~~shall~~ be paid a salary as such member, but each
1773 shall receive travel and expense reimbursement as provided in s.
1774 112.061.
1775 Section 23. Section 633.022, Florida Statutes, is
1776 transferred and renumbered as section 633.206, Florida Statutes,
1777 and subsection (1) and paragraph (a) of subsection (4) of that
1778 section are amended, to read:
1779 633.206 ~~633.022~~ Uniform firesafety standards.—The
1780 Legislature hereby determines that to protect the public health,
1781 safety, and welfare it is necessary to provide for firesafety
1782 standards governing the construction and utilization of certain
1783 buildings and structures. The Legislature further determines
1784 that certain buildings or structures, due to their specialized
1785 use or to the special characteristics of the person utilizing or
1786 occupying these buildings or structures, should be subject to
1787 firesafety standards reflecting these special needs as may be
1788 appropriate.
1789 (1) The department shall establish uniform firesafety
1790 standards that apply to:
1791 (a) All new, existing, and proposed state-owned and state-
1792 leased buildings, including state universities as defined under
1793 s. 1000.21.
1794 (b) All new, existing, and proposed hospitals, nursing
1795 homes, assisted living facilities, adult family-care homes,
1796 correctional facilities, public schools, transient public
1797 lodging establishments, ~~public food service establishments,~~
1798 elevators, migrant labor camps, mobile home parks, ~~lodging~~

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1799 ~~parks, recreational vehicle parks, recreational camps,~~
1800 residential and nonresidential child care facilities, facilities
1801 for the developmentally disabled, motion picture and television
1802 special effects productions, and tunnels~~, and self-service~~
1803 ~~gasoline stations~~, of which standards the State Fire Marshal is
1804 the final administrative interpreting authority.
1805
1806 In the event there is a dispute between the owners of the
1807 buildings specified in paragraph (b) and a local authority
1808 requiring a more stringent uniform firesafety standard for
1809 sprinkler systems, the State Fire Marshal shall be the final
1810 administrative interpreting authority and the State Fire
1811 Marshal's interpretation regarding the uniform firesafety
1812 standards shall be considered final agency action.
1813 (4)(a) Notwithstanding any provision of law to the
1814 contrary, each nursing home licensed under part II of chapter
1815 400 shall be protected throughout by an approved, supervised
1816 automatic sprinkler system in accordance with s. 9 of National
1817 Fire Protection Association, Inc., Life Safety Code, no later
1818 than December 31, 2010. ~~A nursing home licensee shall submit~~
1819 ~~complete sprinkler construction documents to the Agency for~~
1820 ~~Health Care Administration for review by December 31, 2008, and~~
1821 ~~the licensee must gain final approval to start construction from~~
1822 ~~the agency by June 30, 2009. The agency shall grant a 6 month~~
1823 ~~extension to a nursing home licensee if the completion and~~
1824 ~~submission of the sprinkler construction documents are~~
1825 ~~contingent upon the approval of the application for the loan~~
1826 ~~guarantee program authorized under s. 633.0245. In such case,~~
1827 ~~the agency may extend the deadline for final approval to begin~~

1828 ~~construction beyond June 30, 2009, but the deadline may not be~~
1829 ~~extended beyond December 31, 2009.~~
1830 Section 24. Section 633.025, Florida Statutes, is
1831 transferred, renumbered as section 633.208, Florida Statutes,
1832 and amended to read:
1833 633.208 ~~633.025~~ Minimum firesafety standards.—
1834 (1) The Florida Fire Prevention Code ~~and the Life Safety~~
1835 ~~Code~~ adopted by the State Fire Marshal, which shall operate in
1836 conjunction with the Florida Building Code, shall be deemed
1837 adopted by each municipality, county, and special district with
1838 firesafety responsibilities. The minimum firesafety codes do
1839 ~~shall~~ not apply to buildings and structures subject to the
1840 uniform firesafety standards under s. 633.206 ~~633.022~~ and
1841 buildings and structures subject to the minimum firesafety
1842 standards adopted pursuant to s. 394.879.
1843 (2) Pursuant to subsection (1), each municipality, county,
1844 and special district with firesafety responsibilities shall
1845 enforce the Florida Fire Prevention Code ~~and the Life Safety~~
1846 ~~Code~~ as the minimum firesafety code required by this section.
1847 ~~(3) The most current edition of the National Fire~~
1848 ~~Protection Association (NFPA) 101, Life Safety Code, adopted by~~
1849 ~~the State Fire Marshal, shall be deemed to be adopted by each~~
1850 ~~municipality, county, and special district with firesafety~~
1851 ~~responsibilities as part of the minimum firesafety code.~~
1852 (3)~~(4)~~ Such code ~~codes~~ shall be a minimum code ~~codes~~ and a
1853 municipality, county, or special district with firesafety
1854 responsibilities may adopt more stringent firesafety standards,
1855 subject to the requirements of this subsection. Such county,
1856 municipality, or special district may establish alternative

1857 requirements to those requirements which are required under the
1858 minimum firesafety standards on a case-by-case basis, in order
1859 to meet special situations arising from historic, geographic, or
1860 unusual conditions, if the alternative requirements result in a
1861 level of protection to life, safety, or property equal to or
1862 greater than the applicable minimum firesafety standards. For
1863 the purpose of this subsection, the term "historic" means that
1864 the building or structure is listed on the National Register of
1865 Historic Places of the United States Department of the Interior.
1866 (a) The local governing body shall determine, following a
1867 public hearing which has been advertised in a newspaper of
1868 general circulation at least 10 days before the hearing, if
1869 there is a need to strengthen the requirements of the minimum
1870 firesafety code adopted by such governing body. The
1871 determination must be based upon a review of local conditions by
1872 the local governing body, which review demonstrates that local
1873 conditions justify more stringent requirements than those
1874 specified in the minimum firesafety code for the protection of
1875 life and property or justify requirements that meet special
1876 situations arising from historic, geographic, or unusual
1877 conditions.
1878 (b) Such additional requirements may ~~shall~~ not be
1879 discriminatory as to materials, products, or construction
1880 techniques of demonstrated capabilities.
1881 (c) Paragraphs (a) and (b) apply solely to the local
1882 enforcing agency's adoption of requirements more stringent than
1883 those specified in the Florida Fire Prevention Code and the Life
1884 Safety Code that have the effect of amending building
1885 construction standards. Upon request, the enforcing agency must

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1886 ~~shall~~ provide a person making application for a building permit,
1887 or any state agency or board with construction-related
1888 regulation responsibilities, a listing of all such requirements
1889 and codes.
1890 (d) A local government which adopts amendments to the
1891 minimum firesafety code must provide a procedure by which the
1892 validity of such amendments may be challenged by any
1893 substantially affected party to test the amendment's compliance
1894 with ~~the provisions of~~ this section.
1895 1. Unless the local government agrees to stay enforcement
1896 of the amendment, or other good cause is shown, the challenging
1897 party shall be entitled to a hearing on the challenge within 45
1898 days.
1899 2. For purposes of such challenge, the burden of proof
1900 shall be on the challenging party, but the amendment may ~~shall~~
1901 not be presumed to be valid or invalid.
1902
1903 This subsection gives local government the authority to
1904 establish firesafety codes that exceed the Florida Fire
1905 Prevention Code ~~minimum firesafety codes and standards~~ adopted
1906 by the State Fire Marshal. The Legislature intends that local
1907 government give proper public notice and hold public hearings
1908 before adopting more stringent firesafety codes ~~and standards~~. A
1909 substantially affected person may appeal, to the department, the
1910 local government's resolution of the challenge, and the
1911 department shall determine if the amendment complies with this
1912 section. Actions of the department are subject to judicial
1913 review pursuant to s. 120.68. The department shall consider
1914 reports of the Florida Building Commission, pursuant to part IV

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1915 of chapter 553, when evaluating building code enforcement.
1916 (4) ~~(5)~~ The new building or structure provisions enumerated
1917 within the Florida Fire Prevention Code ~~firesafety code~~ adopted
1918 pursuant to this section shall apply only to buildings or
1919 structures for which the building permit is issued on or after
1920 the effective date of the current edition of the Florida Fire
1921 Prevention Code ~~this act~~. Subject to ~~the provisions of~~
1922 subsection (5) ~~(6)~~, the existing building or structure
1923 provisions enumerated within the firesafety code adopted
1924 pursuant to this section shall apply to buildings or structures
1925 for which the building permit was issued or the building or
1926 structure was constructed before ~~prior to~~ the effective date of
1927 this act.
1928 (5) ~~(6)~~ With regard to existing buildings, the Legislature
1929 recognizes that it is not always practical to apply any or all
1930 of the provisions of the Florida Fire Prevention Code ~~minimum~~
1931 ~~firesafety code~~ and that physical limitations may require
1932 disproportionate effort or expense with little increase in fire
1933 or life safety ~~lifesafety~~. ~~Prior to applying the minimum~~
1934 ~~firesafety code to an existing building, the local fire official~~
1935 ~~shall determine that a threat to lifesafety or property exists.~~
1936 If a threat to lifesafety or property exists, the firesafety
1937 inspector ~~fire official~~ shall apply the applicable firesafety
1938 code for existing buildings to the extent practical to assure a
1939 reasonable degree of lifesafety and safety of property or the
1940 firesafety inspector ~~fire official~~ shall fashion a reasonable
1941 alternative which affords an equivalent degree of lifesafety and
1942 safety of property. The decision of the local firesafety
1943 inspector ~~fire official~~ may be appealed to the local

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1944 administrative board described in s. 553.73.
1945 (6) ~~(7)~~ Nothing herein shall preclude a municipality,
1946 county, or special district from requiring a structure to be
1947 maintained in accordance with the Florida Fire Prevention Code
1948 ~~applicable firesafety code~~.
1949 (7) ~~(8)~~ Electrically operated single station smoke detectors
1950 required for residential buildings are not required to be
1951 interconnected within individual living units in all buildings
1952 having direct access to the outside from each living unit and
1953 having three stories or less. This subsection does not apply to
1954 any residential building required to have a manual or an
1955 automatic fire alarm system.
1956 (8) ~~(9)~~ The provisions of the Life Safety Code, as contained
1957 in the Florida Fire Prevention Code, do ~~shall~~ not apply to newly
1958 constructed one-family and two-family dwellings. However, fire
1959 sprinkler protection may be permitted by local government in
1960 lieu of other fire protection-related development requirements
1961 for such structures. While local governments may adopt fire
1962 sprinkler requirements for one- and two-family dwellings under
1963 this subsection, it is the intent of the Legislature that the
1964 economic consequences of the fire sprinkler mandate on home
1965 owners be studied before the enactment of such a requirement.
1966 After the effective date of this act, any local government that
1967 desires to adopt a fire sprinkler requirement on one- or two-
1968 family dwellings must prepare an economic cost and benefit
1969 report that analyzes the application of fire sprinklers to one-
1970 or two-family dwellings or any proposed residential subdivision.
1971 The report must consider the tradeoffs and specific cost savings
1972 and benefits of fire sprinklers for future owners of property.

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1973 The report must include an assessment of the cost savings from
1974 any reduced or eliminated impact fees if applicable, the
1975 reduction in special fire district tax, insurance fees, and
1976 other taxes or fees imposed, and the waiver of certain
1977 infrastructure requirements including the reduction of roadway
1978 widths, the reduction of water line sizes, increased fire
1979 hydrant spacing, increased dead-end roadway length and a
1980 reduction in cul-de-sac sizes relative to the costs from fire
1981 sprinkling. A failure to prepare an economic report shall result
1982 in the invalidation of the fire sprinkler requirement to any
1983 one- or two-family dwelling or any proposed subdivision. In
1984 addition, a local jurisdiction or utility may not charge any
1985 additional fee, above what is charged to a non-fire sprinklered
1986 dwelling, on the basis that a one- or two-family dwelling unit
1987 is protected by a fire sprinkler system.
1988 (9) ~~(10)~~ Before imposing a fire sprinkler requirement on any
1989 one- or two-family dwelling, a local government must provide the
1990 owner of any one- or two-family dwelling a letter documenting
1991 specific infrastructure or other tax or fee allowances and
1992 waivers that are listed in but not limited to those described in
1993 subsection (8) ~~(9)~~ for the dwelling. The documentation must show
1994 that the cost savings reasonably approximate the cost of the
1995 purchase and installation of a fire protection system.
1996 (10) ~~(11)~~ Notwithstanding ~~the provisions of~~ subsection (8)
1997 ~~(9)~~, a property owner may ~~shall~~ not be required to install fire
1998 sprinklers in any residential property based upon the use of
1999 such property as a rental property or any change in or
2000 reclassification of the property's primary use to a rental
2001 property.

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2002 Section 25. Section 633.026, Florida Statutes, is
2003 transferred, renumbered as section 633.212, Florida Statutes,
2004 and amended to read:
2005 633.212 ~~633.026~~ Legislative intent; informal
2006 interpretations of the Florida Fire Prevention Code.—It is the
2007 intent of the Legislature that the Florida Fire Prevention Code
2008 be interpreted by fire officials and local enforcement agencies
2009 in a manner that reasonably and cost-effectively protects the
2010 public safety, health, and welfare; ensures uniform
2011 interpretations throughout this state; and provides just and
2012 expeditious processes for resolving disputes regarding such
2013 interpretations. It is the further intent of the Legislature
2014 that such processes provide for the expeditious resolution of
2015 the issues presented and that the resulting interpretation of
2016 such issues be published on the website of the division ~~of State~~
2017 ~~Fire Marshal~~.
2018 (1) The division ~~of State Fire Marshal~~ shall by rule
2019 establish an informal process of rendering nonbinding
2020 interpretations of the Florida Fire Prevention Code. The
2021 division ~~of State Fire Marshal~~ may contract with and refer
2022 interpretive issues to a third party, selected based upon cost
2023 effectiveness, quality of services to be performed, and other
2024 performance-based criteria, which has experience in interpreting
2025 and enforcing the Florida Fire Prevention Code. It is the intent
2026 of the Legislature that the division ~~of State Fire Marshal~~
2027 establish a Fire Code Interpretation Committee composed of seven
2028 persons and seven alternates, equally representing each area of
2029 the state, to which a party can pose questions regarding the
2030 interpretation of the Florida Fire Prevention Code provisions.

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2031 (2) Each member and alternate member of the Fire Code
2032 Interpretation Committee must be certified as a firesafety
2033 inspector pursuant to s. 633.216(2) ~~633.081(2)~~ and must have a
2034 minimum of 5 years of experience interpreting and enforcing the
2035 Florida Fire Prevention Code ~~and the Life Safety Code~~. Each
2036 member and alternate member must be approved by the division ~~of~~
2037 ~~State Fire Marshal~~ and deemed by the division to have met these
2038 requirements for at least 30 days before participating in a
2039 review of a nonbinding interpretation.
2040 (3) Each nonbinding interpretation of code provisions must
2041 be provided within 10 business days after receipt of a request
2042 for interpretation. The response period established in this
2043 subsection may be waived only with the written consent of the
2044 party requesting the nonbinding interpretation and the division
2045 ~~of State Fire Marshal~~. Nonbinding interpretations shall be
2046 advisory only and nonbinding on the parties or the State Fire
2047 Marshal.
2048 (4) In order to administer this section, the division ~~of~~
2049 ~~State Fire Marshal~~ shall charge a fee for nonbinding
2050 interpretations. The fee may not exceed $150 for each request
2051 for a review or interpretation. The division may authorize
2052 payment of fees directly to the nonprofit organization under
2053 contract pursuant to subsection (1).
2054 (5) A party requesting a nonbinding interpretation who
2055 disagrees with the interpretation issued under this section may
2056 apply for a declaratory statement ~~formal interpretation~~ from the
2057 State Fire Marshal pursuant to s. 633.104(6) ~~633.01(6)~~.
2058 (6) The division ~~of State Fire Marshal~~ shall issue or cause
2059 to be issued a nonbinding interpretation of the Florida Fire

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2060 Prevention Code pursuant to this section when requested to do so
2061 upon submission of a petition by a fire official or by the owner
2062 or owner's representative or the contractor or contractor's
2063 representative of a project in dispute. The division shall adopt
2064 a petition form by rule, and the petition form must be published
2065 on the State Fire Marshal's website. The form must ~~shall~~, at a
2066 minimum, require:
2067 (a) The name and address of the local fire official,
2068 including the address of the county, municipality, or special
2069 district.
2070 (b) The name and address of the owner or owner's
2071 representative or the contractor or contractor's representative.
2072 (c) A statement of the specific sections of the Florida
2073 Fire Prevention Code being interpreted by the local fire
2074 official.
2075 (d) An explanation of how the petitioner's substantial
2076 interests are being affected by the local interpretation of the
2077 Florida Fire Prevention Code.
2078 (e) A statement of the interpretation of the specific
2079 sections of the Florida Fire Prevention Code by the local fire
2080 official.
2081 (f) A statement of the interpretation that the petitioner
2082 contends should be given to the specific sections of the Florida
2083 Fire Prevention Code and a statement supporting the petitioner's
2084 interpretation.
2085 (7) Upon receipt of a petition that meets the requirements
2086 of subsection (6), the division ~~of State Fire Marshal~~ shall
2087 immediately provide copies of the petition to the Fire Code
2088 Interpretation Committee, and shall publish the petition and any

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2089 response submitted by the local fire official on the State Fire
2090 Marshal's website.
2091 (8) The committee shall conduct proceedings as necessary to
2092 resolve the issues and give due regard to the petition, the
2093 facts of the matter at issue, specific code sections cited, and
2094 any statutory implications affecting the Florida Fire Prevention
2095 Code. The committee shall issue an interpretation regarding the
2096 provisions of the Florida Fire Prevention Code within 10 days
2097 after the filing of a petition. The committee shall issue an
2098 interpretation based upon the Florida Fire Prevention Code or,
2099 if the code is ambiguous, the intent of the code. The
2100 committee's interpretation shall be provided to the petitioner
2101 and shall include a notice that if the petitioner disagrees with
2102 the interpretation, the petitioner may file a request for a
2103 declaratory statement ~~formal interpretation~~ by the State Fire
2104 Marshal under s. 633.104(6) ~~633.01(6)~~. The committee's
2105 interpretation shall be provided to the State Fire Marshal, and
2106 the division shall publish the declaratory statement
2107 ~~interpretation~~ on the State Fire Marshal's website and in the
2108 Florida Administrative Register ~~Weekly~~.
2109 Section 26. Section 633.052, Florida Statutes, is
2110 transferred and renumbered as section 633.214, Florida Statutes,
2111 and paragraphs (a) and (b) of subsection (1), paragraph (d) of
2112 subsection (2), and subsections (3) and (4) of that section are
2113 amended, to read:
2114 633.214 ~~633.052~~ Ordinances relating to firesafety;
2115 definitions; penalties.—
2116 (1) As used in this section:
2117 (a) A "firesafety inspector" is an individual certified by

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2118 the division ~~of State Fire Marshal~~, officially assigned the
2119 duties of conducting firesafety inspections of buildings and
2120 facilities on a recurring or regular basis, investigating civil
2121 infractions relating to firesafety, and issuing citations
2122 pursuant to this section on behalf of the state or any county,
2123 municipality, or special district with firesafety
2124 responsibilities.
2125 (b) "Citation" means a written notice, issued only after a
2126 written warning has been previously issued and a minimum time
2127 period of 45 days, except for major structural changes, which
2128 may be corrected within an extended adequate period of time,
2129 from the date of the issuance of the warning whereby the party
2130 warned may correct the alleged violation, issued to a person by
2131 a firesafety inspector, that the firesafety inspector has
2132 probable cause to believe that the person has committed a civil
2133 infraction in violation of a duly enacted ordinance and that the
2134 county court will hear the charge. The citation must ~~shall~~
2135 contain:
2136 1. The date and time of issuance.
2137 2. The name and address of the person.
2138 3. The date and time the civil infraction was committed.
2139 4. The facts constituting probable cause.
2140 5. The Florida Fire Prevention Code ordinance violated.
2141 6. The name and authority of the firesafety inspector
2142 ~~officer~~.
2143 7. The procedure for the person to follow in order to pay
2144 the civil penalty or to contest the citation.
2145 8. The applicable civil penalty if the person elects to
2146 contest the citation.

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2147 9. The applicable civil penalty if the person elects not to
2148 contest the citation.
2149 10. A conspicuous statement that if the person fails to pay
2150 the civil penalty within the time allowed or fails to appear in
2151 court to contest the citation, then she or he shall be deemed to
2152 have waived her or his right to contest the citation and that,
2153 in such case, judgment may be entered against the person for an
2154 amount up to the maximum civil penalty.
2155 (2) A county or municipality that has created a code
2156 enforcement board or special magistrate system pursuant to
2157 chapter 162 may enforce firesafety code violations as provided
2158 in chapter 162. The governing body of a county or municipality
2159 which has not created a code enforcement board or special
2160 magistrate system for firesafety under chapter 162 may ~~is~~
2161 ~~authorized to~~ enact ordinances relating to firesafety codes,
2162 which ordinances shall provide:
2163 (d) For the issuance of a citation by an officer who has
2164 probable cause to believe that a person has committed a
2165 violation of an ordinance relating to firesafety or the Florida
2166 Fire Prevention Code.
2167 (3) A person ~~Any person~~ who willfully refuses to sign and
2168 accept a citation issued by a firesafety inspector commits ~~shall~~
2169 ~~be guilty of~~ a misdemeanor of the second degree, punishable as
2170 provided in s. 775.082 or s. 775.083.
2171 (4) ~~Nothing contained in~~ This section does not ~~shall~~
2172 prevent any county, ~~or~~ municipality, or special district from
2173 enacting any ordinance relating to firesafety codes which is
2174 identical to ~~the provisions of~~ this chapter or any state law,
2175 except as to penalty; however, a ~~no~~ county or municipal

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2176 ordinance relating to firesafety codes may not ~~shall~~ conflict
2177 with ~~the provisions of~~ this chapter or any other state law.
2178 Section 27. Section 633.081, Florida Statutes, is
2179 transferred and renumbered as section 633.216, Florida Statutes,
2180 a new subsection (6) is added to that section, and present
2181 subsections (1) and (2), paragraph (c) of subsection (3), and
2182 subsections (4) through (9) of that section are amended, to
2183 read:
2184 633.216 ~~633.081~~ Inspection of buildings and equipment;
2185 orders; firesafety inspection training requirements;
2186 certification; disciplinary action.—The State Fire Marshal and
2187 her or his agents or persons authorized to enforce laws and
2188 rules of the State Fire Marshal shall, at any reasonable hour,
2189 when the State Fire Marshal has reasonable cause to believe that
2190 a violation of this chapter or s. 509.215, or a rule adopted
2191 ~~promulgated~~ thereunder, or a minimum firesafety code adopted by
2192 the State Fire Marshal or a local authority, may exist, inspect
2193 any and all buildings and structures which are subject to the
2194 requirements of this chapter or s. 509.215 and rules adopted
2195 ~~promulgated~~ thereunder. The authority to inspect shall extend to
2196 all equipment, vehicles, and chemicals which are located on or
2197 within the premises of any such building or structure.
2198 (1) Each county, municipality, and special district that
2199 has firesafety enforcement responsibilities shall employ or
2200 contract with a firesafety inspector. Except as provided in s.
2201 633.312(2) and (3) ~~633.082(2)~~, the firesafety inspector must
2202 conduct all firesafety inspections that are required by law. The
2203 governing body of a county, municipality, or special district
2204 that has firesafety enforcement responsibilities may provide a

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2205 schedule of fees to pay only the costs of inspections conducted
2206 pursuant to this subsection and related administrative expenses.
2207 Two or more counties, municipalities, or special districts that
2208 have firesafety enforcement responsibilities may jointly employ
2209 or contract with a firesafety inspector.
2210 (2) Except as provided in s. 633.312(2) ~~633.082(2)~~, every
2211 firesafety inspection conducted pursuant to state or local
2212 firesafety requirements shall be by a person certified as having
2213 met the inspection training requirements set by the State Fire
2214 Marshal. Such person shall meet the requirements of s.
2215 633.412(1)(a)-(d), and:
2216 (a) ~~Be a high school graduate or the equivalent as~~
2217 ~~determined by the department;~~
2218 ~~(b) Not have been found guilty of, or having pleaded guilty~~
2219 ~~or nolo contendere to, a felony or a crime punishable by~~
2220 ~~imprisonment of 1 year or more under the law of the United~~
2221 ~~States, or of any state thereof, which involves moral turpitude,~~
2222 ~~without regard to whether a judgment of conviction has been~~
2223 ~~entered by the court having jurisdiction of such cases;~~
2224 ~~(c) Have her or his fingerprints on file with the~~
2225 ~~department or with an agency designated by the department;~~
2226 ~~(d) Have good moral character as determined by the~~
2227 ~~department;~~
2228 ~~(e) Be at least 18 years of age;~~
2229 ~~(f)~~ Have satisfactorily completed the firesafety inspector
2230 certification examination as prescribed by division rule ~~the~~
2231 ~~department~~; and
2232 (b)~~(g)~~1. Have satisfactorily completed, as determined by
2233 division rule ~~the department~~, a firesafety inspector training

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2234 program of at least ~~not less than~~ 200 hours established by the
2235 department and administered by education or training providers
2236 ~~agencies and institutions~~ approved by the department for the
2237 purpose of providing basic certification training for firesafety
2238 inspectors; or
2239 2. Have received ~~in another state~~ training in another state
2240 which is determined by the division ~~department~~ to be at least
2241 equivalent to that required by the department for approved
2242 firesafety inspector education and training programs in this
2243 state.
2244 (3)
2245 (c)1. To be certified as a firesafety inspector under this
2246 section, a ~~any~~ person who:
2247 a. Is a special state firesafety inspector on July 1, 2011,
2248 and who does not have 5 years of experience as a special state
2249 firesafety inspector as of July 1, 2011; or
2250 b. Has 5 years of experience as a special state firesafety
2251 inspector but has failed the examination taken as provided in
2252 paragraph (2)(a) ~~(2)(f)~~, must take an additional 80 hours of the
2253 courses described in paragraph (2)(b) ~~(2)(g)~~.
2254 2. After successfully completing the courses described in
2255 this paragraph, such person may take the firesafety inspection
2256 examination as provided in paragraph (2)(a) ~~(2)(f)~~, if such
2257 examination is taken before July 1, 2013.
2258 3. Upon passing the examination, the person shall be
2259 certified as a firesafety inspector as provided in this section.
2260 4. A person who fails the course of study or the
2261 examination described in this paragraph may not perform any
2262 firesafety inspection required by law on or after July 1, 2013.

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2263 (4) A firefighter certified pursuant to s. 633.408 ~~633.35~~
2264 may conduct firesafety inspections, under the supervision of a
2265 certified firesafety inspector, while on duty as a member of a
2266 fire department company conducting inservice firesafety
2267 inspections without being certified as a firesafety inspector,
2268 if such firefighter has satisfactorily completed an inservice
2269 fire department company inspector training program of at least
2270 24 hours' duration as provided by rule of the department.
2271 (5) Every firesafety inspector certificate is valid for a
2272 period of 4 ~~3~~ years from the date of issuance. Renewal of
2273 certification is subject to the affected person's completing
2274 proper application for renewal and meeting all of the
2275 requirements for renewal as established under this chapter or by
2276 rule adopted under this chapter, which must ~~shall~~ include
2277 completion of at least 54 ~~40~~ hours during the preceding 4-year
2278 ~~3-year~~ period of continuing education as required by the rule of
2279 the department or, in lieu thereof, successful passage of an
2280 examination as established by the department.
2281 (6) A previously certified firesafety inspector whose
2282 certification has lapsed for 8 years or more must repeat the
2283 fire safety inspector training as specified by the division.
2284 (7) ~~(6)~~ The State Fire Marshal may deny, refuse to renew,
2285 suspend, or revoke the certificate of a firesafety inspector if
2286 the State Fire Marshal finds that any of the following grounds
2287 exist:
2288 (a) Any cause for which issuance of a certificate could
2289 have been refused had it then existed and been known to the
2290 division ~~State Fire Marshal~~.
2291 (b) Violation of this chapter or any rule or order of the

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2292 State Fire Marshal.
2293 (c) Falsification of records relating to the certificate.
2294 ~~(d) Having been found guilty of or having pleaded guilty or~~
2295 ~~nolo contendere to a felony, whether or not a judgment of~~
2296 ~~conviction has been entered.~~
2297 (d) ~~(e)~~ Failure to meet any of the renewal requirements.
2298 ~~(f) Having been convicted of a crime in any jurisdiction~~
2299 ~~which directly relates to the practice of fire code inspection,~~
2300 ~~plan review, or administration.~~
2301 (e) ~~(g)~~ Making or filing a report or record that the
2302 certificateholder knows to be false, or knowingly inducing
2303 another to file a false report or record, or knowingly failing
2304 to file a report or record required by state or local law, or
2305 knowingly impeding or obstructing such filing, or knowingly
2306 inducing another person to impede or obstruct such filing.
2307 (f) ~~(h)~~ Failing to properly enforce applicable fire codes or
2308 permit requirements within this state which the
2309 certificateholder knows are applicable by committing willful
2310 misconduct, gross negligence, gross misconduct, repeated
2311 negligence, or negligence resulting in a significant danger to
2312 life or property.
2313 (g) ~~(i)~~ Accepting labor, services, or materials at no charge
2314 or at a noncompetitive rate from a ~~any~~ person who performs work
2315 that is under the enforcement authority of the certificateholder
2316 and who is not an immediate family member of the
2317 certificateholder. For the purpose of this paragraph, the term
2318 "immediate family member" means a spouse, child, parent,
2319 sibling, grandparent, aunt, uncle, or first cousin of the person
2320 or the person's spouse or a ~~any~~ person who resides in the

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2321 primary residence of the certificateholder.
2322 (8)~~(7)~~ The division ~~of State Fire Marshal~~ and the Florida
2323 Building Code Administrators and Inspectors Board, established
2324 pursuant to s. 468.605, shall enter into a reciprocity agreement
2325 to facilitate joint recognition of continuing education
2326 recertification hours for certificateholders licensed under s.
2327 468.609 and firesafety inspectors certified under subsection
2328 (2).
2329 (9)~~(8)~~ The State Fire Marshal shall develop by rule an
2330 advanced training and certification program for firesafety
2331 inspectors having fire code management responsibilities. The
2332 program must be consistent with the appropriate provisions of
2333 NFPA 1037, or similar standards adopted by the division, and
2334 establish minimum training, education, and experience levels for
2335 firesafety inspectors having fire code management
2336 responsibilities.
2337 (10)~~(9)~~ The department shall provide by rule for the
2338 certification of firesafety inspectors and Fire Code
2339 Administrators.
2340 Section 28. Section 633.085, Florida Statutes, is
2341 transferred and renumbered as section 633.218, Florida Statutes,
2342 paragraph (a) of subsection (1) and subsections (2) through (5)
2343 of that section are amended, and paragraphs (e) and (f) are
2344 added to subsection (1) of that section, to read:
2345 633.218 ~~633.085~~ Inspections of state buildings and
2346 premises; tests of firesafety equipment; building plans to be
2347 approved.—
2348 (1)(a) It is the duty of the State Fire Marshal and her or
2349 his agents to inspect, or cause to be inspected, each state-

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2350 owned building on a recurring basis established by rule, and to
2351 ensure that high-hazard occupancies are inspected at least
2352 annually, for the purpose of ascertaining and causing to be
2353 corrected any conditions liable to cause fire or endanger life
2354 from fire and any violation of the firesafety standards for
2355 state-owned buildings, ~~the provisions of~~ this chapter, or the
2356 rules ~~or regulations~~ adopted ~~and promulgated~~ pursuant hereto.
2357 The State Fire Marshal shall, within 7 days following an
2358 inspection, submit a report of such inspection to the head of
2359 the ~~department of~~ state agency ~~government~~ responsible for the
2360 building.
2361 (e) For purposes of this section:
2362 1.a. The term "high-hazard occupancy" means any building or
2363 structure:
2364 (I) That contains combustible or explosive matter or
2365 flammable conditions dangerous to the safety of life or
2366 property;
2367 (II) At which persons receive educational instruction;
2368 (III) At which persons reside, excluding private dwellings;
2369 or
2370 (IV) Containing three or more floor levels.
2371 b. As used in this subparagraph, the phrase "building or
2372 structure":
2373 (I) Includes, but is not limited to, all hospitals and
2374 residential health care facilities, nursing homes and other
2375 adult care facilities, correctional or detention facilities,
2376 public schools, public lodging establishments, migrant labor
2377 camps, residential child care facilities, and self-service
2378 gasoline stations.

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2379 (II) Does not include any residential condominium where the
2380 declaration of condominium or the bylaws provide that the rental
2381 of units shall not be permitted for less than 90 days.
2382 2. The term "state-owned building," includes private
2383 correctional facilities as defined under s. 944.710(3) and state
2384 universities as defined under s. 1000.21(6).
2385 (f) A state-owned building or state-leased building or
2386 space shall be identified through use of the United States
2387 National Grid Coordinate System.
2388 (2) The State Fire Marshal and her or his agents may ~~shall~~
2389 conduct performance tests on any electronic fire warning and
2390 smoke detection system, and any pressurized air-handling unit,
2391 in any state-owned building or state-leased building or space on
2392 a recurring basis as provided in subsection (1). The State Fire
2393 Marshal and her or his agents shall also ensure that fire drills
2394 are conducted in all high-hazard state-owned buildings or high-
2395 hazard state-leased ~~high-hazard~~ occupancies at least annually.
2396 (3) All construction of any new state-owned building or
2397 state-leased building or space~~,~~ or any renovation, alteration,
2398 or change of occupancy of any existing, state-owned building or
2399 state-leased building or space must ~~shall~~ comply with the
2400 uniform firesafety standards of the State Fire Marshal.
2401 (a) For all new construction or renovation, alteration, or
2402 change of occupancy of state-leased space, compliance with the
2403 uniform firesafety standards shall be determined by reviewing
2404 the plans for the proposed construction or occupancy submitted
2405 by the lessor to the division ~~of State Fire Marshal~~ for review
2406 and approval before ~~prior to~~ commencement of construction or
2407 occupancy, which review shall be completed within 10 working

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2408 days after receipt of the plans by the division ~~of State Fire~~
2409 ~~Marshal~~.
2410 (b) The plans for all construction of any new, or
2411 renovation or alteration of any existing, state-owned building
2412 are subject to the review and approval of the division ~~of State~~
2413 ~~Fire Marshal~~ for compliance with the uniform firesafety
2414 standards before ~~prior to~~ commencement of construction or change
2415 of occupancy, which review shall be completed within 30 calendar
2416 days of receipt of the plans by the division ~~of State Fire~~
2417 ~~Marshal~~.
2418 (4) The division ~~of State Fire Marshal~~ may inspect state-
2419 owned buildings and space and state-leased buildings and space
2420 as necessary before ~~prior to~~ occupancy or during construction,
2421 renovation, or alteration to ascertain compliance with the
2422 uniform firesafety standards. Whenever the division ~~of State~~
2423 ~~Fire Marshal~~ determines by virtue of such inspection or by
2424 review of plans that construction, renovation, or alteration of
2425 state-owned buildings and state-leased buildings or space is not
2426 in compliance with the uniform firesafety standards, the
2427 division ~~of State Fire Marshal~~ shall issue an order to cease
2428 construction, renovation, or alteration, or to preclude
2429 occupancy, of a building until compliance is obtained, except
2430 for those activities required to achieve such compliance.
2431 (5) The division ~~of State Fire Marshal~~ shall by rule
2432 provide a schedule of fees to pay for the costs of the
2433 inspections, whether recurring or high hazard, any firesafety
2434 review or plans for proposed construction, renovations, or
2435 occupancy, and related administrative expenses.
2436 Section 29. Section 633.027, Florida Statutes, is

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2437 transferred and renumbered as section 633.222, Florida Statutes,
2438 and subsection (3) of that section is amended to read:
2439 633.222 ~~633.027~~ Buildings with light-frame truss-type
2440 construction; notice requirements; enforcement.—
2441 (3) The State Fire Marshal, and local fire officials in
2442 accordance with s. 633.118 ~~633.121~~, shall enforce ~~the provisions~~
2443 ~~of~~ this section. An ~~Any~~ owner who fails to comply with the
2444 requirements of this section is subject to penalties as provided
2445 in s. 633.228 ~~633.161~~.
2446 Section 30. Section 633.60, Florida Statutes, is
2447 transferred and renumbered as section 633.224, Florida Statutes,
2448 and subsection (1) of that section is amended to read:
2449 633.224 ~~633.60~~ Automatic fire sprinkler systems for one-
2450 family dwellings, two-family dwellings, and mobile homes.—
2451 (1) It is unlawful for a ~~any~~ person to engage in the
2452 business or act in the capacity of a contractor of automatic
2453 fire sprinkler systems for one-family dwellings, two-family
2454 dwellings, and mobile homes without having been duly certified
2455 and holding a current certificate as a Contractor I, Contractor
2456 II, or Contractor IV as defined in s. 633.102 ~~633.021~~.
2457 Section 31. Section 633.557, Florida Statutes, is
2458 transferred and renumbered as section 633.226, Florida Statutes.
2459 Section 32. Section 633.161, Florida Statutes, is
2460 transferred and renumbered as section 633.228, Florida Statutes,
2461 and paragraphs (a) and (b) of subsection (1), paragraph (a) of
2462 subsection (2), and subsection (3) of that section are amended,
2463 to read:
2464 633.228 ~~633.161~~ Violations; orders to cease and desist,
2465 correct hazardous conditions, preclude occupancy, or vacate;

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2466 enforcement; penalties.—
2467 (1) If it is determined by the department that a violation
2468 specified in this subsection exists, the State Fire Marshal or
2469 her or his deputy may issue and deliver to the person committing
2470 the violation an order to cease and desist from such violation,
2471 to correct any hazardous condition, to preclude occupancy of the
2472 affected building or structure, or to vacate the premises of the
2473 affected building or structure. Such violations are:
2474 (a) Except as set forth in paragraph (b), a violation of
2475 any provision of this chapter, of any rule adopted pursuant
2476 thereto, of any applicable uniform firesafety standard adopted
2477 pursuant to s. 633.206 ~~633.022~~ which is not adequately addressed
2478 by any alternative requirements adopted on a local level, or of
2479 any minimum firesafety standard adopted pursuant to s. 394.879.
2480 (b) A substantial violation of an applicable minimum
2481 firesafety standard adopted pursuant to s. 633.208 ~~633.025~~ which
2482 is not reasonably addressed by any alternative requirement
2483 imposed at the local level, or an unreasonable interpretation of
2484 an applicable minimum firesafety standard, and which violation
2485 or interpretation clearly constitutes a danger to lifesafety.
2486 (2)(a) If, during the conduct of a firesafety inspection
2487 authorized by ss. 633.216 and 633.218 ~~633.081 and 633.085~~, it is
2488 determined that a violation described in this section exists
2489 which poses an immediate danger to the public health, safety, or
2490 welfare, the State Fire Marshal may issue an order to vacate the
2491 building in question, which order shall be immediately effective
2492 and shall be an immediate final order under s. 120.569(2)(n).
2493 With respect to a facility under the jurisdiction of a district
2494 school board or community college board of trustees, the order

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2495 to vacate shall be issued jointly by the district superintendent
2496 or college president and the State Fire Marshal.
2497 (3) A ~~Any~~ person who violates or fails to comply with any
2498 order under subsection (1) or subsection (2) commits ~~is guilty~~
2499 ~~of~~ a misdemeanor, punishable as provided in s. 633.124 ~~633.171~~.
2500 Section 33. The Division of Law Revision and Information is
2501 requested to create part III of chapter 633, Florida Statutes,
2502 consisting of sections 633.302, 633.304, 633.306, 633.308,
2503 633.312, 633.314, 633.316, 633.318, 633.322, 633.324, 633.326,
2504 633.328, 633.332, 633.334, 633.336, 633.338, 633.342, 633.344,
2505 633.346, 633.348, and 633.3482, Florida Statutes, to be entitled
2506 "Fire Protection and Suppression."
2507 Section 34. Section 633.511, Florida Statutes, is
2508 transferred, renumbered as section 633.302, Florida Statutes,
2509 and amended to read:
2510 633.302 ~~633.511~~ Florida Fire Safety Board; membership;
2511 duties; meetings; officers; quorum; compensation; seal.—
2512 (1) The Florida Fire Safety Board is created consisting of
2513 seven members who are ~~citizens and~~ residents of this state. One
2514 shall be the State Fire Marshal, or her or his designee
2515 ~~designated appointee~~ who shall be an administrative employee of
2516 the marshal; one shall be an administrative officer from a
2517 building department representing an incorporated municipality or
2518 a county; one shall be an administrative officer from a fire
2519 department representing an incorporated municipality or a
2520 county; two shall be contractors licensed pursuant to s. 633.318
2521 ~~633.521~~; and two shall be persons who hold valid licenses under
2522 s. 633.304 ~~633.061~~.
2523 (2)(a) To be eligible for appointment, each contractor must

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2524 ~~shall~~ personally hold a current certificate of competency and a
2525 current license issued by the division ~~State Fire Marshal~~,
2526 together with an unexpired occupational license to operate as a
2527 contractor issued by an incorporated municipality or a county;
2528 be actively engaged in such business and have been so engaged
2529 for a period of not less than 5 consecutive years before the
2530 date of her or his appointment; and be a ~~citizen and~~ resident of
2531 the state.
2532 (b) To be eligible for appointment, each fire equipment
2533 dealer must ~~shall~~ personally hold a current Class A, B, or C and
2534 Class D fire equipment dealer license issued by the division
2535 ~~State Fire Marshal~~, together with an unexpired occupational
2536 license to operate as a fire equipment dealer issued by an
2537 incorporated municipality or a county; must ~~shall~~ be actively
2538 engaged in such business and have been so engaged for a period
2539 of not less than 5 consecutive years before the date of
2540 appointment; and must ~~shall~~ be a ~~citizen and~~ resident of this
2541 state.
2542 (3) The State Fire Marshal's term on the board, or that of
2543 her or his designee ~~designated administrative employee~~, shall
2544 coincide with the State Fire Marshal's term of office. Of the
2545 other six members of the board, one member shall be appointed
2546 for a term of 1 year, one member for a term of 2 years, two
2547 members for terms of 3 years, and two members for terms of 4
2548 years. All terms expire on June 30 of the last year of the term.
2549 When ~~Effective July 1, 1997, as~~ the term of a ~~each~~ member
2550 expires, the State Fire Marshal shall appoint a member to fill
2551 the vacancy for a term of 4 years. The State Fire Marshal may
2552 remove any appointed member for cause. A vacancy in the

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2553 membership of the board for any cause shall be filled by
2554 appointment by the State Fire Marshal for the balance of the
2555 unexpired term.
2556 (4) The board shall act in an advisory capacity to the
2557 State Fire Marshal and shall meet regularly as the need presents
2558 itself. The board shall have the authority to review complaints
2559 and disputed administrative action and make recommendations for
2560 disciplinary action to the division at the request of the
2561 licenseholder, permitholder, or certificateholder. The board
2562 will serve in an advisory capacity to the division regarding
2563 rules, codes, standards, interpretations, and training. As soon
2564 as practicable after July 1, 2013, the board shall meet to elect
2565 officers from its membership, whose terms shall expire on June
2566 30 and annually thereafter. A majority of the board shall
2567 constitute a quorum. A member of the advisory board may not be
2568 paid a salary as such member, but shall be reimbursed for
2569 necessary expenses while attending advisory board meetings,
2570 including travel in the performance of her or his duties, as
2571 provided in s. 112.061.
2572 (5) The board shall adopt a seal for its use containing the
2573 words "Florida Fire Safety Board."
2574 Section 35. Section 633.061, Florida Statutes, is
2575 transferred and renumbered as section 633.304, Florida Statutes,
2576 and subsections (1) through (4) and (9) of that section are
2577 amended, to read:
2578 633.304 ~~633.061~~ Fire suppression equipment; license to
2579 install or maintain.—
2580 (1) It is unlawful for any organization or individual to
2581 engage in the business of servicing, repairing, recharging,

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2582 testing, marking, inspecting, installing, or hydrotesting any
2583 fire extinguisher or preengineered system in this state except
2584 in conformity with ~~the provisions of~~ this chapter. Each
2585 organization or individual that engages in such activity must
2586 possess a valid and subsisting license issued by the division
2587 ~~State Fire Marshal~~. All fire extinguishers and preengineered
2588 systems required by statute or by rule must be serviced by an
2589 organization or individual licensed under ~~the provisions of~~ this
2590 chapter. A licensee who receives appropriate training shall not
2591 be prohibited by a manufacturer from servicing any particular
2592 brand of fire extinguisher or preengineered system. The licensee
2593 is legally qualified to act for the business organization in all
2594 matters connected with its business, and the licensee must
2595 supervise all activities undertaken by such business
2596 organization. Each licensee shall maintain a specific business
2597 location. A further requirement, in the case of multiple
2598 locations where such servicing or recharging is taking place, is
2599 that each licensee who maintains more than one place of business
2600 where actual work is carried on must possess an additional
2601 license, as set forth in this section, for each location, except
2602 that a licensed individual may not qualify for more than five
2603 locations. A licensee is limited to a specific type of work
2604 performed depending upon the class of license held. Licenses ~~and~~
2605 ~~license fees~~ are required for the following:
2606 (a) Class A: ~~— $250~~
2607 To service, recharge, repair, install, or inspect all types of
2608 fire extinguishers and to conduct hydrostatic tests on all types
2609 of fire extinguishers.
2610 (b) Class B: ~~— $150~~

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2611 To service, recharge, repair, install, or inspect all types of
2612 fire extinguishers, including recharging carbon dioxide units
2613 and conducting hydrostatic tests on all types of fire
2614 extinguishers, except carbon dioxide units.
2615 (c) Class C: ~~— $150~~
2616 To service, recharge, repair, install, or inspect all types of
2617 fire extinguishers, except recharging carbon dioxide units, and
2618 to conduct hydrostatic tests on all types of fire extinguishers,
2619 except carbon dioxide units.
2620 (d) Class D: ~~— $200~~
2621 To service, repair, recharge, hydrotest, install, or inspect all
2622 types of preengineered fire extinguishing systems.
2623 ~~(e) Licenses issued as duplicates or to reflect a change of~~
2624 ~~address — $10~~
2625
2626 Any fire equipment dealer licensed pursuant to this subsection
2627 who does not want to engage in the business of servicing,
2628 inspecting, recharging, repairing, hydrotesting, or installing
2629 halon equipment must file an affidavit on a form provided by the
2630 division so stating. Licenses will be issued by the division to
2631 show ~~reflect~~ the work authorized thereunder. It is unlawful,
2632 unlicensed activity for a ~~any~~ person or firm to falsely hold
2633 himself or herself or a business organization out to perform any
2634 service, inspection, recharge, repair, hydrotest, or
2635 installation except as specifically described in the license. A
2636 fire equipment dealer licensed pursuant to this subsection who
2637 wishes to withdraw a previously filed halon equipment exemption
2638 affidavit and engage in the business of servicing, inspecting,
2639 recharging, repairing, hydrotesting, or installing halon

2640 equipment must submit a written statement requesting the
2641 withdrawal to the division. The dealer must also submit to an
2642 inspection by the State Fire Marshal or her or his designee in
2643 order to determine that the dealer possesses the equipment
2644 required to service, inspect, recharge, repair, hydrotest, or
2645 install halon equipment.
2646 (2) A person who holds a valid fire equipment dealer
2647 license may maintain such license in an inactive status during
2648 which time he or she may not engage in any work under the
2649 definition of the license held. An inactive status license shall
2650 be void after 2 years or when ~~at the time~~ that the license is
2651 renewed, whichever comes first. ~~The biennial renewal fee for an~~
2652 ~~inactive status license shall be $75.~~ An inactive status license
2653 may not be reactivated unless the continuing education
2654 requirements of this chapter have been fulfilled.
2655 (3) Each individual actually performing the work of
2656 servicing, recharging, repairing, hydrotesting, installing,
2657 testing, or inspecting fire extinguishers or preengineered
2658 systems must possess a valid and subsisting permit issued by the
2659 division ~~State Fire Marshal~~. Permittees are limited as to
2660 specific type of work performed to allow work no more extensive
2661 than the class of license held by the licensee under whom the
2662 permittee is working. Permits will be issued by the division ~~and~~
2663 ~~the fees required are~~ as follows:
2664 (a) Portable permit: ~~— $90~~ "Portable permittee" means a
2665 person who is limited to performing work no more extensive than
2666 the employing licensee in the servicing, recharging, repairing,
2667 installing, or inspecting all types of portable fire
2668 extinguishers.

2669 (b) Preengineered permit: ~~$120~~ "Preengineered
2670 permittee" means a person who is limited to the servicing,
2671 recharging, repairing, installing, or inspecting of all types of
2672 preengineered fire extinguishing systems.
2673 ~~(c) Permits issued as duplicates or to reflect a change of~~
2674 ~~address — $10~~
2675
2676 Any fire equipment permittee licensed pursuant to this
2677 subsection who does not want to engage in servicing, inspecting,
2678 recharging, repairing, hydrotesting, or installing halon
2679 equipment must file an affidavit on a form provided by the
2680 division so stating. Permits will be issued by the division to
2681 show ~~reflect~~ the work authorized thereunder. It is unlawful,
2682 unlicensed activity for a ~~any~~ person or firm to falsely hold
2683 himself or herself out to perform any service, inspection,
2684 recharge, repair, hydrotest, or installation except as
2685 specifically described in the permit.
2686 (4)(a) Such licenses and permits shall be issued by the
2687 division ~~State Fire Marshal~~ for 2 years beginning January 1,
2688 2000, and each 2-year period thereafter and expiring December 31
2689 of the second year. All licenses or permits issued will expire
2690 on December 31 of each odd-numbered year. The failure to renew a
2691 license or permit by December 31 of the second year will cause
2692 the license or permit to become inoperative. The holder of an
2693 inoperative license or permit may ~~shall~~ not engage in any
2694 activities for which a license or permit is required by this
2695 section. A license or permit which is inoperative because of the
2696 failure to renew it shall be restored upon payment of the
2697 applicable fee plus a penalty equal to the applicable fee, if

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2698 the application for renewal is filed no later than the following
2699 March 31. If the application for restoration is not made before
2700 the March 31st deadline, the fee for restoration shall be equal
2701 to the original application fee and the penalty provided for
2702 herein, and, in addition, the State Fire Marshal shall require
2703 reexamination of the applicant. The fee for a license or permit
2704 issued for 1 year or less shall be prorated at 50 percent of the
2705 applicable fee for a biennial license or permit.
2706 (b) After initial licensure, each licensee or permittee
2707 must successfully complete a course or courses of continuing
2708 education for fire equipment technicians of at least 16 hours. A
2709 license or permit may not be renewed unless the licensee or
2710 permittee produces documentation of the completion of at least
2711 16 hours of continuing education for fire equipment technicians
2712 during the biennial licensure period. A person who is both a
2713 licensee and a permittee shall be required to complete 16 hours
2714 of continuing education during each renewal period. Each
2715 licensee shall ensure that all permittees in his or her
2716 employment meet their continuing education requirements. The
2717 State Fire Marshal shall adopt rules describing the continuing
2718 education requirements and shall have the authority upon
2719 reasonable belief, to audit a fire equipment dealer to determine
2720 compliance with continuing education requirements.
2721 (c) ~~(b)~~ The forms of such licenses and permits and
2722 applications therefor shall be prescribed by the State Fire
2723 Marshal; in addition to such other information and data as that
2724 officer determines is appropriate and required for such forms,
2725 there shall be included in such forms the following matters.
2726 Each such application must ~~shall~~ be in such form as to provide

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2727 that the data and other information set forth therein shall be
2728 sworn to by the applicant or, if a corporation, by an officer
2729 thereof. An application for a permit must ~~shall~~ include the name
2730 of the licensee employing such permittee, and the permit issued
2731 in pursuance of such application must ~~shall~~ also set forth the
2732 name of such licensee. A permit is valid solely for use by the
2733 holder thereof in his or her employment by the licensee named in
2734 the permit.
2735 (d) ~~(c)~~ A license of any class may ~~shall~~ not be issued or
2736 renewed by the division ~~State Fire Marshal~~ and a license of any
2737 class does ~~shall~~ not remain operative unless:
2738 1. The applicant has submitted to the State Fire Marshal
2739 evidence of registration as a Florida corporation or evidence of
2740 compliance with s. 865.09.
2741 2. The State Fire Marshal or his or her designee has by
2742 inspection determined that the applicant possesses the equipment
2743 required for the class of license sought. The State Fire Marshal
2744 shall give an applicant a reasonable opportunity to correct any
2745 deficiencies discovered by inspection. To obtain such
2746 inspection, an applicant with facilities located outside this
2747 state must:
2748 a. Provide a notarized statement from a professional
2749 engineer licensed by the applicant's state of domicile
2750 certifying that the applicant possesses the equipment required
2751 for the class of license sought and that all such equipment is
2752 operable; or
2753 b. Allow the State Fire Marshal or her or his designee to
2754 inspect the facility. All costs associated with the State Fire
2755 Marshal's inspection shall be paid by the applicant. The State

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2756 Fire Marshal shall, in accordance with s. 120.54, adopt by rule
2757 standards for the calculation and establishment of the amount of
2758 costs associated with any inspection conducted by the State Fire
2759 Marshal under this section. Such rules shall include procedures
2760 for invoicing and receiving funds in advance of the inspection ~~A~~
2761 ~~fee of $50, payable to the State Fire Marshal, shall be required~~
2762 ~~for any subsequent reinspection~~.
2763 3. The applicant has submitted to the State Fire Marshal
2764 proof of insurance providing coverage for comprehensive general
2765 liability for bodily injury and property damage, products
2766 liability, completed operations, and contractual liability. The
2767 State Fire Marshal shall adopt rules providing for the amounts
2768 of such coverage, but such amounts shall not be less than
2769 $300,000 for Class A or Class D licenses, $200,000 for Class B
2770 licenses, and $100,000 for Class C licenses; and the total
2771 coverage for any class of license held in conjunction with a
2772 Class D license may ~~shall~~ not be less than $300,000. The State
2773 Fire Marshal may, at any time after the issuance of a license or
2774 its renewal, require upon demand, and in no event more than 30
2775 days after notice of such demand, the licensee to provide proof
2776 of insurance, on a form provided by the State Fire Marshal,
2777 containing confirmation of insurance coverage as required by
2778 this chapter. Failure, for any length of time, to provide proof
2779 of insurance coverage as required shall result in the immediate
2780 suspension of the license until proof of proper insurance is
2781 provided to the State Fire Marshal. An insurer which provides
2782 such coverage shall notify the State Fire Marshal of any change
2783 in coverage or of any termination, cancellation, or nonrenewal
2784 of any coverage.

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2785 4. The applicant applies to the State Fire Marshal,
2786 provides proof of experience, and successfully completes a
2787 prescribed training course offered by the State Fire College or
2788 an equivalent course approved by the State Fire Marshal. This
2789 subparagraph does not apply to any holder of or applicant for a
2790 permit under paragraph (g) ~~(f)~~ or to a business organization or
2791 a governmental entity seeking initial licensure or renewal of an
2792 existing license solely for the purpose of inspecting,
2793 servicing, repairing, marking, recharging, and maintaining fire
2794 extinguishers used and located on the premises of and owned by
2795 such organization or entity.
2796 5. The applicant has a current retestor identification
2797 number that is appropriate for the license for which the
2798 applicant is applying and that is listed with the United States
2799 Department of Transportation.
2800 6. The applicant has passed, with a grade of at least 70
2801 percent, a written examination testing his or her knowledge of
2802 the rules and statutes governing ~~regulating~~ the activities
2803 authorized by the license and demonstrating his or her knowledge
2804 and ability to perform those tasks in a competent, lawful, and
2805 safe manner. Such examination shall be developed and
2806 administered by the State Fire Marshal, or his or her designee
2807 in accordance with policies and procedures of the State Fire
2808 Marshal. An applicant shall pay a nonrefundable examination fee
2809 of $50 for each examination or reexamination scheduled. A ~~No~~
2810 reexamination may not ~~shall~~ be scheduled sooner than 30 days
2811 after any administration of an examination to an applicant. An
2812 ~~No~~ applicant may not ~~shall~~ be permitted to take an examination
2813 for any level of license more than a total of four times during

2814 1 year, regardless of the number of applications submitted. As a
2815 prerequisite to licensure of the applicant, he or she:
2816 a. Must be at least 18 years of age.
2817 b. Must have 4 years of proven experience as a fire
2818 equipment permittee at a level equal to or greater than the
2819 level of license applied for or have a combination of education
2820 and experience determined to be equivalent thereto by the State
2821 Fire Marshal. Having held a permit at the appropriate level for
2822 the required period constitutes the required experience.
2823 c. Must not have been convicted of a felony or a crime
2824 punishable by imprisonment of 1 year or more under the law of
2825 the United States or of any state thereof or under the law of
2826 any other country~~, or pled nolo contendere to, any felony~~.
2827 "Convicted" means a finding of guilt or the acceptance of a plea
2828 of guilty or nolo contendere in any federal or state court or a
2829 court in any other country, without regard to whether a judgment
2830 of conviction has been entered by the court having jurisdiction
2831 of the case. If an applicant has been convicted of any such
2832 felony, the applicant shall be excluded from licensure for a
2833 period of 4 years after expiration of sentence or final release
2834 by the Parole Commission unless the applicant, before the
2835 expiration of the 4-year period, has received a full pardon or
2836 has had her or his civil rights restored ~~must comply with s.~~
2837 ~~112.011(1)(b)~~.
2838
2839 This subparagraph does not apply to any holder of or applicant
2840 for a permit under paragraph (g) ~~(f)~~ or to a business
2841 organization or a governmental entity seeking initial licensure
2842 or renewal of an existing license solely for the purpose of

2843 inspecting, servicing, repairing, marking, recharging,
2844 hydrotesting, and maintaining fire extinguishers used and
2845 located on the premises of and owned by such organization or
2846 entity.
2847 ~~(d) An applicant who fails the examination may take it~~
2848 ~~three more times during the 1 year period after he or she~~
2849 ~~originally filed an application for the examination. If the~~
2850 ~~applicant fails the examination within 1 year after the~~
2851 ~~application date and seeks to retake the examination, he or she~~
2852 ~~must file a new application, pay the application and examination~~
2853 ~~fees, and successfully complete a prescribed training course~~
2854 ~~approved by the State Fire College or an equivalent course~~
2855 ~~approved by the State Fire Marshal. An applicant may not submit~~
2856 ~~a new application within 6 months after the date of his or her~~
2857 ~~last reexamination.~~
2858 (e) A fire equipment dealer licensed under this section may
2859 apply to convert ~~upgrade~~ the license currently held to a higher
2860 licensing category, if the licensed dealer:
2861 1. Submits an application for the license on a form in
2862 conformance with paragraph (c) ~~(b)~~. The application must be
2863 accompanied by a fee as prescribed in s. 633.132 ~~subsection (1)~~
2864 for the type of license requested.
2865 2. Provides evidence of 2 years' experience as a licensed
2866 dealer and meets such relevant educational requirements as are
2867 established by rule by the State Fire Marshal for purposes of
2868 upgrading a license.
2869 3. Meets the requirements of paragraph (d) ~~(c)~~.
2870 (f) A fire equipment dealer licensed under this section may
2871 apply to convert the license currently held to a lower licensing

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2872 category, if the licensed dealer:
2873 1. Submits an application for the license on a form in
2874 conformance with paragraph (c). The application must be
2875 accompanied by a fee as prescribed in s. 633.132 for the type of
2876 license requested.
2877 2. Submits proof of insurance providing coverage meeting
2878 the requirements prescribed in subparagraph (d)3.
2879 3. Submits to an inspection of the facility to ensure all
2880 equipment associated with the higher class of license has been
2881 removed and submits the required reinspection fee.
2882 (g) A ~~No~~ permit of any class may not ~~shall~~ be issued or
2883 renewed to a person by the division ~~State Fire Marshal~~, and a ~~no~~
2884 permit of any class does not ~~shall~~ remain operative, unless the
2885 person has:
2886 1. Submitted a nonrefundable examination fee in the amount
2887 of $50.~~;~~
2888 2. Successfully completed a training course offered by the
2889 State Fire College or an equivalent course approved by the State
2890 Fire Marshal.~~; and~~
2891 3. Passed, with a grade of at least 70 percent, a written
2892 examination testing his or her knowledge of the rules and
2893 statutes governing ~~regulating~~ the activities authorized by the
2894 permit and demonstrating his or her knowledge and ability to
2895 perform those tasks in a competent, lawful, and safe manner.
2896 Such examination must ~~shall~~ be developed and administered by the
2897 State Fire Marshal in accordance with the policies and
2898 procedures of the State Fire Marshal. An examination fee must
2899 ~~shall~~ be paid for each examination scheduled. A ~~No~~ reexamination
2900 may not ~~shall~~ be scheduled sooner than 30 days after any

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2901 administration of an examination to an applicant. An ~~No~~
2902 applicant may not ~~shall~~ be permitted to take an examination for
2903 any level of permit more than four times during 1 year,
2904 regardless of the number of applications submitted. As a
2905 prerequisite to taking the permit examination, the applicant
2906 must be at least 16 years of age.
2907 (h) ~~(g)~~ An applicant for a license or permit under this
2908 section who fails the examination may take it three more times
2909 during the 1-year period after he or she originally filed an
2910 application for the examination. If the applicant fails the
2911 examination within 1 year after the application date and he or
2912 she seeks to retake the examination, he or she must file a new
2913 application, pay the application and examination fees, and
2914 successfully complete a prescribed training course offered by
2915 the State Fire College or an equivalent course approved by the
2916 State Fire Marshal. The applicant may not submit a new
2917 application within 6 months after the date of his or her fourth
2918 ~~last~~ reexamination. An applicant who passes the examination but
2919 does not meet the remaining qualifications prescribed by law and
2920 rule within 1 year after the application date must file a new
2921 application, pay the application and examination fee,
2922 successfully complete a prescribed training course approved by
2923 the State Fire College or an equivalent course approved by the
2924 State Fire Marshal, and pass the written examination.
2925 (9) ~~The provisions of~~ This section does ~~chapter do~~ not
2926 apply to inspections by fire chiefs, fire inspectors, fire
2927 marshals, or insurance company inspectors.
2928 Section 36. Section 633.065, Florida Statutes, is
2929 transferred and renumbered as section 633.306, Florida Statutes,

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2930 and paragraph (a) of subsection (1) of that section is amended,
2931 to read:
2932 633.306 ~~633.065~~ Requirements for installation, inspection,
2933 and maintenance of fire suppression equipment.—
2934 (1) The requirements for installation of fire extinguishers
2935 and preengineered systems are as follows:
2936 (a) Fire equipment dealers shall be licensed under s.
2937 633.304 ~~633.061~~.
2938 Section 37. Section 633.071, Florida Statutes, is
2939 transferred and renumbered as section 633.308, Florida Statutes,
2940 and subsection (2) of that section is amended, to read:
2941 633.308 ~~633.071~~ Standard service tag required on all fire
2942 extinguishers and preengineered systems; serial number required
2943 on all portable fire extinguishers; standard inspection tags
2944 required on all fire protection systems.—
2945 (2) All portable fire extinguishers required by statute or
2946 by rule must ~~shall~~ be listed by Underwriters Laboratories, Inc.,
2947 or approved by Factory Mutual Laboratories, Inc., or listed by a
2948 nationally recognized testing laboratory in accordance with
2949 procedures adopted pursuant to s. 633.314(2) ~~633.083(2)~~, and
2950 carry an Underwriters Laboratories, Inc., or manufacturer's
2951 serial number. These listings, approvals, and serial numbers may
2952 be stamped on the manufacturer's identification and instructions
2953 plate or on a separate Underwriters Laboratories, Inc., or
2954 Factory Mutual Laboratories, Inc., plate soldered or attached to
2955 the extinguisher shell in some permanent manner.
2956 Section 38. Section 633.082, Florida Statutes, is
2957 transferred and renumbered as section 633.312, Florida Statutes,
2958 and subsections (2) and (3) of that section are amended, to

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2959 read:
2960 633.312 ~~633.082~~ Inspection of fire control systems, fire
2961 hydrants, and fire protection systems.—
2962 (2) Fire hydrants and fire protection systems installed in
2963 public and private properties, except one-family or two-family
2964 dwellings, shall be inspected following procedures established
2965 in the nationally recognized inspection, testing, and
2966 maintenance standards publications NFPA-24 and NFPA-25 as set
2967 forth in the edition adopted by the State Fire Marshal.
2968 Quarterly, annual, 3-year, and 5-year inspections consistent
2969 with the contractual provisions with the owner shall be
2970 conducted by the certificateholder or permittees employed by the
2971 certificateholder pursuant to s. 633.318 ~~633.521~~, except that:
2972 (a) Public fire hydrants owned by a governmental entity
2973 shall be inspected following procedures established in the
2974 inspection, testing, and maintenance standards adopted by the
2975 State Fire Marshal or equivalent standards such as those
2976 contained in the latest edition of the American Water Works
2977 Association's Manual M17, "Installation, Field Testing, and
2978 Maintenance of Fire Hydrants."
2979 (b) County, municipal, and special district utilities may
2980 perform fire hydrant inspections required by this section using
2981 designated employees. Such designated employees need not be
2982 certified under this chapter. However, counties, municipalities,
2983 or special districts that use designated employees are
2984 responsible for ensuring that the designated employees are
2985 qualified to perform such inspections.
2986 (3) The inspecting contractor shall provide to the building
2987 owner or hydrant owner and the local authority having

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2988 jurisdiction a copy of the applicable inspection report
2989 established under this chapter. The maintenance of fire hydrant
2990 and fire protection systems as well as corrective actions on
2991 deficient systems is the responsibility of the owner of the
2992 system or hydrant. Equipment requiring periodic testing or
2993 operation to ensure its maintenance shall be tested or operated
2994 as specified in the Fire Prevention Code, Life Safety Code,
2995 National Fire Protection Association standards, or as directed
2996 by the appropriate authority ~~agency having jurisdiction~~,
2997 provided that such appropriate authority may ~~agency shall~~ not
2998 require a sprinkler system not required by the Fire Prevention
2999 Code, Life Safety Code, or National Fire Protection Association
3000 standards to be removed regardless of its condition. This
3001 section does not prohibit governmental entities from inspecting
3002 and enforcing firesafety codes.
3003 Section 39. Section 633.083, Florida Statutes, is
3004 transferred and renumbered as section 633.314, Florida Statutes,
3005 and subsection (3) of that section is amended, to read:
3006 633.314 ~~633.083~~ Sale or use of certain types of fire
3007 extinguishers prohibited; penalty.—
3008 (3) A person who violates ~~any of the provisions of~~ this
3009 section commits ~~is guilty of~~ a misdemeanor of the second degree,
3010 punishable as provided in s. 775.082 or s. 775.083.
3011 Section 40. Section 633.162, Florida Statutes, is
3012 transferred and renumbered as section 633.316, Florida Statutes,
3013 and subsection (1) and paragraph (e) of subsection (4) of that
3014 section are amended, to read:
3015 633.316 ~~633.162~~ Fire suppression system contractors;
3016 disciplinary action.—

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3017 (1) The violation of any provision of this chapter or any
3018 rule adopted and adopted ~~promulgated~~ pursuant hereto or the
3019 failure or refusal to comply with any notice or order to correct
3020 a violation or any cease and desist order by a ~~any~~ person who
3021 possesses a license or permit issued pursuant to s. 633.304
3022 ~~633.061~~ is cause for denial, nonrenewal, revocation, or
3023 suspension of such license or permit by the State Fire Marshal
3024 after such officer has determined that the person committed ~~is~~
3025 ~~guilty of~~ such violation. An order of suspension must ~~shall~~
3026 state the period ~~of time~~ of such suspension, which period may
3027 not be in excess of 2 years from the date of such order. An
3028 order of revocation may be entered for a period not exceeding 5
3029 years. Such orders shall effect suspension or revocation of all
3030 licenses or permits issued by the division to ~~then held by~~ the
3031 person, and during such period a ~~of time no~~ license or permit
3032 may not ~~shall~~ be issued by the division to such person. During
3033 the suspension or revocation of any license or permit, the
3034 former licensee or permittee may ~~shall~~ not engage in or attempt
3035 or profess to engage in any transaction or business for which a
3036 license or permit is required under this chapter or directly or
3037 indirectly own, control, or be employed in any manner by any
3038 firm, business, or corporation for which a license or permit
3039 under this chapter is required. If, during the period between
3040 the beginning of proceedings and the entry of an order of
3041 suspension or revocation by the State Fire Marshal, a new
3042 license or permit has been issued by the division to the person
3043 so charged, the order of suspension or revocation shall operate
3044 to suspend or revoke such new license or permit held by such
3045 person.

3046 (4) In addition to the grounds set forth in subsection (1),
3047 it is cause for denial, nonrenewal, revocation, or suspension of
3048 a license or permit by the State Fire Marshal if she or he
3049 determines that the licensee or permittee has:
3050 (e) Failed to provide proof of insurance to the State Fire
3051 Marshal or failed to maintain in force the insurance coverage
3052 required by s. 633.304 ~~633.061~~.
3053 Section 41. Section 633.521, Florida Statutes, is
3054 transferred and renumbered as section 633.318, Florida Statutes,
3055 and subsection (1), paragraph (a) of subsection (2), paragraphs
3056 (c) and (g) of subsection (3), and subsections (4), (8), and
3057 (11) of that section are amended, to read:
3058 633.318 ~~633.521~~ Certificate application and issuance;
3059 permit issuance; examination and investigation of applicant.—
3060 (1) To obtain a fire protection system contractor's
3061 certificate, an applicant shall submit to the division ~~State~~
3062 ~~Fire Marshal~~ an application in writing, on a form provided by
3063 the division ~~State Fire Marshal~~ containing the information
3064 prescribed, which shall be accompanied by the fee fixed herein,
3065 containing a statement that the applicant desires the issuance
3066 of a certificate and stating the class of certificate requested.
3067 (2)(a) Examinations shall be administered by the division
3068 ~~State Fire Marshal~~ and held at times and places within the state
3069 as the division ~~State Fire Marshal~~ determines, but there shall
3070 be at least two examinations a year. Each applicant shall take
3071 and pass an objective, written examination of her or his fitness
3072 for a certificate in the class for which the application is
3073 requested. There shall be a type of examination for each class
3074 of certificate for contractors as ~~of the classes of certificates~~

3075 defined in s. 633.102 ~~633.021(5)~~. The examination must ~~shall~~
3076 test the applicant's ability to lay out, fabricate, install,
3077 alter, repair, and inspect fire protection systems and their
3078 appurtenances and must ~~shall~~ test the applicant's fitness in
3079 business and financial management. The test must ~~shall~~ be based
3080 on applicable standards of the National Fire Protection
3081 Association and on relevant Florida and federal laws pertaining
3082 to the construction industry, safety standards, administrative
3083 procedures, and pertinent technical data.
3084 (3)
3085 (c) Required education and experience for certification as
3086 a Contractor I, Contractor II, Contractor III, or Contractor IV
3087 includes training and experience in both installation and system
3088 layout as defined in s. 633.102 ~~633.021~~.
3089 (g) Within 30 days after the date of the examination, the
3090 division ~~State Fire Marshal~~ shall inform the applicant in
3091 writing whether she or he has qualified or not and, if the
3092 applicant has qualified, that she or he is eligible ~~ready~~ to be
3093 issued ~~issue~~ a certificate of competency, subject to compliance
3094 with the requirements of subsection (4).
3095 (4) As a prerequisite to issuance of a certificate, the
3096 division must ~~State Fire Marshal shall~~ require the applicant to
3097 submit satisfactory evidence that she or he has obtained
3098 insurance providing coverage for comprehensive general liability
3099 for bodily injury and property damages, products liability,
3100 completed operations, and contractual liability. The division
3101 ~~State Fire Marshal~~ may adopt rules providing for the amount of
3102 insurance, but such amount shall not be less than $500,000 for a
3103 Contractor I, Contractor II, Contractor III, or Contractor V and

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3104 shall not be less than $250,000 for a Contractor IV. An insurer
3105 which provides such coverage shall notify ~~within 30 days~~ the
3106 division within 30 days ~~State Fire Marshal~~ of any material
3107 change in coverage or any termination, cancellation, or
3108 nonrenewal of such coverage. An insurer which fails to so notify
3109 the division ~~State Fire Marshal's office~~ shall be subject to the
3110 penalties provided under s. 624.4211.
3111 (8) An individual employed by a Contractor I or Contractor
3112 II certificateholder, as established in this section, who will
3113 be inspecting water-based fire protection systems as required
3114 under s. 633.312 ~~633.082~~, must be issued a permit by the
3115 division ~~State Fire Marshal~~ to conduct such work. The permit is
3116 valid solely for use by the holder thereof in his or her
3117 employment by the certificateholder named in the permit. A
3118 permittee must have a valid and subsisting permit upon his or
3119 her person at all times while engaging in inspecting fire
3120 protection systems, and a permitholder must be able to produce
3121 such a permit upon demand. In addition, a permittee shall, at
3122 all times while performing inspections, carry an identification
3123 card containing his or her photograph and other identifying
3124 information as prescribed by the State Fire Marshal, and the
3125 permittee must produce the identification card and information
3126 upon demand. The permit and the identification may be one and
3127 the same. A permittee is limited as to the specific type of work
3128 performed, depending upon the class of certificate held by the
3129 certificateholder under whom the permittee is working. The
3130 permit class shall be known as a Water-Based Fire Protection
3131 Inspector whose permit allows the holder to inspect water
3132 sprinkler systems, water spray systems, foam-water sprinkler

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3133 systems, foam-water spray systems, standpipes, combination
3134 standpipes and sprinkler systems, all piping that is an integral
3135 part of the system beginning at the point where the piping is
3136 used exclusively for fire protection, sprinkler tank heaters,
3137 air lines, thermal systems used in connection with sprinklers,
3138 and tanks and pumps connected thereto, excluding preengineered
3139 systems.
3140 (11) It is intended that a certificateholder, or a
3141 permitholder who is employed by a certificateholder, conduct
3142 inspections required by this chapter. It is understood that
3143 after July 1, 2008, employee turnover may result in a depletion
3144 of personnel who are certified under the NICET Sub-field of
3145 Inspection and Testing of Fire Protection Systems Level II or
3146 equivalent training and education as required by the division ~~of~~
3147 ~~State Fire Marshal~~. A certificateholder may obtain a provisional
3148 permit with an endorsement for inspection, testing, and
3149 maintenance of water-based fire extinguishing systems for an
3150 employee if the employee has initiated procedures for obtaining
3151 Level II certification from the National Institute for
3152 Certification in Engineering Technologies Sub-field of
3153 Inspection and Testing of Fire Protection Systems and achieved
3154 Level I certification or an equivalent level as determined by
3155 the State Fire Marshal through verification of experience,
3156 training, and examination. The division ~~State Fire Marshal~~ may
3157 establish rules to administer this subsection. After 2 years of
3158 provisional certification, the employee must have achieved NICET
3159 Level II certification or obtain equivalent training and
3160 education as determined by the division, or cease performing
3161 inspections requiring Level II certification. The provisional

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3162 permit is valid only for the 2 calendar years after the date of
3163 issuance, may not be extended, and is not renewable. After the
3164 initial 2-year provisional permit expires, the certificateholder
3165 must wait 2 additional years before a new provisional permit may
3166 be issued. The intent is to prohibit the certificateholder from
3167 using employees who never reach NICET Level II status, or
3168 equivalent training and education as determined by the division,
3169 by continuously obtaining provisional permits.
3170 Section 42. Section 633.551, Florida Statutes, is
3171 transferred and renumbered as section 633.322, Florida Statutes,
3172 and subsections (1) through (3) of that section are amended, to
3173 read:
3174 633.322 ~~633.551~~ County and municipal powers; effect of ch.
3175 75-240.—
3176 (1) ~~Nothing in~~ This chapter does not limit ~~act limits~~ the
3177 power of a municipality, ~~or~~ county, or special district to
3178 regulate the quality and character of work performed by
3179 contractors through a system of permits, fees, and inspections
3180 which are designed to secure compliance with, and aid in the
3181 implementation of, state and local building laws or to enforce
3182 other local laws for the protection of the public health and
3183 safety.
3184 (2) ~~Nothing in~~ This chapter does not limit ~~act limits~~ the
3185 power of a municipality, ~~or~~ county, or special district to adopt
3186 any system of permits requiring submission to and approval by
3187 the municipality, ~~or~~ county, or special district of plans and
3188 specifications for work to be performed by contractors before
3189 commencement of the work, except that a ~~no~~ municipality or
3190 county may not ~~shall~~ require a fire protection system

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3191 contractor's shop drawings to be sealed by a professional
3192 engineer.
3193 (3) An ~~Any~~ official authorized to issue building or other
3194 related permits shall ascertain that the applicant contractor is
3195 duly certified before issuing the permit. The evidence shall
3196 consist only of the exhibition to him or her of ~~current~~ evidence
3197 of current certification.
3198 Section 43. Section 633.527, Florida Statutes, is
3199 transferred and renumbered as section 633.324, Florida Statutes.
3200 Section 44. Section 633.531, Florida Statutes, is
3201 transferred and renumbered as section 633.326, Florida Statutes.
3202 Section 45. Section 633.534, Florida Statutes, is
3203 transferred and renumbered as section 633.328, Florida Statutes,
3204 and subsection (4) of that section is amended, to read:
3205 633.328 ~~633.534~~ Issuance of certificate to individuals and
3206 business organizations.—
3207 (4) If ~~When~~ the certified business organization makes
3208 application for an occupational license in any municipality or
3209 county of this state, the application must ~~shall~~ be made with
3210 the tax collector in the name of the business organization, and
3211 the license, when issued, shall be issued to the business
3212 organization upon payment of the appropriate licensing fee and
3213 exhibition to the tax collector of a valid certificate issued by
3214 the division ~~State Fire Marshal~~.
3215 Section 46. Section 633.537, Florida Statutes, is
3216 transferred and renumbered as section 633.332, Florida Statutes,
3217 and subsections (1) and (2) and paragraph (a) of subsection (3)
3218 of that section are amended, to read:
3219 633.332 ~~633.537~~ Certificate; expiration; renewal; inactive

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3220 certificate; continuing education.—
3221 (1) Certificates shall expire every 2 years at midnight on
3222 June 30. ~~Effective with the June 30, 1998, renewal,~~ All
3223 certificates must be renewed every 2 years. The failure to renew
3224 a certificate before ~~during~~ June 30, shall cause the certificate
3225 to become inoperative, and it is unlawful thereafter for a ~~any~~
3226 person to engage, offer to engage, or hold herself or himself
3227 out as engaging in contracting under the certificate unless the
3228 certificate is restored or reissued. A certificate which is
3229 inoperative because of failure to renew shall be restored on
3230 payment of the proper renewal fee if the application for
3231 restoration is made within 90 days after June 30. If the
3232 application for restoration is not made within the 90-day
3233 period, the fee for restoration must ~~shall~~ be equal to the
3234 original application fee, and, in addition, the State Fire
3235 Marshal must ~~shall~~ require examination or reexamination of the
3236 applicant.
3237 (2) A person who holds a valid certificate may maintain
3238 such certificate in an inactive status during which time she or
3239 he may not engage in contracting. An inactive status certificate
3240 shall be void after a 2-year period. ~~The biennial renewal fee~~
3241 ~~for an inactive status certificate shall be $75.~~ An inactive
3242 status certificate may be reactivated upon application to the
3243 State Fire Marshal and payment of the initial application fee.
3244 (3)(a) A certificate for the Contractor I, II, and III
3245 classifications as defined in this chapter may ~~shall~~ not be
3246 renewed unless the certificateholder produces documentation of
3247 at least 32 contact hours of continuing education in the fire
3248 protection discipline during the biennial licensure period.

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3249 Holders of Contractor IV certificates are required to obtain 14
3250 contact hours of continuing education encompassing the
3251 appropriate National Fire Protection Association fire sprinkler
3252 documents before ~~prior to~~ renewal. Holders of Contractor V
3253 certificates are required to obtain 14 contact hours of
3254 continuing education before ~~prior to~~ renewal, at least 1 hour of
3255 which is in the fire protection discipline. Any continuing
3256 education hours approved pursuant to chapter 489 by the
3257 Construction Industry Licensing Board for underground utility
3258 and excavation contractors shall be considered as also approved
3259 to comply with Contractor V continuing education requirements. A
3260 Contractor V certificateholder shall provide to the State Fire
3261 Marshal evidence of approval of such coursework by the
3262 Construction Industry Licensing Board.
3263 Section 47. Section 633.539, Florida Statutes, is
3264 transferred and renumbered as section 633.334, Florida Statutes,
3265 and paragraph (a) of subsection (1) and subsection (2) of that
3266 section are amended, to read:
3267 633.334 ~~633.539~~ Requirements for installation, inspection,
3268 and maintenance of fire protection systems.—
3269 (1) The requirements for installation of fire protection
3270 systems are as follows:
3271 (a) Contractors of fire protection systems shall be
3272 certified under s. 633.318 ~~633.521~~.
3273 (2) Equipment shall be inspected, serviced, and maintained
3274 in accordance with the manufacturer's maintenance procedures and
3275 with applicable National Fire Protection Association standards.
3276 The inspection of fire protection systems shall be conducted by
3277 a certificateholder or holder of a permit issued by the division

3278 ~~State Fire Marshal~~. The permitholder may perform inspections on
3279 fire protection systems only while employed by the
3280 certificateholder. This section does not prohibit the authority
3281 having jurisdiction or insurance company representatives from
3282 reviewing the system in accordance with acceptable oversight
3283 standards.
3284 Section 48. Section 633.541, Florida Statutes, is
3285 transferred and renumbered as section 633.336, Florida Statutes,
3286 and subsections (1), (3), and (4) of that section are amended,
3287 to read:
3288 633.336 ~~633.541~~ Contracting without certificate prohibited;
3289 violations; penalty.—
3290 (1) It is unlawful for any organization or individual to
3291 engage in the business of layout, fabrication, installation,
3292 inspection, alteration, repair, or service of a fire protection
3293 system, other than a preengineered system, act in the capacity
3294 of a fire protection contractor, or advertise itself as being a
3295 fire protection contractor without having been duly certified
3296 and holding a valid and existing certificate, except as
3297 hereinafter provided. The holder of a certificate used to
3298 qualify an organization must be a full-time employee of the
3299 qualified organization or business. A certificateholder who is
3300 employed by more than one fire protection contractor during the
3301 same ~~period of~~ time is deemed not to be a full-time employee of
3302 either contractor. The State Fire Marshal shall revoke, for a
3303 period ~~of time~~ determined by the State Fire Marshal, the
3304 certificate of a certificateholder who allows the use of the
3305 certificate to qualify a company of which the certificateholder
3306 is not a full-time employee. A contractor who maintains more

3307 than one place of business must employ a certificateholder at
3308 each location. ~~Nothing in~~ This subsection does not prohibit
3309 ~~prohibits~~ an employee acting on behalf of governmental entities
3310 from inspecting and enforcing firesafety codes, provided such
3311 employee is certified under s. 633.216 ~~633.081~~.
3312 (3) A ~~Any~~ person who violates any provision of this act or
3313 commits any of the acts constituting cause for disciplinary
3314 action as herein set forth commits ~~is guilty of~~ a misdemeanor of
3315 the second degree, punishable as provided in s. 775.082 or s.
3316 775.083.
3317 (4) In addition to the penalties provided in subsection
3318 (3), a fire protection contractor certified under this chapter
3319 who violates any provision of this section or who commits any
3320 act constituting cause for disciplinary action is subject to
3321 suspension or revocation of the certificate and administrative
3322 fines pursuant to s. 633.338 ~~633.547~~.
3323 Section 49. Section 633.547, Florida Statutes, is
3324 transferred and renumbered as section 633.338, Florida Statutes,
3325 and paragraphs (d) and (h) of subsection (2) and subsection (3)
3326 of that section are amended, to read:
3327 633.338 ~~633.547~~ Disciplinary action; fire protection system
3328 contractors; grounds for denial, nonrenewal, suspension, or
3329 revocation of certificate or permit.—
3330 (2) The following acts constitute cause for disciplinary
3331 action:
3332 (d) Disciplinary action by any municipality, ~~or~~ county, or
3333 special district, which action shall be reviewed by the State
3334 Fire Marshal before taking any disciplinary action.
3335 (h) Failing to provide proof of insurance to the State Fire

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3336 Marshal or failing to maintain in force the insurance coverage
3337 required by s. 633.318 ~~633.521~~.
3338 (3) The State Fire Marshal ~~is authorized to take the~~
3339 ~~following disciplinary action:~~
3340 ~~(a) She or he~~ may suspend the contractor's certificate
3341 ~~certificateholder~~ for a period of up to ~~not to exceed~~ 2 years.
3342 During that period, the contractor must cease all operations as
3343 a contractor, but the State Fire Marshal may authorize the
3344 certificateholder ~~from all operations as a contractor during the~~
3345 ~~period fixed by the State Fire Marshal, but she or he may permit~~
3346 ~~the certificateholder~~ to complete any contracts then incomplete.
3347 ~~(b) She or he may revoke a certificate for a period not to~~
3348 ~~exceed 5 years.~~
3349 Section 50. Section 633.549, Florida Statutes, is
3350 transferred, renumbered as section 633.342, Florida Statutes,
3351 and amended to read:
3352 633.342 ~~633.549~~ Violations subject to injunction.—A ~~Any~~
3353 person who operates as a contractor without a current
3354 certificate or who violates any part of this chapter or any
3355 rule, decision, order, direction, demand, or requirement of the
3356 State Fire Marshal in relation thereto, or any part or provision
3357 thereof, may be enjoined by the courts of the state from any
3358 such violation or such unauthorized or unlawful contracting at
3359 the request ~~instance~~ of the State Fire Marshal, the board, or
3360 any resident ~~citizen~~ or taxpayer of the state.
3361 Section 51. Section 633.554, Florida Statutes, is
3362 transferred and renumbered as section 633.344, Florida Statutes.
3363 Section 52. Section 633.70, Florida Statutes, is
3364 transferred and renumbered as section 633.346, Florida Statutes,

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3365 and subsection (1) of that section is amended, to read:
3366 633.346 ~~633.70~~ Jurisdiction of State Fire Marshal over
3367 alarm system contractors and certified unlimited electrical
3368 contractors.—
3369 (1) If ~~When~~ the State Fire Marshal, in the course of its
3370 activities pursuant to s. 633.104(2) ~~633.01(2)~~, determines that
3371 an alarm system contractor or a certified unlimited electrical
3372 contractor working with an alarm system has violated any
3373 provision of this chapter or the rules of the State Fire
3374 Marshal, the State Fire Marshal shall have jurisdiction,
3375 notwithstanding any other provision of this chapter, to order
3376 corrective action by the alarm system contractor or the
3377 certified unlimited electrical contractor to bring the alarm
3378 system into compliance with applicable standards set forth in
3379 this chapter and the rules of the State Fire Marshal.
3380 Section 53. Section 633.701, Florida Statutes, is
3381 transferred and renumbered as section 633.348, Florida Statutes.
3382 Section 54. Section 633.702, Florida Statutes, is
3383 transferred and renumbered as section 633.3482, Florida
3384 Statutes, and subsection (2) and paragraph (c) of subsection (3)
3385 of that section are amended, to read:
3386 633.3482 ~~633.702~~ Prohibited acts regarding alarm system
3387 contractors or certified unlimited electrical contractors;
3388 penalties.—
3389 (2) A ~~Any~~ person who violates this section commits ~~is~~
3390 ~~guilty of~~ a misdemeanor of the second degree, punishable as
3391 provided in s. 775.082 or s. 775.083.
3392 (3) It is a misdemeanor of the first degree, punishable as
3393 provided in s. 775.082 or s. 775.083, for any fire alarm system

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3394 contractor or certified unlimited electrical contractor to
3395 intentionally or willfully:
3396 (c) Knowingly combine ~~combining~~ or conspire ~~conspiring~~ with
3397 a ~~any~~ person by allowing one's certificate to be used by an ~~any~~
3398 uncertified person with intent to evade ~~the provisions of~~ this
3399 act. When a licensee allows his or her license to be used by one
3400 or more companies without having any active participation in the
3401 operation or management of the ~~said~~ companies, such act
3402 constitutes prima facie evidence of any intent to evade ~~the~~
3403 ~~provisions of~~ this chapter ~~act~~.
3404 Section 55. The Division of Law Revision and Information is
3405 requested to create part IV of chapter 633, Florida Statutes,
3406 consisting of sections 633.402, 633.404, 633.406, 633.408,
3407 633.412, 633.414, 633.416, 633.418, 633.422, 633.424, 633.426,
3408 633.428, 633.432, 633.434, 633.436, 633.438, 633.442, and
3409 633.444, Florida Statutes, to be entitled "Fire Standards and
3410 Training."
3411 Section 56. Section 633.31, Florida Statutes, is
3412 transferred and renumbered as section 633.402, Florida Statutes,
3413 subsection (1) of that section is amended, and new subsections
3414 (5) through (9) are added to that section, to read:
3415 633.402 ~~633.31~~ Firefighters Employment, Standards, and
3416 Training Council; organization; meetings; quorum; compensation;
3417 seal; special powers; firefighter training.—
3418 (1) There is created within the department a Firefighters
3419 Employment, Standards, and Training Council of 14 ~~13~~ members.
3420 (a) The members shall be appointed as follows:
3421 1. Two ~~members shall be~~ fire chiefs appointed by the
3422 Florida Fire Chiefs Association.~~,~~

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3423 2. Two ~~members shall be~~ firefighters, who are not officers,
3424 appointed by the Florida Professional Firefighters Association.~~,~~
3425 3. Two ~~members shall be~~ firefighter officers, who are not
3426 fire chiefs, appointed by the State Fire Marshal.~~,~~
3427 4. One individual ~~member~~ appointed by the Florida League of
3428 Cities.~~,~~
3429 5. One individual ~~member~~ appointed by the Florida
3430 Association of Counties.~~,~~
3431 6. One individual ~~member~~ appointed by the Florida
3432 Association of Special Districts.~~,~~
3433 7. One individual ~~member~~ appointed by the Florida Fire
3434 Marshals' and Inspectors' ~~Marshal's~~ Association.~~, and~~
3435 8. One employee of the Florida Forest Service of the
3436 Department of Agriculture and Consumer Services appointed by the
3437 director of the Florida Forest Service.
3438 9. One individual ~~member~~ appointed by the State Fire
3439 Marshal.~~, and~~
3440 10. One ~~member shall be a~~ director or instructor of a
3441 state-certified firefighting training facility appointed by the
3442 State Fire Marshal.
3443 11. The remaining member, who shall be appointed by the
3444 State Fire Marshal, may not be a member or representative of the
3445 firefighting profession or of any local government.
3446 (b) To be eligible for appointment as a member under
3447 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
3448 subparagraph (a)8., or subparagraph (a)10. ~~fire chief member,~~
3449 ~~firefighter officer member, firefighter member, or a director or~~
3450 ~~instructor of a state-certified firefighting facility~~, a person
3451 must ~~shall~~ have had at least 4 years' experience in the

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3452 firefighting profession. ~~The remaining member, who shall be~~
3453 ~~appointed by the State Fire Marshal, shall not be a member or~~
3454 ~~representative of the firefighting profession or of any local~~
3455 ~~government.~~ Members shall serve only as long as they continue to
3456 meet the criteria under which they were appointed, or unless a
3457 member has failed to appear at three consecutive and properly
3458 noticed meetings unless excused by the chair.
3459 (5) The council shall elect to 1-year terms a chair and a
3460 vice chair. A person may not serve more than two consecutive
3461 terms in either office.
3462 (6) The council shall meet at the call of the chair, at the
3463 request of a majority of its membership, at the request of the
3464 department, or at such times as are prescribed by its rules, and
3465 a majority of the council shall constitute a quorum.
3466 (7) Members of the council shall serve without compensation
3467 but shall be entitled to be reimbursed for per diem and travel
3468 expenses as provided by s. 112.061.
3469 (8) The council may adopt a seal for its use containing the
3470 words "Firefighters Employment, Standards, and Training
3471 Council."
3472 (9) The council shall have special powers in connection
3473 with the employment and training of firefighters to:
3474 (a) Recommend, for adoption by the division, uniform
3475 minimum standards for the employment and training of
3476 firefighters and training of volunteer firefighters.
3477 (b) Recommend, for adoption by the division, minimum
3478 curriculum requirements for schools operated by or for any fire
3479 service provider for the specific purpose of training
3480 firefighter trainees, firefighters, and volunteer firefighters.

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3481 (c) Recommend, for adoption by the division, on matters
3482 relating to the funding, general operation, and administration
3483 of the Bureau of Fire Standards and Training (Florida State Fire
3484 College), including, but not limited to, all standards,
3485 training, curriculum, and the issuance of any certificate of
3486 competency required by this chapter.
3487 (d) Make or support studies on any aspect of firefighting
3488 employment, education, and training or recruitment.
3489 (e) Make recommendations concerning any matter within its
3490 purview pursuant to this section.
3491 Section 57. Section 633.42, Florida Statutes, is
3492 transferred, renumbered as 633.404, Florida Statutes, and
3493 amended to read:
3494 633.404 ~~633.42~~ Additional standards authorized.—Nothing
3495 herein shall be construed to preclude a fire service provider ~~an~~
3496 ~~employing agency~~ from establishing qualifications and standards
3497 for hiring, training, or promoting firefighters that exceed the
3498 minimum set by the division ~~department~~.
3499 Section 58. Section 633.406, Florida Statutes, is created
3500 to read:
3501 633.406 Classes of certification.—
3502 (1) The division may award one or more of the following
3503 certificates:
3504 (a) *Firefighter Certificate of Compliance.*—A Firefighter
3505 Certificate of Compliance may be awarded to a person who meets
3506 the requirements established in s. 633.408(4).
3507 (b) *Fire Safety Inspector Certificate of Compliance.*—A Fire
3508 Safety Inspector Certificate of Compliance may be awarded to a
3509 person who meets the requirements established in s. 633.216(2).

3510 (c) *Special Certificate of Compliance.*—A Special
3511 Certificate of Compliance may be awarded to a person who
3512 qualifies under s. 633.408(6).
3513 (d) *Forestry Certificate of Compliance.*—A Forestry
3514 Certificate of Compliance may be awarded to a person who has
3515 satisfactorily complied with a training program and successfully
3516 passed an examination as prescribed by rule, and who possesses
3517 the qualifications established in s. 590.02(1)(e).
3518 (e) *Fire Service Instructor Certificate.*—A Fire Service
3519 Instructor Certificate may be awarded to a person who
3520 demonstrates general or specialized knowledge, skills, and
3521 abilities in firefighting service and meets the qualification
3522 requirements prescribed by rule.
3523 (f) *Certificate of Competency.*—A Fire Service Instructor
3524 Certificate may be awarded to a person who meets the experience,
3525 training, advanced education, or examination requirements as
3526 prescribed by rule, and is especially qualified for particular
3527 aspects of firefighting service.
3528 (g) *Volunteer Firefighter Certificate of Completion.*—A Fire
3529 Service Instructor Certificate may be awarded to a person who
3530 has satisfactorily completed the training requirements as
3531 prescribed by rule for a volunteer firefighter.
3532 (2) The division may establish by rule certificates, in
3533 addition to those provided in subsection (1), that the division
3534 may award in recognition of special training or education
3535 received by an individual, authorizing that individual to
3536 perform specialized firefighting services or provide specialized
3537 firefighting instruction, such as hazardous materials and urban
3538 search and rescue.

3539 Section 59. Section 633.35, Florida Statutes, is
3540 transferred, renumbered as section 633.408, Florida Statutes,
3541 and amended to read:
3542 633.408 ~~633.35~~ Firefighter and volunteer firefighter
3543 training and certification.—
3544 (1) The division shall establish by rule:
3545 (a) A Minimum Standards Course and course examination to
3546 provide the training required to obtain a Firefighter
3547 Certificate of Compliance.
3548 (b) Courses and course examinations to provide training
3549 required to obtain a Volunteer Firefighter Certificate of
3550 Completion or a Special Certificate of Compliance.
3551 (c) Courses to provide continuing training for firefighters
3552 and volunteer firefighters.
3553 (2) Courses under subsection (1) may only be administered
3554 by education or training providers approved by the division
3555 pursuant to s. 633.128(1)(c) and taught by instructors certified
3556 pursuant to s. 633.128(1)(d) ~~a firefighter training program of~~
3557 ~~not less than 360 hours, administered by such agencies and~~
3558 ~~institutions as it approves for the purpose of providing basic~~
3559 ~~employment training for firefighters~~.
3560 (3)(a) Nothing herein shall require a fire service provider
3561 ~~public employer~~ to pay the cost of such training.
3562 (b) A fire service provider may pay part or all of the
3563 costs of tuition for attendance at approved courses.
3564 (4)~~(2)~~ The division shall issue a firefighter certificate
3565 of compliance to any individual who:
3566 (a) ~~person~~ Satisfactorily completes ~~complying with~~ the
3567 Minimum Standards Course or who has satisfactorily completed

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3568 training for firefighters in another state which has been
3569 determined by the division to be at least the equivalent of the
3570 training required for the Minimum Standards Course.
3571 (b) Passes the minimum standards course examination.
3572 ~~training program established in subsection (1), who has~~
3573 ~~successfully passed an examination as prescribed by the~~
3574 ~~division, and~~
3575 (c) ~~who~~ Possesses the qualifications ~~for employment~~ in s.
3576 633.412 ~~633.34, except s. 633.34(5)~~.
3577 (5) The division shall issue a Volunteer Firefighter
3578 Certificate of Completion to any individual who satisfactorily
3579 completes the course established under paragraph (1)(b) ~~No~~
3580 ~~person may be employed as a regular or permanent firefighter by~~
3581 ~~an employing agency, or by a private entity under contract with~~
3582 ~~the state or any political subdivision of the state, including~~
3583 ~~authorities and special districts, for a period of time in~~
3584 ~~excess of 1 year from the date of initial employment until he or~~
3585 ~~she has obtained such certificate of compliance~~. ~~A person who~~
3586 ~~does not hold a certificate of compliance and is employed under~~
3587 ~~this section may not directly engage in hazardous operations,~~
3588 ~~such as interior structural firefighting and hazardous-~~
3589 ~~materials incident mitigation, requiring the knowledge and~~
3590 ~~skills taught in a training program established in subsection~~
3591 ~~(1). However, a person who has served as a volunteer firefighter~~
3592 ~~with the state or any political subdivision of the state,~~
3593 ~~including authorities and special districts, who is then~~
3594 ~~employed as a regular or permanent firefighter may function,~~
3595 ~~during this period, in the same capacity in which he or she~~
3596 ~~acted as a volunteer firefighter, provided that he or she has~~

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3597 ~~completed all training required by the volunteer organization.~~
3598 ~~(3) The division may issue a certificate to any person who~~
3599 ~~has received basic employment training for firefighters in~~
3600 ~~another state when the division has determined that such~~
3601 ~~training was at least equivalent to that required by the~~
3602 ~~division for approved firefighter education and training~~
3603 ~~programs in this state and when such person has satisfactorily~~
3604 ~~complied with all other requirements of this section.~~
3605 (6)(a) The division may ~~also~~ issue a Special Certificate of
3606 Compliance to an individual ~~a person~~ who:
3607 1. Satisfactorily completes the course established in
3608 paragraph (1)(b) to obtain a Special Certificate of Compliance.
3609 2. Passes the examination established in paragraph (1)(b),
3610 to obtain a Special Certificate of Compliance.
3611 3. Possesses the qualifications in s. 633.412 ~~is otherwise~~
3612 ~~qualified under this section and who is employed as the~~
3613 ~~administrative and command head of a fire/rescue/emergency~~
3614 ~~services organization, based on the acknowledgment that such~~
3615 ~~person is less likely to need physical dexterity and more likely~~
3616 ~~to need advanced knowledge of firefighting and supervisory~~
3617 ~~skills~~.
3618 (b) A special ~~The~~ certificate of compliance ~~is valid~~ only
3619 authorizes an individual to serve ~~while the person is serving in~~
3620 ~~a position~~ as an administrative and command head of a fire
3621 service provider ~~fire/rescue/emergency services organization~~.
3622 (7)~~(4)~~ An individual ~~A person~~ who fails an examination
3623 given under this section may retake the examination once within
3624 6 months after the original examination date. If the individual
3625 ~~An applicant who~~ does not retake the examination or fails the

3626 reexamination within such time, the individual must take the
3627 Minimum Standards Course for a Firefighter Certificate of
3628 Compliance or the course established under paragraph (1)(b) for
3629 a Special Certificate of Compliance~~, pursuant to subsection (1),~~
3630 before being reexamined. The division may grant an extension of
3631 the 6-month period based upon documented medical necessity and
3632 may establish reasonable preregistration deadlines for ~~such~~
3633 reexaminations.
3634 (8)~~(5)~~ Pursuant to s. 590.02(1)(e), the division shall
3635 establish a structural fire training program of not less than
3636 206 ~~40~~ hours. The division shall issue to a ~~any~~ person
3637 satisfactorily complying with this training program and who has
3638 successfully passed an examination as prescribed by the division
3639 and who has met the requirements of s. 590.02(1)(e), a Forestry
3640 Certificate of Compliance ~~Certificate of Forestry Firefighter~~.
3641 ~~(6)~~ An individual who holds a current and valid Forestry
3642 Certificate of Compliance ~~A certified forestry firefighter~~ is
3643 entitled to the same rights, privileges, and benefits provided
3644 for by law as a ~~certified~~ firefighter.
3645 Section 60. Section 633.34, Florida Statutes, is
3646 transferred, renumbered as section 633.412, Florida Statutes,
3647 and amended to read:
3648 633.412 ~~633.34~~ Firefighters; qualifications for
3649 certification ~~employment~~.—
3650 (1) A ~~Any~~ person applying for certification ~~employment~~ as a
3651 firefighter must:
3652 (a)~~(1)~~ Be a high school graduate or the equivalent, as the
3653 term may be determined by the division, and at least 18 years of
3654 age.

3655 (b)~~(2)~~ Not ~~Neither~~ have been convicted of a misdemeanor
3656 relating to the certification or to perjury or false statements,
3657 or a felony or a crime punishable by imprisonment of 1 year or
3658 more under the law of the United States or of any state thereof
3659 or under the law of any other country, or dishonorably
3660 discharged from any of the Armed Forces of the United States.
3661 "Convicted" means a finding of guilt or the acceptance of a plea
3662 of guilty or nolo contendere, in any federal or state court or a
3663 court in any other country, without regard to whether a judgment
3664 of conviction has been entered by the court having jurisdiction
3665 of the case ~~felony or of a misdemeanor directly related to the~~
3666 ~~position of employment sought, nor have pled nolo contendere to~~
3667 ~~any charge of a felony~~. ~~If an applicant has been convicted of a~~
3668 ~~felony, such applicant must be in compliance with s.~~
3669 ~~112.011(2)(b). If an applicant has been convicted of a~~
3670 ~~misdemeanor directly related to the position of employment~~
3671 ~~sought, such applicant shall be excluded from employment for a~~
3672 ~~period of 4 years after expiration of sentence. If the sentence~~
3673 ~~is suspended or adjudication is withheld in a felony charge or~~
3674 ~~in a misdemeanor directly related to the position or employment~~
3675 ~~sought and a period of probation is imposed, the applicant must~~
3676 ~~have been released from probation.~~
3677 (c)~~(3)~~ Submit fingerprints ~~a fingerprint card~~ to the
3678 division with a current processing fee. The fingerprints
3679 ~~fingerprint card~~ will be forwarded to the Department of Law
3680 Enforcement for state processing, and forwarded by the
3681 Department of Law Enforcement to ~~and/or~~ the Federal Bureau of
3682 Investigation for national processing.
3683 (d)~~(4)~~ Have a good moral character as determined by

3684 investigation under procedure established by the division.
3685 (e)~~(5)~~ Be in good physical condition as determined by a
3686 medical examination given by a physician, surgeon, or physician
3687 assistant licensed to practice in the state pursuant to chapter
3688 458; an osteopathic physician, surgeon, or physician assistant
3689 licensed to practice in the state pursuant to chapter 459; or an
3690 advanced registered nurse practitioner licensed to practice in
3691 the state pursuant to chapter 464. Such examination may include,
3692 but need not be limited to, ~~provisions of~~ the National Fire
3693 Protection Association Standard 1582. A medical examination
3694 evidencing good physical condition shall be submitted to the
3695 division, on a form as provided by rule, before an individual is
3696 eligible for admission into a course under ~~firefighter training~~
3697 ~~program as defined in~~ s. 633.408 ~~633.35~~.
3698 (f)~~(6)~~ Be a nonuser of tobacco or tobacco products for at
3699 least 1 year immediately preceding application, as evidenced by
3700 the sworn affidavit of the applicant.
3701 (2) If the division suspends or revokes an individual's
3702 certificate, the division must suspend or revoke all other
3703 certificates issued by the division pursuant to this part.
3704 Section 61. Section 633.352, Florida Statutes, is
3705 transferred, renumbered as section 633.414, Florida Statutes,
3706 and amended to read:
3707 633.414 ~~633.352~~ Retention of firefighter certification.—
3708 (1) In order for a firefighter to retain her or his
3709 Firefighter Certificate of Compliance, every 4 years he or she
3710 must:
3711 (a) Be ~~Any certified firefighter who has not been~~ active as
3712 a firefighter~~, or as a volunteer firefighter with an organized~~

3713 ~~fire department, for a period of 3 years shall be required to~~
3714 ~~retake the practical portion of the minimum standards state~~
3715 ~~examination specified in rule 69A-37.056(6)(b), Florida~~
3716 ~~Administrative Code, in order to maintain her or his~~
3717 ~~certification as a firefighter~~;
3718 (b) Maintain a current and valid firesafety instructor
3719 certificate, instruct at least 40 hours during the 4-year
3720 period, and provide proof of such instruction to the division,
3721 which proof must be registered in an electronic database
3722 designated by the division;
3723 (c) Successfully complete a refresher course consisting of
3724 a minimum of 40 hours of training to be prescribed by rule; or
3725 (d) Within 6 months before the 4-year period expires,
3726 successfully retake and pass the Minimum Standards Course
3727 examination.
3728 (2) In order for a volunteer firefighter to retain her or
3729 his Volunteer Firefighter Certificate of Completion, every 4
3730 years he or she must:
3731 (a) Be active as a volunteer firefighter; or
3732 (b) Successfully complete a refresher course consisting of
3733 a minimum of 40 hours of training to be prescribed by rule.
3734 (3) Subsection (1) ~~however, this requirement~~ does not apply
3735 to state-certified firefighters who are certified and employed
3736 ~~as~~ full-time, as determined by the fire service provider, as
3737 firesafety inspectors or fire investigators ~~firesafety~~
3738 ~~instructors~~, regardless of her or his ~~the firefighter's~~
3739 employment status as a firefighter.
3740 (4) For the purposes of this section, the term "active"
3741 means being employed as a firefighter or providing service as a

3742 volunteer firefighter for a cumulative 6 months within a 4-year
3743 period.
3744 (5) The 4-year ~~3-year~~ period begins:
3745 (a) If the individual is certified on or after July 1,
3746 2013, on the date the certificate ~~of compliance~~ is issued or
3747 upon termination of employment or service with a ~~an organized~~
3748 fire department.
3749 (b) If the individual is certified before July 1, 2013, on
3750 July 1, 2014, or upon termination of employment or service
3751 thereafter.
3752 Section 62. Section 633.41, Florida Statutes, is
3753 transferred, renumbered as section 633.416, Florida Statutes,
3754 and amended to read:
3755 633.416 ~~633.41~~ Firefighter employment and volunteer
3756 firefighter service; saving clause.—
3757 (1) A fire service provider may not employ an individual
3758 to:
3759 (a) Extinguish fires for the protection of life or property
3760 or to supervise individuals who perform such services unless the
3761 individual holds a current and valid Firefighter Certificate of
3762 Compliance; or
3763 (b) Serve as the administrative and command head of a fire
3764 service provider for a period in excess of 1 year unless the
3765 individual holds a current and valid Firefighter Certificate of
3766 Compliance or Special Certificate of Compliance.
3767 (2) A fire service provider may not retain the services of
3768 an individual volunteering to extinguish fires for the
3769 protection of life or property or to supervise individuals who
3770 perform such services unless the individual holds a current and

3771 valid Volunteer Firefighter Certificate of Completion.
3772 (3)(a) A fire service provider must make a diligent effort
3773 to determine whether the individual has a current and valid
3774 certificate before employing or retaining an individual for the
3775 services under subsection (1) or subsection (2), including
3776 making a determination of whether the requirements set forth in
3777 s. 633.414 have been fulfilled.
3778 (b) For the purposes of this subsection, the term "diligent
3779 effort" means contacting at least three of the individual's
3780 previous employers to obtain her or his dates of employment and
3781 contacting the division to determine the certification status of
3782 the individual.
3783 (4)(a) A fire service provider must notify the division
3784 electronically, as directed by rule by the division, within 10
3785 days after:
3786 1. The hiring of a firefighter.
3787 2. The retention of a volunteer firefighter.
3788 3. The cessation of employment of a firefighter.
3789 4. A decision not to retain a volunteer firefighter.
3790 (b) Notification under paragraph (a) must include:
3791 1. The individual's name.
3792 2. The date on which he or she was hired or retained.
3793 3. The last date of employment or retention before leaving
3794 the fire service provider.
3795 4. Any other information deemed necessary by the division
3796 to determine compliance with ss. 633.414 and 633.426.
3797 (5) If the fire service provider makes a determination that
3798 an individual has not met the requirements set forth in s.
3799 633.414(1), the fire service provider must notify the division

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3800 in writing within 10 days after making that determination.
3801 (6) The division may conduct site visits to fire
3802 departments to monitor compliance with this section.
3803 (7) For purposes of this section, the term "employ" means
3804 to pay an individual a salary, wage, or other compensation for
3805 the performance of work. The term does not include the payment
3806 of expenses, reasonable benefits, a nominal fee, or a
3807 combination thereof to a volunteer for a public or private fire
3808 service provider who is only paid in a manner that would be
3809 authorized for a volunteer under the federal Fair Labor
3810 Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.,
3811 and its implementing rules.
3812 (8) Firefighters employed on July 5, 1969, are not required
3813 to meet the provisions of ss. 633.412 and 633.408 ~~633.34 and~~
3814 ~~633.35~~ as a condition of tenure or continued employment~~,~~ and ~~nor~~
3815 ~~shall~~ their failure to fulfill such requirements does not make
3816 them ineligible for any promotional examination for which they
3817 are otherwise eligible or affect in any way any pension rights
3818 to which they may be entitled on July 5, 1969.
3819 Section 63. Section 633.38, Florida Statutes, is
3820 transferred, renumbered as section 633.418, Florida Statutes,
3821 and amended to read:
3822 633.418 ~~633.38~~ Inservice training and promotion;
3823 participation.—
3824 (1)(a) The division shall by rule ~~rules and regulations~~
3825 prescribe curricula and standards for advanced and specialized
3826 training courses and education ~~training~~ in addition to those
3827 prescribed in ss. 633.412 and 633.408 ~~633.34 and 633.35~~.
3828 (b) The standards provided by this section do ~~shall~~ not

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3829 bind any fire service provider ~~employing agency~~ as to the
3830 requirements it may have for promoting personnel.
3831 (2) A fire service provider ~~departments or any fire service~~
3832 participating under ~~the provisions of~~ this section shall adhere
3833 to the standards and procedures established by the division.
3834 Section 64. Section 633.382, Florida Statutes, is
3835 transferred, renumbered as section 633.422, Florida Statutes,
3836 and amended to read:
3837 633.422 ~~633.382~~ Firefighters; supplemental compensation.—
3838 ~~(1) DEFINITIONS. As used in this section, the term:~~
3839 ~~(a) "Employing agency" means any municipality or any~~
3840 ~~county, the state, or any political subdivision of the state,~~
3841 ~~including authorities and special districts employing~~
3842 ~~firefighters.~~
3843 ~~(b) "Firefighter" means any person who meets the definition~~
3844 ~~of the term "firefighter" in s. 633.30(1) who is certified in~~
3845 ~~compliance with s. 633.35 and who is employed solely within the~~
3846 ~~fire department of the employing agency or is employed by the~~
3847 ~~division.~~
3848 (1) ~~(2)~~ QUALIFICATIONS FOR SUPPLEMENTAL COMPENSATION.—The
3849 Legislature recognizes the need for supplemental compensation
3850 for firefighters who pursue higher educational opportunities
3851 that directly relate to the improvement of the health, safety,
3852 and welfare of firefighters and those who firefighters protect.
3853 The State Fire Marshal shall determine, and adopt by rule, the
3854 course work or degrees that represent the best practices toward
3855 this goal in the field of firefighting.
3856 (a) In addition to the compensation now paid by a fire
3857 service provider ~~an employing agency~~ to any firefighter, every

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3858 firefighter shall be paid supplemental compensation by the fire
3859 service provider ~~employing agency~~ when such firefighter is a
3860 full-time employee, as determined by the employing fire service
3861 provider, and has complied with one of the following criteria:
3862 1. A ~~Any~~ firefighter who receives an associate degree from
3863 an accredited ~~a~~ college, which degree is directly applicable to
3864 fire department duties, as outlined in policy guidelines adopted
3865 by rule by ~~of~~ the division, shall be additionally compensated as
3866 outlined in paragraph (2) ~~(3)~~(a).
3867 2. A ~~Any~~ firefighter, regardless of whether or not she or
3868 he earned an associate degree earlier, who receives from an
3869 accredited college or university a bachelor's degree, which
3870 bachelor's degree is directly applicable to fire department
3871 duties, as outlined in policy guidelines adopted by rule by ~~of~~
3872 the division, shall receive compensation as outlined in
3873 paragraph (2) ~~(3)~~(b).
3874 (b) If ~~Whenever~~ any question arises as to the eligibility
3875 of any firefighter to receive supplemental compensation as
3876 provided in this section, the question, together with all facts
3877 relating thereto, must ~~shall~~ be submitted to the division for
3878 determination, and the decision of the division with regard to
3879 determination of eligibility shall be final, subject to ~~the~~
3880 ~~provisions of~~ chapter 120.
3881 (2) ~~(3)~~ SUPPLEMENTAL COMPENSATION.—Supplemental compensation
3882 shall be determined as follows:
3883 (a) Fifty dollars shall be paid monthly to each firefighter
3884 who qualifies under ~~the provisions of~~ subparagraph (1) ~~(2)~~(a)1.
3885 (b) One hundred and ten dollars shall be paid monthly to
3886 each firefighter who qualifies under ~~the provisions of~~

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3887 subparagraph (1)~~(2)~~(a)2.
3888 (3)~~(4)~~ FUNDING.—
3889 (a) The fire service provider ~~employing agency~~ is
3890 responsible for the correct payment of firefighters pursuant to
3891 ~~the provisions of~~ this section. The division may review, in a
3892 postaudit capacity, any action taken by an agency in
3893 administering the educational incentive program. The fire
3894 service provider ~~employing agency~~ shall take appropriate action
3895 when a postaudit shows that an action taken by the fire service
3896 provider ~~employing agency~~ was in error.
3897 (b) Each fire service provider ~~agency~~ employing
3898 firefighters who are eligible for this compensation shall submit
3899 reports containing information relating to compensation paid as
3900 a result of this section to the division on March 31, June 30,
3901 September 30, and December 31 of each year.
3902 (c) There is appropriated from the Police and Firefighter's
3903 Premium Tax Trust Fund to the Firefighters' Supplemental
3904 Compensation Trust Fund, which is ~~hereby~~ created under the
3905 Department of Revenue, all moneys which have not been
3906 distributed to municipalities and special fire control districts
3907 in accordance with s. 175.121 as a result of the limitation
3908 contained in s. 175.122 on the disbursement of revenues
3909 collected pursuant to chapter 175 or as a result of any
3910 municipality or special fire control district not having
3911 qualified in any given year, or portion thereof, for
3912 participation in the distribution of the revenues collected
3913 pursuant to chapter 175. The total required annual distribution
3914 from the Firefighters' Supplemental Compensation Trust Fund
3915 shall equal the amount necessary to pay supplemental

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3916 compensation as provided in this section, provided that:
3917 1. Any deficit in the total required annual distribution
3918 shall be made up from accrued surplus funds existing in the
3919 Firefighters' Supplemental Compensation Trust Fund on June 30,
3920 1990, for as long as such funds last. If the accrued surplus is
3921 insufficient to cure the deficit in any given year, the
3922 proration of the appropriation among the counties,
3923 municipalities, and special fire service taxing districts shall
3924 equal the ratio of compensation paid in the prior year to
3925 county, municipal, and special fire service taxing district
3926 firefighters pursuant to this section. This ratio shall be
3927 provided annually to the Department of Revenue by the division
3928 ~~of State Fire Marshal~~. Surplus funds that have accrued or accrue
3929 on or after July 1, 1990, shall be redistributed to
3930 municipalities and special fire control districts as provided in
3931 subparagraph 2.
3932 2. By October 1 of each year, any funds that have accrued
3933 or accrue on or after July 1, 1990, and remain in the
3934 Firefighters' Supplemental Compensation Trust Fund following the
3935 required annual distribution shall be redistributed by the
3936 Department of Revenue pro rata to those municipalities and
3937 special fire control districts identified by the Department of
3938 Management Services as being eligible for additional funds
3939 pursuant to s. 175.121(3)(b).
3940 (d) Salary incentive payments to firefighters shall
3941 commence in the first full calendar month following the initial
3942 date of certification of eligibility by the division ~~of State~~
3943 ~~Fire Marshal~~.
3944 (e) Special fire service taxing districts are authorized

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3945 ~~and empowered~~ to spend ~~expend~~ the funds necessary to ensure
3946 correct payment to firefighters.
3947 (4)~~(5)~~ LEGISLATIVE FINDINGS.—The payment of supplemental
3948 compensation and expenses of the administration provided by this
3949 section is found to serve a state, county, district, and
3950 municipal purpose and to provide benefit to the state and to its
3951 counties, municipalities, and districts.
3952 (5) APPLICABILITY.—For the purposes of this section, the
3953 division shall be considered a fire service provider responsible
3954 for the payment of supplemental compensation in accordance with
3955 this section to firefighters employed full-time by the division.
3956 Section 65. Section 633.353, Florida Statutes, is
3957 transferred, renumbered as section 633.424, Florida Statutes,
3958 and amended to read:
3959 633.424 ~~633.353~~ Falsification of qualifications.—An
3960 individual ~~Any person~~ who willfully and knowingly falsifies her
3961 or his ~~the~~ qualifications ~~of a new employee~~ to the Bureau of
3962 Fire Standards and Training of the division commits ~~is guilty of~~
3963 a misdemeanor of the second degree, punishable as provided in s.
3964 775.082 or s. 775.083.
3965 Section 66. Section 633.351, Florida Statutes, is
3966 transferred, renumbered as section 633.426, Florida Statutes,
3967 and amended to read:
3968 633.426 ~~633.351~~ Disciplinary action; ~~firefighters;~~
3969 standards for revocation of certification.—
3970 (1) For purposes of this section, the term:
3971 (a) "Certificate" means any of the certificates issued
3972 under s. 633.406.
3973 (b) "Certification" or "certified" means the act of holding

3974 a current and valid certificate.
3975 (c) "Convicted" means a finding of guilt, or the acceptance
3976 of a plea of guilty or nolo contendere, in any federal or state
3977 court or a court in any other country, without regard to whether
3978 a judgment of conviction has been entered by the court having
3979 jurisdiction of the case.
3980 (d) "Department" means the Florida Department of Law
3981 Enforcement.
3982 (2) An individual is ineligible to apply for certification
3983 if the individual has, at any time, been:
3984 (a) Convicted of a misdemeanor relating to the
3985 certification or to perjury or false statements.
3986 (b) Convicted of a felony or a crime punishable by
3987 imprisonment of 1 year or more under the law of the United
3988 States or of any state thereof, or under the law of any other
3989 country.
3990 (c) Dishonorably discharged from any of the Armed Forces of
3991 the United States.
3992 (3)(a) The certification of an individual shall be
3993 permanently revoked if the individual is:
3994 1. Convicted of a misdemeanor relating to perjury or false
3995 statement.
3996 2. Convicted of a felony or a crime punishable by
3997 imprisonment of 1 year or more under the law of the United
3998 States or of any state thereof, or under the law of any other
3999 country.
4000 3. Dishonorably discharged from any of the Armed Forces of
4001 the United States.
4002 (b) For individuals who are certified before July 1, 2013:

4003 1. This subsection applies prospectively to convictions or
4004 dishonorable discharges entered on or after July 1, 2013.
4005 2. Section 633.351 as it existed before July 1, 2013,
4006 applies to convictions entered before July 1, 2013.
4007 (4) The certification of an individual ~~a firefighter~~ shall
4008 be revoked if evidence is found which demonstrates that the
4009 certification was improperly issued by the division or ~~if~~
4010 ~~evidence is found that the certification~~ was issued on the basis
4011 of false, incorrect, incomplete, or misleading information, or
4012 that the individual has demonstrated a lack of moral fitness or
4013 trustworthiness to carry out the responsibilities under the
4014 individual's certification.
4015 (5)(a) Each individual who applies for certification must
4016 submit fingerprints to the division with a current processing
4017 fee, unless that individual's fingerprints are retained by the
4018 department under paragraph (b). By July 1, 2014, any individual
4019 who is certified and whose fingerprints have not been retained
4020 by the department under paragraph (b) must submit fingerprints
4021 to the division with a current processing fee. The division
4022 shall forward each individual's fingerprints to the department
4023 for state processing and the Department of Law Enforcement shall
4024 forward each individual's fingerprints to the Federal Bureau of
4025 Investigation for national processing. A fire service provider
4026 may pay the current processing fee required by this paragraph.
4027 (b) The department shall retain and enter into the
4028 statewide automated fingerprint identification system authorized
4029 by s. 943.05 all fingerprints submitted to the division under
4030 this section and s. 633.412. Thereafter, the fingerprints shall
4031 be available for all purposes and uses authorized for arrest

4032 fingerprints entered in the statewide automated fingerprint
4033 identification system pursuant to s. 943.051. The department
4034 shall search the fingerprints retained pursuant to this section
4035 against all arrest fingerprints received pursuant to s. 943.051
4036 and report to the division any arrest records that are
4037 identified with the retained fingerprints.
4038 ~~(2) The certification of a firefighter who is convicted of~~
4039 ~~a felony, or who is convicted of a misdemeanor relating to~~
4040 ~~misleading or false statements, or who pleads nolo contendere to~~
4041 ~~any charge of a felony shall be revoked until the firefighter~~
4042 ~~complies with s. 112.011(2)(b). However, if sentence upon such~~
4043 ~~felony or such misdemeanor charge is suspended or adjudication~~
4044 ~~is withheld, the firefighter's certification shall be revoked~~
4045 ~~until she or he completes any probation.~~
4046 Section 67. Section 633.43, Florida Statutes, is
4047 transferred, renumbered as section 633.428, Florida Statutes,
4048 and amended to read:
4049 633.428 ~~633.43~~ Florida State Fire College established.—
4050 There is ~~hereby~~ established a state institution to be known as
4051 the Florida State Fire College, to be located at or near Ocala,
4052 Marion County. The institution shall be operated by the division
4053 ~~of State Fire Marshal of the department~~.
4054 Section 68. Section 633.44, Florida Statutes, is
4055 transferred, renumbered as section 633.432, Florida Statutes,
4056 and amended to read:
4057 633.432 ~~633.44~~ Purpose of fire college.—The purposes of
4058 part IV ~~ss. 633.43-633.49~~ and of the Florida State Fire College
4059 are ~~shall be~~:
4060 (1) To provide professional and volunteer firefighters with

4061 needful professional instruction and training in subjects,
4062 including, but not limited to, firefighting, fire prevention,
4063 hazardous materials, urban search and rescue, and emergency
4064 operations, at a minimum of cost to them and to their employers.
4065 (2) To ensure the professionalism and competence of those
4066 performing firefighting, fire prevention, and associated fire
4067 protection functions by administering a system of certification
4068 and licensing.
4069 (3)~~(2)~~ To develop new methods and practices of firefighting
4070 and fire prevention.
4071 (4)~~(3)~~ To assist the state and county, municipal, and other
4072 local governments of this state and their agencies and officers
4073 in their investigation and determination of the causes of fires.
4074 (5)~~(4)~~ To provide testing facilities for testing
4075 firefighting equipment.
4076 (6)~~(5)~~ To disseminate useful information on fires,
4077 firefighting and fire prevention and other related subjects, to
4078 fire departments and others interested in such information.
4079 (7)~~(6)~~ To do such other needful or useful things necessary
4080 to the promotion of public safety in the field of fire hazards
4081 and fire prevention work.
4082
4083 It is ~~hereby~~ declared by the Legislature that the above purposes
4084 are legitimate state functions and are designed to promote
4085 public safety.
4086 Section 69. Section 633.48, Florida Statutes, is
4087 transferred, renumbered as section 633.434, Florida Statutes,
4088 and amended to read:
4089 633.434 ~~633.48~~ Superintendent of college.—The division may

4090 employ a superintendent for the Florida State Fire College, who
4091 must ~~shall~~ be especially trained and qualified in firefighting,
4092 fire prevention and fire experimental work, and may employ on
4093 the recommendations of the ~~said~~ superintendent such other
4094 instructors, experimental helpers and laborers as may be
4095 necessary to the proper conduct of the ~~said~~ institution; and may
4096 proceed with the erection and detailed operation of the ~~said~~
4097 institution under ss. 633.428-633.444 ~~633.43-633.49~~.
4098 Section 70. Section 633.461, Florida Statutes, is
4099 transferred, renumbered as section 633.436, Florida Statutes,
4100 and amended to read:
4101 633.436 ~~633.461~~ Use of Insurance Regulatory Trust Fund.—The
4102 funds received from the Insurance Regulatory Trust Fund shall be
4103 used by the staff of the Florida State Fire College to provide
4104 all necessary services, training, equipment, and supplies to
4105 carry out the college's responsibilities, including, but not
4106 limited to, ~~the State Fire Marshal Scholarship Grant Program and~~
4107 the procurement of training resources and ~~films, videotapes,~~
4108 ~~audiovisual~~ equipment~~,~~ and other useful information on fire,
4109 firefighting, and fire prevention, including public fire service
4110 information packages.
4111 Section 71. Section 633.47, Florida Statutes, is
4112 transferred and renumbered as section 633.438, Florida Statutes.
4113 Section 72. Section 633.49, Florida Statutes, is
4114 transferred, renumbered as section 633.442, Florida Statutes,
4115 and amended to read:
4116 633.442 ~~633.49~~ Buildings, equipment, and other facilities;
4117 use.—The division shall have the power to prescribe and shall
4118 make the necessary rules ~~and regulations~~ for the use of

4119 buildings, equipment, and other facilities of the Florida State
4120 Fire College when they are not in use for the purposes set forth
4121 in part IV ~~ss. 633.43-633.49~~.
4122 Section 73. Section 633.50, Florida Statutes, is
4123 transferred, renumbered as section 633.444, Florida Statutes,
4124 and amended to read:
4125 633.444 ~~633.50~~ Division powers and duties; Florida State
4126 Fire College.—
4127 (1) The division, in performing its duties related to the
4128 Florida State Fire College, specified in part IV ~~ss. 633.43-~~
4129 ~~633.49~~, shall:
4130 (a) Enter into agreements with public or private school
4131 districts, community colleges, junior colleges, or state
4132 universities to carry out its duties and responsibilities.
4133 (b) Review and approve budget requests for the fire college
4134 educational program.
4135 (c) Prepare the legislative budget request for the Florida
4136 State Fire College education program. The superintendent is
4137 responsible for all expenditures pursuant to appropriations.
4138 (d) Implement procedures to obtain appropriate entitlement
4139 funds from federal and state grants to supplement the annual
4140 legislative appropriation. Such funds must be used expressly for
4141 the fire college educational programs.
4142 (e) Develop a staffing and funding formula for the Florida
4143 State Fire College. The formula must ~~shall~~ include differential
4144 funding levels for various types of programs, must ~~shall~~ be
4145 based on the number of full-time equivalent students and
4146 information obtained from scheduled attendance counts taken the
4147 first day of each program, and must ~~shall~~ provide the basis for

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4148 the legislative budget request. As used in this section, a full-
4149 time equivalent student is equal to a minimum of 900 hours in a
4150 technical certificate program and 400 hours in a degree-seeking
4151 program. The funding formula must ~~shall~~ be as prescribed
4152 pursuant to s. 1011.62, must ~~shall~~ include procedures to
4153 document daily attendance, and must ~~shall~~ require that
4154 attendance records be retained for audit purposes.
4155 (f) Approve and register in an electronic database
4156 designated by the division an education or training provider
4157 before the education or training provider may offer any course
4158 to fulfill any education or training requirement under this
4159 chapter. The division shall establish criteria, by rule, for the
4160 approval of such education or training providers. Only approved
4161 and registered education or training providers are eligible to
4162 provide instruction or training that will be recognized by the
4163 division as fulfilling any education or training requirement
4164 under this chapter.
4165 (g) Recognize only courses offered by approved and
4166 registered training or education providers as fulfilling the
4167 education or training requirements under this chapter.
4168 (2) Funds generated by the formula per full-time equivalent
4169 student may not exceed the level of state funding per full-time
4170 equivalent student generated through the Florida Education
4171 Finance Program or the State Community College Program Fund for
4172 students enrolled in comparable education programs provided by
4173 public school districts and community colleges. Funds
4174 appropriated for education and operational costs shall be
4175 deposited in the Insurance Regulatory Trust Fund to be used
4176 solely for purposes specified in s. 633.436 ~~633.461~~ and may not

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4177 be transferred to any other budget entity for purposes other
4178 than education.
4179 Section 74. The Division of Law Revision and Information is
4180 requested to create part V of chapter 633, Florida Statutes,
4181 consisting of sections 633.502, 633.504, 633.506, 633.508,
4182 633.512, 633.516, 633.518, 633.520, 633.522, 633.526, 633.528,
4183 633.532, 633.534, and 633.536, Florida Statutes, to be entitled
4184 "Florida Firefighters Occupational Safety and Health Act."
4185 Section 75. Section 633.801, Florida Statutes, is
4186 transferred, renumbered as section 633.502, Florida Statutes,
4187 and amended to read:
4188 633.502 ~~633.801~~ Short title.—Sections 633.502-633.536,
4189 ~~633.801-633.821~~ may be cited as the "Florida Firefighters
4190 Occupational Safety and Health Act."
4191 Section 76. Section 633.802, Florida Statutes, is
4192 transferred and renumbered as section 633.504, Florida Statutes,
4193 and subsections (1), (2), and (4) of that section are amended,
4194 to read:
4195 633.504 ~~633.802~~ Definitions.—As used in this part, the term
4196 ~~Unless the context clearly requires otherwise, the following~~
4197 ~~definitions shall apply to ss. 633.801-633.821~~:
4198 (1) "Firefighter employee" means a firefighter, volunteer
4199 firefighter, or individual providing support services who is ~~any~~
4200 ~~person~~ engaged in any employment, public or private, ~~as a~~
4201 ~~firefighter~~ under any appointment or contract of hire or
4202 apprenticeship, express or implied, oral or written, whether
4203 lawfully or unlawfully employed, responding to or assisting with
4204 fire or medical emergencies, regardless of whether ~~or not the~~
4205 ~~firefighter is~~ on duty, except those appointed under s.

4206 590.02(1)(d).
4207 (2) "Firefighter employer" means the state and all
4208 political subdivisions of this state, all public and quasi-
4209 public corporations in this state, and a ~~every~~ person carrying
4210 on any employment for this state, political subdivisions of this
4211 state, and public and quasi-public corporations in this state
4212 which employs firefighter employees ~~firefighters~~, except those
4213 appointed under s. 590.02(1)(d).
4214 (4) "Firefighter place of employment" or "place of
4215 employment" means the physical location at which the firefighter
4216 employee is employed or deployed.
4217 Section 77. Section 633.803, Florida Statutes, is
4218 transferred, renumbered as section 633.506, Florida Statutes,
4219 and amended to read:
4220 633.506 ~~633.803~~ Legislative intent.—It is the intent of the
4221 Legislature to enhance firefighter occupational safety and
4222 health in the state through the implementation and maintenance
4223 of policies, procedures, practices, rules, and standards that
4224 reduce the incidence of firefighter employee accidents,
4225 firefighter employee occupational diseases, and firefighter
4226 employee fatalities compensable under chapter 440 or otherwise.
4227 The Legislature further intends that the division develop a
4228 means by which the division can identify individual firefighter
4229 employers with a high frequency or severity of work-related
4230 injuries, conduct safety inspections of those firefighter
4231 employers, and assist those firefighter employers in the
4232 development and implementation of firefighter employee safety
4233 and health programs. In addition, it is the intent of the
4234 Legislature that the division administer and enforce this part

4235 ~~the provisions of ss. 633.801-633.821~~; provide assistance to
4236 firefighter employers, firefighter employees, and insurers; and
4237 enforce the policies, rules, and standards set forth in this
4238 part ~~ss. 633.801-633.821~~.
4239 Section 78. Section 633.821, Florida Statutes, is
4240 transferred and renumbered as section 633.508, Florida Statutes,
4241 subsections (2), (3), (5), and (6) of that section are amended,
4242 and subsection (7) is added to that section to read:
4243 633.508 ~~633.821~~ Workplace safety; rulemaking authority;
4244 division authority.—
4245 (2) The division shall have the authority to adopt rules
4246 for the purpose of ensuring safe working conditions for all
4247 firefighter employees by authorizing the enforcement of
4248 effective standards, by assisting and encouraging firefighter
4249 employers to maintain safe working conditions, and by providing
4250 for education and training in the field of safety. Specifically,
4251 the division may by rule adopt the most current edition of all
4252 or any part of subparts C through T and subpart Z of 29 C.F.R.
4253 s. 1910~~, as revised April 8, 1998; the National Fire Protection~~
4254 ~~Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert~~
4255 ~~Safety System) (1992 edition)~~; the National Fire Protection
4256 Association, Inc., Publication 1403, Standard on Live Fire
4257 Training Evolutions ~~(latest edition)~~, as limited by subsection
4258 (6); and ANSI A 10.4~~-1990~~.
4259 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the two
4260 individuals located outside the immediately dangerous to life
4261 and health atmosphere may be assigned to an additional role,
4262 such as incident commander, pumper operator, engineer, or
4263 driver, so long as such individual can ~~is able to~~ immediately

4264 perform assistance or rescue activities without jeopardizing the
4265 safety or health of any firefighter employee working at an
4266 incident. ~~Also with respect to 29 C.F.R. s. 1910.134(g)(4):~~
4267 ~~(a) Each county, municipality, and special district shall~~
4268 ~~implement such provision by April 1, 2002, except as provided in~~
4269 ~~paragraphs (b) and (c).~~
4270 ~~(b) If any county, municipality, or special district is~~
4271 ~~unable to implement such provision by April 1, 2002, without~~
4272 ~~adding additional personnel to its firefighting staff or~~
4273 ~~expending significant additional funds, such county,~~
4274 ~~municipality, or special district shall have an additional 6~~
4275 ~~months within which to implement such provision. Such county,~~
4276 ~~municipality, or special district shall notify the division that~~
4277 ~~the 6-month extension to implement such provision is in effect~~
4278 ~~in such county, municipality, or special district within 30 days~~
4279 ~~after its decision to extend the time for the additional 6~~
4280 ~~months. The decision to extend the time for implementation shall~~
4281 ~~be made prior to April 1, 2002.~~
4282 ~~(c) If, after the extension granted in paragraph (b), the~~
4283 ~~county, municipality, or special district, after having worked~~
4284 ~~with and cooperated fully with the division and the Firefighters~~
4285 ~~Employment, Standards, and Training Council, is still unable to~~
4286 ~~implement such provisions without adding additional personnel to~~
4287 ~~its firefighting staff or expending significant additional~~
4288 ~~funds, such municipality, county, or special district shall be~~
4289 ~~exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4).~~
4290 ~~However, each year thereafter the division shall review each~~
4291 ~~such county, municipality, or special district to determine if~~
4292 ~~such county, municipality, or special district has the ability~~

4293 ~~to implement such provision without adding additional personnel~~
4294 ~~to its firefighting staff or expending significant additional~~
4295 ~~funds. If the division determines that any county, municipality,~~
4296 ~~or special district has the ability to implement such provision~~
4297 ~~without adding additional personnel to its firefighting staff or~~
4298 ~~expending significant additional funds, the division shall~~
4299 ~~require such county, municipality, or special district to~~
4300 ~~implement such provision. Such requirement by the division under~~
4301 ~~this paragraph constitutes final agency action subject to~~
4302 ~~chapter 120.~~
4303 (5) The division may adopt any rule necessary to implement,
4304 interpret, and make specific the provisions of this section,
4305 provided the division may not adopt by rule any other standard
4306 or standards of the Occupational Safety and Health
4307 Administration or the National Fire Protection Association
4308 relating solely to this part ~~ss. 633.801-633.821~~ and firefighter
4309 employment safety without specific legislative authority.
4310 (6)(a) The division shall adopt rules for live fire
4311 training that all firefighter employees ~~firefighters~~ subject to
4312 this chapter must complete. The division shall also adopt rules
4313 for a training and certification process for live fire training
4314 instructors.
4315 (b) Such rules for training must ~~shall~~ include:
4316 1. Sections of the most current edition of the National
4317 Fire Protection Association, Inc., Publication 1402, Guide to
4318 Building Fire Service Training Centers, relating to establishing
4319 policies and procedures for effective use of such permanent
4320 facilities or structures.
4321 2. Sections of the most current edition of the National

4322 Fire Protection Association, Inc., Publication 1403, Standard on
4323 Live Fire Training Evolutions, excluding, however:
4324 a. Any chapter entitled "Referenced Publications."
4325 b. References to the National Fire Protection Association,
4326 Inc., Publication 1975, Station Uniform.
4327 c. Provisions of the National Fire Protection Association,
4328 Inc., Publication 1001, not adopted under rule 69A-37 ~~or any~~
4329 ~~references to such publication in the National Fire Protection~~
4330 ~~Association, Inc., Publication 1975~~.
4331 d. Any reference to an authority having jurisdiction in the
4332 National Fire Protection Association, Inc., Publication 1403,
4333 defined as the organization, office, or individual responsible
4334 for approving equipment, materials, installations, and
4335 procedures.
4336 3. A 40-hour training program for live fire training
4337 instructors, including:
4338 a. Live fire instructional techniques.
4339 b. Training safety in acquired or permanent facilities or
4340 props.
4341 c. Personnel safety.
4342 d. Exterior props, including, but not limited to, liquid
4343 petroleum gas, other liquid fuels, and similar props.
4344 ~~(c) The rules, excluding those pertaining to live fire~~
4345 ~~training instructor certification, shall take effect no later~~
4346 ~~than January 1, 2006.~~
4347 (c) ~~(d)~~ Each live fire training instructor is required to be
4348 a state certified fire safety instructor. All live fire training
4349 ~~commenced on and after January 1, 2007,~~ must be conducted by a
4350 certified live fire training instructor.

4351 (d) ~~(c)~~ This subsection does not apply to wildland or
4352 prescribed live fire training exercises sanctioned by the
4353 Florida Forest Service of the Department of Agriculture and
4354 Consumer Services or the National Wildfire Coordinating Group.
4355 (7) The division shall:
4356 (a) Investigate and prescribe by rule what safety devices,
4357 safeguards, or other means of protection must be adopted for the
4358 prevention of accidents and injuries in every firefighter
4359 employee place of employment or at any fire scene; determine
4360 what suitable devices, safeguards, or other means of protection
4361 for the prevention of occupational diseases must be adopted or
4362 followed in any or all such firefighter places of employment or
4363 at any emergency fire scene; and adopt reasonable rules for the
4364 prevention of accidents, the safety, protection, and security of
4365 firefighter employees engaged in interior firefighting, and the
4366 prevention of occupational diseases.
4367 (b) Ascertain, fix, and order such reasonable standards and
4368 rules for the construction, repair, and maintenance of
4369 firefighter employee places of employment so as to render them
4370 safe. Such rules and standards shall be adopted in accordance
4371 with chapter 120.
4372 (c) Adopt rules prescribing recordkeeping responsibilities
4373 for firefighter employers, which may include maintaining a log
4374 and summary of occupational injuries, diseases, and illnesses,
4375 for producing on request a notice of injury and firefighter
4376 employee accident investigation records, and prescribing a
4377 retention schedule for such records.
4378 Section 79. Section 633.817, Florida Statutes, is
4379 transferred, renumbered as section 633.512, Florida Statutes,

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4380 and amended to read:
4381 633.512 ~~633.817~~ Compliance.—Failure of a firefighter
4382 employer or an insurer to comply with this part ~~ss. 633.801-~~
4383 ~~633.821~~, or with any rules adopted under this part ~~ss. 633.801-~~
4384 ~~633.821~~, constitutes grounds for the division to seek remedies,
4385 including injunctive relief, by making appropriate filings with
4386 the circuit court.
4387 Section 80. Section 633.805, Florida Statutes, is
4388 transferred and renumbered as section 633.516, Florida Statutes.
4389 Section 81. Section 633.806, Florida Statutes, is
4390 transferred, renumbered as section 633.518, Florida Statutes,
4391 and amended to read:
4392 633.518 ~~633.806~~ Studies, investigations, inspections, or
4393 inquiries by the division; refusal to admit; penalty.—
4394 (1) The division shall make studies, ~~and~~ investigations,
4395 inspections, or inquiries with respect to compliance with this
4396 part or any rules authorized under this part ~~safety provisions~~
4397 and the causes of firefighter employee injuries, illnesses,
4398 safety-based complaints, or Line of Duty Deaths (LODD) as
4399 defined in rule in firefighter employee places of employment and
4400 shall make such recommendations to the Legislature and
4401 firefighter employers and insurers as the division considers
4402 proper ~~as~~ to prevent or reduce future occurrences ~~the best means~~
4403 ~~of preventing firefighter injuries~~. In making such studies, ~~and~~
4404 investigations, inspections, or inquiries, the division may
4405 cooperate with any agency of the United States charged with the
4406 duty of enforcing any law securing safety against injury in any
4407 place of firefighter employment covered by this part ~~ss.~~
4408 ~~633.801-633.821~~ or any agency or department of the state engaged

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4409 in enforcing any law to ensure safety for firefighter employees.
4410 (2) The division by rule may adopt procedures for
4411 conducting investigations, inspections, or inquiries of
4412 firefighter employers under this part ~~ss. 633.801-633.821~~.
4413 (3) The division and authorized representatives of the
4414 division may enter and inspect any firefighter employee's place
4415 of employment at any reasonable time for the purpose of
4416 investigating compliance with this part and conducting
4417 inspections for the proper enforcement of this part. A
4418 firefighter employer who refuses to admit any member of the
4419 division or authorized representative of the division to any
4420 place of employment or to allow investigation and inspection
4421 pursuant to this section commits a misdemeanor of the second
4422 degree, punishable as provided in s. 775.082 or s. 775.083.
4423 Section 82. Section 633.807, Florida Statutes, is
4424 transferred, renumbered as section 633.520, Florida Statutes,
4425 and amended to read:
4426 633.520 ~~633.807~~ Safety; firefighter employer
4427 responsibilities.—Every firefighter employer shall furnish and
4428 use safety devices and safeguards, adopt and use methods and
4429 processes reasonably adequate to render such an employment and
4430 place of employment safe, and do every other thing reasonably
4431 necessary to protect the lives, health, and safety of such
4432 firefighter employees. As used in this section, the terms "safe"
4433 and "safety," as applied to any employment or place of
4434 ~~firefighter~~ employment, mean such freedom from danger as is
4435 reasonably necessary for the protection of the lives, health,
4436 and safety of firefighter employees, including conditions and
4437 methods of sanitation and hygiene. Safety devices and safeguards

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4438 required to be furnished by the firefighter employer by this
4439 section or by the division under authority of this section do
4440 ~~shall~~ not include personal apparel and protective devices that
4441 replace personal apparel normally worn by firefighter employees
4442 during regular working hours.
4443 Section 83. Section 633.809, Florida Statutes, is
4444 transferred, renumbered as section 633.522, Florida Statutes,
4445 and amended to read:
4446 633.522 ~~633.809~~ Firefighter employers; ~~whose firefighter~~
4447 ~~employees have a~~ high frequency of work-related injuries;
4448 corrective plans; workplace safety committees and coordinators;
4449 failure to implement a safety and health program; cancellation.—
4450 (1) The division shall develop a means to ~~by which the~~
4451 ~~division may~~ identify individual firefighter employers with
4452 ~~whose firefighter employees have~~ a high frequency ~~or severity~~ of
4453 firefighter employee work-related injuries. ~~The division shall~~
4454 ~~carry out safety inspections of the facilities and operations of~~
4455 ~~those firefighter employers in order to assist them in reducing~~
4456 ~~the frequency and severity of work-related injuries. The~~
4457 ~~division shall develop safety and health programs for those~~
4458 ~~firefighter employers. Insurers shall distribute such safety and~~
4459 ~~health programs to the firefighter employers so identified by~~
4460 ~~the division. Those firefighter employers identified by the~~
4461 ~~division as having a high frequency or severity of work-related~~
4462 ~~injuries shall implement a safety and health program developed~~
4463 ~~by the division.~~ The division shall conduct ~~carry out~~ safety
4464 inspections of those firefighter employers so identified to
4465 ensure compliance with this part or the division's rules and
4466 make recommendations based upon current ~~the~~ safety and health

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4467 practices ~~program~~ and to assist such firefighter employers in
4468 reducing the number of work-related injuries. The division may
4469 not assess penalties as a result of such inspections~~, except as~~
4470 ~~provided by s. 633.813~~. Copies of any report made as the result
4471 of such an inspection shall be provided to the firefighter
4472 employer and its insurer. Firefighter employers shall ~~may~~ submit
4473 a plan for the correction of any noncompliance issues ~~their own~~
4474 ~~safety and health programs~~ to the division for approval in
4475 accordance with division rule ~~lieu of using the safety and~~
4476 ~~health program developed by the division~~. The division shall
4477 promptly review the plan ~~program~~ submitted and approve or
4478 disapprove the plan ~~program~~ within 60 days or such plan ~~program~~
4479 shall be deemed approved. Upon approval by the division, the
4480 plan ~~program~~ shall be implemented by the firefighter employer.
4481 If the plan ~~program~~ is not submitted, does not provide
4482 corrective actions for all deficiencies, is not complete, or is
4483 not implemented, the fire service provider shall be subject to
4484 s. 633.526 ~~approved or if a program is not submitted, the~~
4485 ~~firefighter employer shall implement the program developed by~~
4486 ~~the division. The division shall adopt rules setting forth the~~
4487 ~~criteria for safety and health programs, as such rules relate to~~
4488 ~~this section~~.
4489 (2) In order to promote health and safety in firefighter
4490 employee places of employment in this state:
4491 (a) Each firefighter employer of 20 or more firefighter
4492 employees shall establish and administer a workplace safety
4493 committee in accordance with rules adopted under this section.
4494 (b) Each firefighter employer of fewer than 20 firefighter
4495 employees with a high frequency or high severity of work-related

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4496 injuries, as identified by the division, shall establish and
4497 administer a workplace safety committee or designate a workplace
4498 safety coordinator who shall establish and administer workplace
4499 safety activities in accordance with rules adopted under this
4500 section.
4501 (3) The division shall adopt rules:
4502 (a) Prescribing the membership of the workplace safety
4503 committees so as to ensure an equal number of firefighter
4504 employee representatives who are volunteers or are elected by
4505 their peers and firefighter employer representatives, and
4506 specifying the frequency of meetings.
4507 (b) Requiring firefighter employers to make adequate
4508 records of each meeting and to file and to maintain the records
4509 subject to inspection by the division.
4510 (c) Prescribing the duties and functions of the workplace
4511 safety committee and workplace safety coordinator which include,
4512 but are not limited to:
4513 1. Establishing procedures for workplace safety inspections
4514 by the committee.
4515 2. Establishing procedures for investigating all workplace
4516 accidents, safety-related incidents, illnesses, and deaths.
4517 3. Evaluating accident prevention and illness prevention
4518 programs.
4519 4. Prescribing guidelines for the training of safety
4520 committee members.
4521 (4) The composition, selection, and function of workplace
4522 safety committees shall be a mandatory topic of negotiations
4523 with any certified collective bargaining agent for firefighter
4524 employers that operate under a collective bargaining agreement.

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4525 Firefighter employers that operate under a collective bargaining
4526 agreement that contains provisions governing the formation and
4527 operation of workplace safety committees that meet or exceed the
4528 minimum requirements contained in this section, or firefighter
4529 employers who otherwise have existing workplace safety
4530 committees that meet or exceed the minimum requirements
4531 established by this section, are in compliance with this
4532 section.
4533 (5) Firefighter employees shall be compensated their
4534 regular hourly wage while engaged in workplace safety committee
4535 or workplace safety coordinator training, meetings, or other
4536 duties prescribed under this section.
4537 (6) If a firefighter employer fails to implement a
4538 corrective plan, the insurer or self-insurer's fund that is
4539 providing coverage for the firefighter employer may cancel the
4540 contract for insurance with the firefighter employer. In the
4541 alternative, the insurer or fund may terminate any discount or
4542 deviation granted to the firefighter employer for the remainder
4543 of the term of the policy. If the contract is canceled or the
4544 discount or deviation is terminated, the insurer must make such
4545 reports as are required by law.
4546 Section 84. Section 633.811, Florida Statutes, is
4547 transferred, renumbered as section 633.526, Florida Statutes,
4548 and amended to read:
4549 633.526 ~~633.811~~ Firefighter employer penalties.—If any
4550 firefighter employer violates or fails or refuses to comply with
4551 this part ~~ss. 633.801-633.821~~, or with any rule adopted by the
4552 division under such sections in accordance with chapter 120 for
4553 the prevention of injuries, accidents, or occupational diseases

4554 or with any lawful order of the division in connection with this
4555 part ~~ss. 633.801-633.821~~, or fails or refuses to furnish or
4556 adopt any safety device, safeguard, or other means of protection
4557 prescribed by division rule under this part ~~ss. 633.801-633.821~~
4558 for the prevention of accidents or occupational diseases, the
4559 division may:
4560 (1) Issue an administrative cease and desist order,
4561 enforceable in the circuit court in the jurisdiction where the
4562 violation is occurring or has occurred.
4563 (2) Assess an administrative fine against a firefighter
4564 employer of not less than $100 or more than $1,000 for each
4565 violation and each day a violation is committed.
4566 (3) Assess against the firefighter employer a civil penalty
4567 of not less than $100 nor more than $5,000 for each day the
4568 violation, omission, failure, or refusal continues after the
4569 firefighter employer has been given written notice of such
4570 violation, omission, failure, or refusal. The total penalty for
4571 each violation shall not exceed $50,000. The division shall
4572 adopt rules requiring penalties commensurate with the frequency
4573 or severity of safety violations. Hearings requested under this
4574 section shall be conducted in Tallahassee. ~~A hearing shall be~~
4575 ~~held in the county in which the violation, omission, failure, or~~
4576 ~~refusal is alleged to have occurred, unless otherwise agreed to~~
4577 ~~by the firefighter employer and authorized by the division.~~ All
4578 penalties assessed and collected under this section shall be
4579 deposited in the Insurance Regulatory Trust Fund.
4580 Section 85. Section 633.812, Florida Statutes, is
4581 transferred and renumbered as section 633.528, Florida Statutes,
4582 and subsections (2) and (3) of that section are amended, to

4583 read:
4584 633.528 ~~633.812~~ Division cooperation with Federal
4585 Government; exemption from requirements for private firefighter
4586 employers.—
4587 (2) ~~Except as provided in this section,~~ A private
4588 firefighter employer is not subject to the requirements set
4589 forth in part IV and part V ~~of the division~~ if the private
4590 firefighter employer meets the requirements of this part and:
4591 (a) The private firefighter employer is subject to the
4592 federal regulations in 29 C.F.R. ss. 1910 and 1926.
4593 (b) The private firefighter employer has adopted and
4594 implemented a written safety program that conforms to the
4595 requirements of 29 C.F.R. ss. 1910 and 1926.
4596 ~~(c) A private firefighter employer with 20 or more full-~~
4597 ~~time firefighter employees shall include provisions for a safety~~
4598 ~~committee in the safety program. The safety committee shall~~
4599 ~~include firefighter employee representation and shall meet at~~
4600 ~~least once each calendar quarter. The private firefighter~~
4601 ~~employer shall make adequate records of each meeting and~~
4602 ~~maintain the records subject to inspections under subsection~~
4603 ~~(3). The safety committee shall, if appropriate, make~~
4604 ~~recommendations regarding improvements to the safety program and~~
4605 ~~corrections of hazards affecting workplace safety.~~
4606 (c)~~(d)~~ The private firefighter employer provides the
4607 division with a written statement that certifies compliance with
4608 this subsection.
4609 (3) The division may enter at any reasonable time any place
4610 of private firefighter employment for the purpose of verifying
4611 the accuracy of the written certification. If the division

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4612 determines that the private firefighter employer has not
4613 complied with the requirements of subsection (2), the private
4614 firefighter employer shall be subject to the rules of the
4615 division until the private firefighter employer complies with
4616 subsection (2), which must be verified by a reinspection by ~~and~~
4617 ~~recertifies that fact to~~ the division.
4618 Section 86. Section 633.816, Florida Statutes, is
4619 transferred, renumbered as section 633.532, Florida Statutes,
4620 and amended to read:
4621 633.532 ~~633.816~~ Firefighter employee rights and
4622 responsibilities.—
4623 (1) Each firefighter employee of a firefighter employer
4624 covered under this part ~~ss. 633.801-633.821~~ shall comply with
4625 rules adopted by the division and with reasonable workplace
4626 safety and health standards, rules, policies, procedures, and
4627 work practices established by the firefighter employer and the
4628 workplace safety committee. A firefighter employee who knowingly
4629 fails to comply with this subsection may be disciplined or
4630 discharged by the firefighter employer.
4631 (2) A firefighter employer may not discharge, threaten to
4632 discharge, cause to be discharged, intimidate, coerce, otherwise
4633 discipline, or in any manner discriminate against a firefighter
4634 employee for any of the following reasons:
4635 (a) The firefighter employee has testified or is about to
4636 testify, on her or his own behalf or on behalf of others, in any
4637 proceeding instituted under this part ~~ss. 633.801-633.821~~;
4638 (b) The firefighter employee has exercised any other right
4639 given ~~afforded~~ under this part ~~ss. 633.801-633.821~~; or
4640 (c) The firefighter employee is engaged in activities

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4641 relating to the workplace safety committee.
4642 (3) ~~No~~ Pay, a position, seniority, or any other benefit may
4643 not be lost for exercising any right under, or for seeking
4644 compliance with any requirement of, this part ~~ss. 633.801-~~
4645 ~~633.821~~.
4646 Section 87. Section 633.818, Florida Statutes, is
4647 transferred, renumbered as section 633.534, Florida Statutes,
4648 and amended to read:
4649 633.534 ~~633.818~~ False, fictitious, or fraudulent acts,
4650 statements, and representations prohibited; penalty; statute of
4651 limitations ~~to insurers~~.—
4652 (1) A firefighter employer who knowingly and willfully
4653 falsifies or conceals a material fact, who makes a false,
4654 fictitious, or fraudulent statement or representation, or who
4655 makes or uses any false document knowing the document to contain
4656 any false, fictitious, or fraudulent entry or statement to an
4657 insurer of workers' compensation insurance under this part ~~ss.~~
4658 ~~633.801-633.821~~ commits a misdemeanor of the second degree,
4659 punishable as provided in s. 775.082 or s. 775.083.
4660 (2) A person may not, in any matter within the jurisdiction
4661 of the division, knowingly and willfully falsify or conceal a
4662 material fact; make any false, fictitious, or fraudulent
4663 statement or representation; or make or use any false document,
4664 knowing the same to contain any false, fictitious, or fraudulent
4665 statement or entry. A person who violates this section commits a
4666 misdemeanor of the second degree, punishable as provided in s.
4667 775.082 or s. 775.083. The statute of limitations for
4668 prosecution of an act committed in violation of this section is
4669 5 years after the date the act was committed or, if not

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4670 discovered within 30 days after the act was committed, 5 years
4671 after the date the act was discovered.
4672 Section 88. Section 633.814, Florida Statutes, is
4673 transferred, renumbered as section 633.536, Florida Statutes,
4674 and amended to read:
4675 633.536 ~~633.814~~ Expenses of administration.—The amounts
4676 that are needed to administer this part ~~ss. 633.801-633.821~~
4677 shall be disbursed from the Insurance Regulatory Trust Fund.
4678 Section 89. Paragraph (b) of subsection (2) of section
4679 112.011, Florida Statutes, is amended to read:
4680 112.011 Disqualification from licensing and public
4681 employment based on criminal conviction.—
4682 (2)
4683 (b) This section does not apply to the employment practices
4684 of any fire department relating to the hiring of firefighters.
4685 ~~An applicant for employment with any fire department who has a~~
4686 ~~prior felony conviction shall be excluded from employment for a~~
4687 ~~period of 4 years after expiration of sentence or final release~~
4688 ~~by the Parole Commission unless the applicant, before the~~
4689 ~~expiration of the 4 year period, has received a full pardon or~~
4690 ~~has had his or her civil rights restored.~~
4691 Section 90. Paragraph (i) of subsection (2) of section
4692 112.191, Florida Statutes, is amended, and paragraphs (a), (b),
4693 and (c) of subsection (2) of that section are reenacted, to
4694 read:
4695 112.191 Firefighters; death benefits.—
4696 (2)(a) The sum of $50,000, as adjusted pursuant to
4697 paragraph (i), shall be paid as provided in this section when a
4698 firefighter, while engaged in the performance of his or her

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4699 firefighter duties, is accidentally killed or receives
4700 accidental bodily injury which subsequently results in the loss
4701 of the firefighter's life, provided that such killing is not the
4702 result of suicide and that such bodily injury is not
4703 intentionally self-inflicted. Notwithstanding any other
4704 provision of law, in no case shall the amount payable under this
4705 subsection be less than the actual amount stated therein.
4706 (b) The sum of $50,000, as adjusted pursuant to paragraph
4707 (i), shall be paid as provided in this section if a firefighter
4708 is accidentally killed as specified in paragraph (a) and the
4709 accidental death occurs as a result of the firefighter's
4710 response to what is reasonably believed to be an emergency
4711 involving the protection of life or property or the
4712 firefighter's participation in a training exercise. This sum is
4713 in addition to any sum provided in paragraph (a).
4714 Notwithstanding any other provision of law, the amount payable
4715 under this subsection may not be less than the actual amount
4716 stated therein.
4717 (c) If a firefighter, while engaged in the performance of
4718 his or her firefighter duties, is unlawfully and intentionally
4719 killed, is injured by an unlawful and intentional act of another
4720 person and dies as a result of such injury, dies as a result of
4721 a fire which has been determined to have been caused by an act
4722 of arson, or subsequently dies as a result of injuries sustained
4723 therefrom, the sum of $150,000, as adjusted pursuant to
4724 paragraph (i), shall be paid as provided in this section.
4725 Notwithstanding any other provision of law, the amount payable
4726 under this subsection may not be less than the actual amount
4727 stated therein.

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4728 (i) Any payments made pursuant to paragraph (a), paragraph
4729 (b), or paragraph (c) shall consist of the statutory amount
4730 adjusted to show ~~reflect~~ price level changes in the Consumer
4731 Price Index for All Urban Consumers published by the United
4732 States Department of Labor since July 1, 2002 ~~the effective date~~
4733 ~~of the act~~. The Division of State Fire Marshal, using the most
4734 recent month for which Consumer Price Index data is available,
4735 shall on June 15 of each year calculate and publish on the
4736 division's internet website the amount resulting from the
4737 adjustments to ~~by rule adjust~~ the statutory amounts ~~amount based~~
4738 ~~on the Consumer Price Index for All Urban Consumers published by~~
4739 ~~the United States Department of Labor~~. The adjusted statutory
4740 amounts ~~Adjustment~~ shall be effective on ~~made~~ July 1 of each
4741 year ~~using the most recent month for which data are available at~~
4742 ~~the time of the adjustment~~.
4743 Section 91. Subsection (4) of section 120.541, Florida
4744 Statutes, is amended to read:
4745 120.541 Statement of estimated regulatory costs.—
4746 (4) Subsection (3) ~~This section~~ does not apply to the
4747 adoption of:
4748 (a) ~~emergency rules pursuant to s. 120.54(4) or the~~
4749 ~~adoption of~~ Federal standards pursuant to s. 120.54(6).
4750 (b) Triennial updates of and amendments to the Florida
4751 Building Code which are expressly authorized by s. 553.73.
4752 (c) Triennial updates of and amendments to the Florida Fire
4753 Prevention Code which are expressly authorized by s. 633.202.
4754 Section 92. Subsection (4) of section 196.081, Florida
4755 Statutes, is amended, and a new subsection (6) is added to that
4756 section, to read:

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4757 196.081 Exemption for certain permanently and totally
4758 disabled veterans and for surviving spouses of veterans; exemption for surviving spouses of first responders who die in
4760 the line of duty.—
4761 (4) ~~(a)~~ Any real estate that is owned and used as a
4762 homestead by the surviving spouse of a veteran who died from
4763 service-connected causes while on active duty as a member of the
4764 United States Armed Forces and for whom a letter from the United
4765 States Government or United States Department of Veterans
4766 Affairs or its predecessor has been issued certifying that the
4767 veteran who died from service-connected causes while on active
4768 duty is exempt from taxation if the veteran was a permanent
4769 resident of this state on January 1 of the year in which the
4770 veteran died.
4771 (a) ~~(b)~~ The production of the letter by the surviving spouse
4772 which ~~of a letter that was issued as required under paragraph~~
4773 ~~(a) and that~~ attests to the veteran's death while on active duty
4774 is prima facie evidence ~~of the fact~~ that the surviving spouse is
4775 entitled to the ~~an~~ exemption ~~under paragraph (a)~~.
4776 (b) ~~(c)~~ The tax exemption ~~that applies under paragraph (a)~~
4777 ~~to the surviving spouse~~ carries over to the benefit of the
4778 veteran's surviving spouse as long as the spouse holds the legal
4779 or beneficial title to the homestead, permanently resides
4780 thereon as specified in s. 196.031, and does not remarry. If the
4781 surviving spouse sells the property, an exemption not to exceed
4782 the amount granted under ~~from~~ the most recent ad valorem tax
4783 roll may be transferred to his or her new residence as long as
4784 it is used as his or her primary residence and he or she does
4785 not remarry.

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4786 (6) Any real estate that is owned and used as a homestead
4787 by the surviving spouse of a first responder who died in the
4788 line of duty while employed by the state or any political
4789 subdivision of the state, including authorities and special
4790 districts, and for whom a letter from the state or appropriate
4791 political subdivision of the state, or other authority or
4792 special district, has been issued which legally recognizes and
4793 certifies that the first responder died in the line of duty
4794 while employed as a first responder is exempt from taxation if
4795 the first responder and her or his surviving spouse were
4796 permanent residents of this state on January 1 of the year in
4797 which the first responder died.
4798 (a) The production of the letter by the surviving spouse
4799 which attests to the first responder's death in the line of duty
4800 is prima facie evidence that the surviving spouse is entitled to
4801 the exemption.
4802 (b) The tax exemption applies as long as the surviving
4803 spouse holds the legal or beneficial title to the homestead,
4804 permanently resides thereon as specified in s. 196.031, and does
4805 not remarry. If the surviving spouse sells the property, an
4806 exemption not to exceed the amount granted under the most recent
4807 ad valorem tax roll may be transferred to her or his new
4808 residence if it is used as her or his primary residence and he
4809 or she does not remarry.
4810 (c) As used in this subsection only, and not applicable to
4811 the payment of benefits under s. 112.19 or s. 112.191, the term:
4812 1. "First responder" means a law enforcement officer or
4813 correctional officer as defined in s. 943.10, a firefighter as
4814 defined in s. 633.102, or an emergency medical technician or

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4815 paramedic as defined in s. 401.23 who is a full-time paid
4816 employee, part-time paid employee, or unpaid volunteer.
4817 2. "In the line of duty" means:
4818 a. While engaging in law enforcement;
4819 b. While performing an activity relating to fire
4820 suppression and prevention;
4821 c. While responding to a hazardous material emergency;
4822 d. While performing rescue activity;
4823 e. While providing emergency medical services;
4824 f. While performing disaster relief activity;
4825 g. While otherwise engaging in emergency response activity;
4826 or
4827 h. While engaging in a training exercise related to any of
4828 the events or activities enumerated in this subparagraph if the
4829 training has been authorized by the employing entity.
4830
4831 A heart attack or stroke that causes death or causes an injury
4832 resulting in death must occur within 24 hours after an event or
4833 activity enumerated in this subparagraph and must be directly
4834 and proximately caused by the event or activity in order to be
4835 considered as having occurred in the line of duty.
4836 Section 93. Section 554.103, Florida Statutes, is amended
4837 to read:
4838 554.103 Boiler code.—The department shall adopt by rule a
4839 State Boiler Code for the safe ~~construction~~, installation,
4840 inspection, maintenance, and repair of boilers in this state.
4841 The rules adopted shall be based upon and shall at all times
4842 follow generally accepted nationwide engineering standards,
4843 formulas, and practices pertaining to boiler construction and

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4844 safety.
4845 (1) New boilers installed or imported into this state shall
4846 be constructed to the most current mandatory boiler code, ~~The~~
4847 ~~department shall adopt an existing code for new construction and~~
4848 ~~installation~~ known as the Boiler and Pressure Vessel Code of the
4849 American Society of Mechanical Engineers, including all
4850 amendments, code cases, and interpretations approved thereto by
4851 the Council on Codes and Standards of A.S.M.E. ~~The department~~
4852 ~~may adopt amendments and interpretations to the A.S.M.E. Boiler~~
4853 ~~and Pressure Vessel Code approved by the A.S.M.E. Council on~~
4854 ~~Codes and Standards subsequent to the adoption of the State~~
4855 ~~Boiler Code, and when so adopted, such amendments and~~
4856 ~~interpretations shall become a part of the State Boiler Code.~~
4857 (2) The installer ~~owner~~ of any boiler placed in use in this
4858 state after July 1, 2012 ~~October 1, 1987~~, shall submit the
4859 A.S.M.E. manufacturer's data report on such boiler to the chief
4860 inspector before the boiler being placed into operation ~~not more~~
4861 ~~than 90 days following the inservice date of the boiler~~.
4862 (3) The maximum allowable working pressure of a boiler
4863 carrying the A.S.M.E. code symbol shall be determined by the
4864 applicable sections of the code under which it was constructed
4865 and stamped. Subject to the concurrence of the chief inspector,
4866 such boiler may be rerated in accordance with the standards of
4867 the State Boiler Code.
4868 (4) The maximum allowable working pressure of a boiler
4869 which does not carry the A.S.M.E. code symbol must ~~shall~~ be
4870 computed in accordance with the standards of the State Boiler
4871 Code.
4872 (5) Sections ~~Nothing in ss.~~ 554.1011-554.115 may not ~~shall~~

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4873 be construed to in any way prevent the use, sale, or
4874 reinstallation of a boiler if such boiler has been made to
4875 conform to the applicable provisions of the State Boiler Code
4876 governing existing installations and if, upon inspection, the
4877 boiler has been found to be in a safe condition.
4878 Section 94. Section 633.167, Florida Statutes, is amended
4879 to read:
4880 633.167 Probation.—
4881 ~~(1)~~ If the State Fire Marshal finds that one or more
4882 grounds exist for the suspension, revocation, or refusal to
4883 issue, renew, or continue any license, certification, or permit
4884 issued under this chapter, the State Fire Marshal may, in her or
4885 his discretion, except when an administrative fine is not
4886 permissible under this chapter or when the suspension,
4887 revocation, or refusal is mandatory, in lieu of suspension,
4888 revocation, or refusal to issue, renew, or continue or, in
4889 connection with any administrative fine imposed, place the
4890 offending licensee, certificateholder, or permittee on probation
4891 for a period not to exceed 2 years, as specified by the State
4892 Fire Marshal in her or his order.
4893 ~~(2) As a condition to probation or in connection therewith,~~
4894 ~~the State Fire Marshal may specify in her or his order~~
4895 ~~reasonable terms and conditions to be fulfilled by the~~
4896 ~~probationer during the probation period. If during the probation~~
4897 ~~period the State Fire Marshal has good cause to believe that the~~
4898 ~~probationer has violated any of the terms and conditions, she or~~
4899 ~~he shall suspend, revoke, or refuse to issue, renew, or continue~~
4900 ~~the license, certificate, or permit of the probationer, as upon~~
4901 ~~the original ground or grounds referred to in subsection (1).~~

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4902 Section 95. Section 633.517, Florida Statutes, is amended
4903 to read:
4904 633.517 Authority of State Fire Marshal to adopt rules~~,~~
4905 ~~administer oaths, and take testimony~~.—
4906 ~~(1)~~ The State Fire Marshal may ~~is authorized~~, with the
4907 advice of the board, ~~to~~ adopt rules pursuant to ss. 120.536(1)
4908 and 120.54 to implement ~~the provisions of~~ this act.
4909 ~~(2) The State Fire Marshal or her or his duly appointed~~
4910 ~~hearing officer may administer oaths and take testimony about~~
4911 ~~all matters within the jurisdiction of this act. Chapter 120~~
4912 ~~governs hearings conducted by or on behalf of the State Fire~~
4913 ~~Marshal.~~
4914 Section 96. Section 791.012, Florida Statutes, is amended
4915 to read:
4916 791.012 Minimum fireworks safety standards.—The outdoor
4917 display of fireworks in this state shall be governed by the
4918 National Fire Protection Association (NFPA) 1123, Code for
4919 Fireworks Display, as adopted in the Florida Fire Prevention
4920 Code ~~1995 Edition, approved by the American National Standards~~
4921 ~~Institute~~. A ~~Any~~ state, county, or municipal law, rule, or
4922 ordinance may provide for more stringent rules ~~regulations~~ for
4923 the outdoor display of fireworks, but ~~in no event may~~ any such
4924 law, rule, or ordinance may not provide for less stringent rules
4925 ~~regulations~~ for the outdoor display of fireworks. The division
4926 shall adopt ~~promulgate~~ rules to carry out ~~the provisions of~~ this
4927 section. The Code for Fireworks Display shall not govern the
4928 display of any fireworks on private, residential property and
4929 shall not govern the display of those items included under s.
4930 791.01(4)(b) and (c) and authorized for sale thereunder.

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4931 Section 97. Subsection (1) and paragraph (a) of subsection
4932 (3) of section 791.015, Florida Statutes, are amended to read:
4933 791.015 Registration of manufacturers, distributors,
4934 wholesalers, and retailers of sparklers.—
4935 (1) REGISTRATION REQUIREMENTS.—A ~~Any~~ manufacturer,
4936 distributor, wholesaler, retailer, or seasonal retailer of
4937 sparklers who wishes to do business in this state or to
4938 otherwise sell, ship, or assign for sale its products in this
4939 state must register annually with the division on forms
4940 prescribed by the division. A ~~Any~~ retailer or seasonal retailer
4941 who sells sparklers at more than one retail location may submit
4942 one registration form for all such locations but must provide
4943 the address of each location with the registration form;
4944 however, any retailer or seasonal retailer may submit multiple
4945 registration forms.
4946 (3) FEES.—
4947 (a) Each manufacturer, distributor, or wholesaler must pay
4948 an annual registration fee to be set by the division not to
4949 exceed $1,000. Each seasonal retailer must pay an annual
4950 registration fee to be set by the division not to exceed $200
4951 per each retail location registered. Each retailer shall pay an
4952 annual registration fee to be set by the division not to exceed
4953 $15 for each retail location registered. Each certificateholder
4954 wishing to have a duplicate certificate issued for one which is
4955 lost or to show ~~reflect~~ a change of address shall request such
4956 duplicate in writing and shall pay a fee of $5.
4957 Section 98. Section 633.024, Florida Statutes, is repealed.
4958 Section 99. Section 633.0245, Florida Statutes, is
4959 repealed.

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4960 Section 100. Section 633.03, Florida Statutes, is repealed.
4961 Section 101. Section 633.0421, Florida Statutes, is
4962 repealed.
4963 Section 102. Section 633.13, Florida Statutes, is repealed.
4964 Section 103. Section 633.18, Florida Statutes, is repealed.
4965 Section 104. Section 633.30, Florida Statutes, is repealed.
4966 Section 105. Section 633.32, Florida Statutes, is repealed.
4967 Section 106. Section 633.33, Florida Statutes, is repealed.
4968 Section 107. Section 633.37, Florida Statutes, is repealed.
4969 Section 108. Section 633.445, Florida Statutes, is
4970 repealed.
4971 Section 109. Section 633.46, Florida Statutes, is repealed.
4972 Section 110. Section 633.514, Florida Statutes, is
4973 repealed.
4974 Section 111. Section 633.524, Florida Statutes, is
4975 repealed.
4976 Section 112. Section 633.804, Florida Statutes, is
4977 repealed.
4978 Section 113. Section 633.808, Florida Statutes, is
4979 repealed.
4980 Section 114. Section 633.810, Florida Statutes, is
4981 repealed.
4982 Section 115. Section 633.813, Florida Statutes, is
4983 repealed.
4984 Section 116. Section 633.815, Florida Statutes, is
4985 repealed.
4986 Section 117. Section 633.819, Florida Statutes, is
4987 repealed.
4988 Section 118. Section 633.820, Florida Statutes, is

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4989 repealed.
4990 Section 119. Subsection (1) of section 112.1815, Florida
4991 Statutes, is amended to read:
4992 112.1815 Firefighters, paramedics, emergency medical
4993 technicians, and law enforcement officers; special provisions
4994 for employment-related accidents and injuries.—
4995 (1) The term "first responder" as used in this section
4996 means a law enforcement officer as defined in s. 943.10, a
4997 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency
4998 medical technician or paramedic as defined in s. 401.23 employed
4999 by state or local government. A volunteer law enforcement
5000 officer, firefighter, or emergency medical technician or
5001 paramedic engaged by the state or a local government is also
5002 considered a first responder of the state or local government
5003 for purposes of this section.
5004 Section 120. Paragraph (b) of subsection (1) of section
5005 112.191, Florida Statutes, is amended to read:
5006 112.191 Firefighters; death benefits.—
5007 (1) Whenever used in this act:
5008 (b) The term "firefighter" means any full-time duly
5009 employed uniformed firefighter employed by an employer, whose
5010 primary duty is the prevention and extinguishing of fires, the
5011 protection of life and property therefrom, the enforcement of
5012 municipal, county, and state fire prevention codes, as well as
5013 the enforcement of any law pertaining to the prevention and
5014 control of fires, who is certified pursuant to s. 633.408
5015 ~~633.35~~, and who is a member of a duly constituted fire
5016 department of such employer or who is a volunteer firefighter.
5017 Section 121. Subsection (1) of section 112.81, Florida

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5018 Statutes, is amended to read:
5019 112.81 Definitions.—As used in this part:
5020 (1) "Firefighter" means a ~~any~~ person who is certified in
5021 compliance with s. 633.408 ~~633.35~~ and who is employed solely
5022 within the fire department or public safety department of an
5023 employing agency as a full-time firefighter whose primary
5024 responsibility is the prevention and extinguishment of fires;
5025 the protection of life and property; and the enforcement of
5026 municipal, county, and state fire prevention codes and laws
5027 pertaining to the prevention and control of fires.
5028 Section 122. Paragraph (d) of subsection (4) of section
5029 119.071, Florida Statutes, is amended to read:
5030 119.071 General exemptions from inspection or copying of
5031 public records.—
5032 (4) AGENCY PERSONNEL INFORMATION.—
5033 (d)1. For purposes of this paragraph, the term "telephone
5034 numbers" includes home telephone numbers, personal cellular
5035 telephone numbers, personal pager telephone numbers, and
5036 telephone numbers associated with personal communications
5037 devices.
5038 2.a. The home addresses, telephone numbers, social security
5039 numbers, dates of birth, and photographs of active or former
5040 sworn or civilian law enforcement personnel, including
5041 correctional and correctional probation officers, personnel of
5042 the Department of Children and Family Services whose duties
5043 include the investigation of abuse, neglect, exploitation,
5044 fraud, theft, or other criminal activities, personnel of the
5045 Department of Health whose duties are to support the
5046 investigation of child abuse or neglect, and personnel of the

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5047 Department of Revenue or local governments whose
5048 responsibilities include revenue collection and enforcement or
5049 child support enforcement; the home addresses, telephone
5050 numbers, social security numbers, photographs, dates of birth,
5051 and places of employment of the spouses and children of such
5052 personnel; and the names and locations of schools and day care
5053 facilities attended by the children of such personnel are exempt
5054 from s. 119.07(1).
5055 b. The home addresses, telephone numbers, dates of birth,
5056 and photographs of firefighters certified in compliance with s.
5057 633.408 ~~633.35~~; the home addresses, telephone numbers,
5058 photographs, dates of birth, and places of employment of the
5059 spouses and children of such firefighters; and the names and
5060 locations of schools and day care facilities attended by the
5061 children of such firefighters are exempt from s. 119.07(1).
5062 c. The home addresses, dates of birth, and telephone
5063 numbers of current or former justices of the Supreme Court,
5064 district court of appeal judges, circuit court judges, and
5065 county court judges; the home addresses, telephone numbers,
5066 dates of birth, and places of employment of the spouses and
5067 children of current or former justices and judges; and the names
5068 and locations of schools and day care facilities attended by the
5069 children of current or former justices and judges are exempt
5070 from s. 119.07(1).
5071 d. The home addresses, telephone numbers, social security
5072 numbers, dates of birth, and photographs of current or former
5073 state attorneys, assistant state attorneys, statewide
5074 prosecutors, or assistant statewide prosecutors; the home
5075 addresses, telephone numbers, social security numbers,

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5076 photographs, dates of birth, and places of employment of the
5077 spouses and children of current or former state attorneys,
5078 assistant state attorneys, statewide prosecutors, or assistant
5079 statewide prosecutors; and the names and locations of schools
5080 and day care facilities attended by the children of current or
5081 former state attorneys, assistant state attorneys, statewide
5082 prosecutors, or assistant statewide prosecutors are exempt from
5083 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
5084 e. The home addresses, dates of birth, and telephone
5085 numbers of general magistrates, special magistrates, judges of
5086 compensation claims, administrative law judges of the Division
5087 of Administrative Hearings, and child support enforcement
5088 hearing officers; the home addresses, telephone numbers, dates
5089 of birth, and places of employment of the spouses and children
5090 of general magistrates, special magistrates, judges of
5091 compensation claims, administrative law judges of the Division
5092 of Administrative Hearings, and child support enforcement
5093 hearing officers; and the names and locations of schools and day
5094 care facilities attended by the children of general magistrates,
5095 special magistrates, judges of compensation claims,
5096 administrative law judges of the Division of Administrative
5097 Hearings, and child support enforcement hearing officers are
5098 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
5099 Constitution if the general magistrate, special magistrate,
5100 judge of compensation claims, administrative law judge of the
5101 Division of Administrative Hearings, or child support hearing
5102 officer provides a written statement that the general
5103 magistrate, special magistrate, judge of compensation claims,
5104 administrative law judge of the Division of Administrative

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5105 Hearings, or child support hearing officer has made reasonable
5106 efforts to protect such information from being accessible
5107 through other means available to the public.
5108 f. The home addresses, telephone numbers, dates of birth,
5109 and photographs of current or former human resource, labor
5110 relations, or employee relations directors, assistant directors,
5111 managers, or assistant managers of any local government agency
5112 or water management district whose duties include hiring and
5113 firing employees, labor contract negotiation, administration, or
5114 other personnel-related duties; the names, home addresses,
5115 telephone numbers, dates of birth, and places of employment of
5116 the spouses and children of such personnel; and the names and
5117 locations of schools and day care facilities attended by the
5118 children of such personnel are exempt from s. 119.07(1) and s.
5119 24(a), Art. I of the State Constitution.
5120 g. The home addresses, telephone numbers, dates of birth,
5121 and photographs of current or former code enforcement officers;
5122 the names, home addresses, telephone numbers, dates of birth,
5123 and places of employment of the spouses and children of such
5124 personnel; and the names and locations of schools and day care
5125 facilities attended by the children of such personnel are exempt
5126 from s. 119.07(1) and s. 24(a), Art. I of the State
5127 Constitution.
5128 h. The home addresses, telephone numbers, places of
5129 employment, dates of birth, and photographs of current or former
5130 guardians ad litem, as defined in s. 39.820; the names, home
5131 addresses, telephone numbers, dates of birth, and places of
5132 employment of the spouses and children of such persons; and the
5133 names and locations of schools and day care facilities attended

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5134 by the children of such persons are exempt from s. 119.07(1) and
5135 s. 24(a), Art. I of the State Constitution, if the guardian ad
5136 litem provides a written statement that the guardian ad litem
5137 has made reasonable efforts to protect such information from
5138 being accessible through other means available to the public.
5139 i. The home addresses, telephone numbers, dates of birth,
5140 and photographs of current or former juvenile probation
5141 officers, juvenile probation supervisors, detention
5142 superintendents, assistant detention superintendents, juvenile
5143 justice detention officers I and II, juvenile justice detention
5144 officer supervisors, juvenile justice residential officers,
5145 juvenile justice residential officer supervisors I and II,
5146 juvenile justice counselors, juvenile justice counselor
5147 supervisors, human services counselor administrators, senior
5148 human services counselor administrators, rehabilitation
5149 therapists, and social services counselors of the Department of
5150 Juvenile Justice; the names, home addresses, telephone numbers,
5151 dates of birth, and places of employment of spouses and children
5152 of such personnel; and the names and locations of schools and
5153 day care facilities attended by the children of such personnel
5154 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
5155 Constitution.
5156 j. The home addresses, telephone numbers, dates of birth,
5157 and photographs of current or former public defenders, assistant
5158 public defenders, criminal conflict and civil regional counsel,
5159 and assistant criminal conflict and civil regional counsel; the
5160 home addresses, telephone numbers, dates of birth, and places of
5161 employment of the spouses and children of such defenders or
5162 counsel; and the names and locations of schools and day care

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5163 facilities attended by the children of such defenders or counsel
5164 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
5165 Constitution.
5166 k. The home addresses, telephone numbers, and photographs
5167 of current or former investigators or inspectors of the
5168 Department of Business and Professional Regulation; the names,
5169 home addresses, telephone numbers, and places of employment of
5170 the spouses and children of such current or former investigators
5171 and inspectors; and the names and locations of schools and day
5172 care facilities attended by the children of such current or
5173 former investigators and inspectors are exempt from s. 119.07(1)
5174 and s. 24(a), Art. I of the State Constitution if the
5175 investigator or inspector has made reasonable efforts to protect
5176 such information from being accessible through other means
5177 available to the public. This sub-subparagraph is subject to the
5178 Open Government Sunset Review Act in accordance with s. 119.15
5179 and shall stand repealed on October 2, 2017, unless reviewed and
5180 saved from repeal through reenactment by the Legislature.
5181 l. The home addresses and telephone numbers of county tax
5182 collectors; the names, home addresses, telephone numbers, and
5183 places of employment of the spouses and children of such tax
5184 collectors; and the names and locations of schools and day care
5185 facilities attended by the children of such tax collectors are
5186 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
5187 Constitution if the county tax collector has made reasonable
5188 efforts to protect such information from being accessible
5189 through other means available to the public. This sub-
5190 subparagraph is subject to the Open Government Sunset Review Act
5191 in accordance with s. 119.15 and shall stand repealed on October

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5192 2, 2017, unless reviewed and saved from repeal through
5193 reenactment by the Legislature.
5194 3. An agency that is the custodian of the information
5195 specified in subparagraph 2. and that is not the employer of the
5196 officer, employee, justice, judge, or other person specified in
5197 subparagraph 2. shall maintain the exempt status of that
5198 information only if the officer, employee, justice, judge, other
5199 person, or employing agency of the designated employee submits a
5200 written request for maintenance of the exemption to the
5201 custodial agency.
5202 4. The exemptions in this paragraph apply to information
5203 held by an agency before, on, or after the effective date of the
5204 exemption.
5205 5. This paragraph is subject to the Open Government Sunset
5206 Review Act in accordance with s. 119.15, and shall stand
5207 repealed on October 2, 2017, unless reviewed and saved from
5208 repeal through reenactment by the Legislature.
5209 Section 123. Subsection (17) of section 120.80, Florida
5210 Statutes, is amended to read:
5211 120.80 Exceptions and special requirements; agencies.—
5212 (17) STATE FIRE MARSHAL.—Section 120.541(3) does not apply
5213 to the adoption of amendments and the triennial update to the
5214 Florida Fire Prevention Code expressly authorized by s. 633.202
5215 ~~633.0215~~.
5216 Section 124. Subsection (3) and paragraph (a) of subsection
5217 (6) of section 121.0515, Florida Statutes, are amended to read:
5218 121.0515 Special Risk Class.—
5219 (3) CRITERIA.—A member, to be designated as a special risk
5220 member, must meet the following criteria:

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5221 (a) Effective October 1, 1978, the member must be employed
5222 as a law enforcement officer and be certified, or required to be
5223 certified, in compliance with s. 943.1395; however, sheriffs and
5224 elected police chiefs are excluded from meeting the
5225 certification requirements of this paragraph. In addition, the
5226 member's duties and responsibilities must include the pursuit,
5227 apprehension, and arrest of law violators or suspected law
5228 violators; or as of July 1, 1982, the member must be an active
5229 member of a bomb disposal unit whose primary responsibility is
5230 the location, handling, and disposal of explosive devices; or
5231 the member must be the supervisor or command officer of a member
5232 or members who have such responsibilities. Administrative
5233 support personnel, including, but not limited to, those whose
5234 primary duties and responsibilities are in accounting,
5235 purchasing, legal, and personnel, are not included;
5236 (b) Effective October 1, 1978, the member must be employed
5237 as a firefighter and be certified, or required to be certified,
5238 in compliance with s. 633.408 ~~633.35~~ and be employed solely
5239 within the fire department of a local government employer or an
5240 agency of state government with firefighting responsibilities.
5241 In addition, the member's duties and responsibilities must
5242 include on-the-scene fighting of fires; as of October 1, 2001,
5243 fire prevention or firefighter training; as of October 1, 2001,
5244 direct supervision of firefighting units, fire prevention, or
5245 firefighter training; or as of July 1, 2001, aerial firefighting
5246 surveillance performed by fixed-wing aircraft pilots employed by
5247 the Florida Forest Service of the Department of Agriculture and
5248 Consumer Services; or the member must be the supervisor or
5249 command officer of a member or members who have such

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5250 responsibilities. Administrative support personnel, including,
5251 but not limited to, those whose primary duties and
5252 responsibilities are in accounting, purchasing, legal, and
5253 personnel, are not included. All periods of creditable service
5254 in fire prevention or firefighter training, or as the supervisor
5255 or command officer of a member or members who have such
5256 responsibilities, and for which the employer paid the special
5257 risk contribution rate, are included;
5258 (c) Effective October 1, 1978, the member must be employed
5259 as a correctional officer and be certified, or required to be
5260 certified, in compliance with s. 943.1395. In addition, the
5261 member's primary duties and responsibilities must be the
5262 custody, and physical restraint when necessary, of prisoners or
5263 inmates within a prison, jail, or other criminal detention
5264 facility, or while on work detail outside the facility, or while
5265 being transported; or as of July 1, 1984, the member must be the
5266 supervisor or command officer of a member or members who have
5267 such responsibilities. Administrative support personnel,
5268 including, but not limited to, those whose primary duties and
5269 responsibilities are in accounting, purchasing, legal, and
5270 personnel, are not included; however, wardens and assistant
5271 wardens, as defined by rule, are included;
5272 (d) Effective October 1, 1999, the member must be employed
5273 by a licensed Advance Life Support (ALS) or Basic Life Support
5274 (BLS) employer as an emergency medical technician or a paramedic
5275 and be certified in compliance with s. 401.27. In addition, the
5276 member's primary duties and responsibilities must include on-
5277 the-scene emergency medical care or as of October 1, 2001,
5278 direct supervision of emergency medical technicians or

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5279 paramedics, or the member must be the supervisor or command
5280 officer of one or more members who have such responsibility.
5281 Administrative support personnel, including, but not limited to,
5282 those whose primary responsibilities are in accounting,
5283 purchasing, legal, and personnel, are not included;
5284 (e) Effective January 1, 2001, the member must be employed
5285 as a community-based correctional probation officer and be
5286 certified, or required to be certified, in compliance with s.
5287 943.1395. In addition, the member's primary duties and
5288 responsibilities must be the supervised custody, surveillance,
5289 control, investigation, and counseling of assigned inmates,
5290 probationers, parolees, or community controllees within the
5291 community; or the member must be the supervisor of a member or
5292 members who have such responsibilities. Administrative support
5293 personnel, including, but not limited to, those whose primary
5294 duties and responsibilities are in accounting, purchasing, legal
5295 services, and personnel management, are not included; however,
5296 probation and parole circuit and deputy circuit administrators
5297 are included;
5298 (f) Effective January 1, 2001, the member must be employed
5299 in one of the following classes and must spend at least 75
5300 percent of his or her time performing duties which involve
5301 contact with patients or inmates in a correctional or forensic
5302 facility or institution:
5303 1. Dietitian (class codes 5203 and 5204);
5304 2. Public health nutrition consultant (class code 5224);
5305 3. Psychological specialist (class codes 5230 and 5231);
5306 4. Psychologist (class code 5234);
5307 5. Senior psychologist (class codes 5237 and 5238);

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5308 6. Regional mental health consultant (class code 5240);
5309 7. Psychological Services Director—DCF (class code 5242);
5310 8. Pharmacist (class codes 5245 and 5246);
5311 9. Senior pharmacist (class codes 5248 and 5249);
5312 10. Dentist (class code 5266);
5313 11. Senior dentist (class code 5269);
5314 12. Registered nurse (class codes 5290 and 5291);
5315 13. Senior registered nurse (class codes 5292 and 5293);
5316 14. Registered nurse specialist (class codes 5294 and
5317 5295);
5318 15. Clinical associate (class codes 5298 and 5299);
5319 16. Advanced registered nurse practitioner (class codes
5320 5297 and 5300);
5321 17. Advanced registered nurse practitioner specialist
5322 (class codes 5304 and 5305);
5323 18. Registered nurse supervisor (class codes 5306 and
5324 5307);
5325 19. Senior registered nurse supervisor (class codes 5308
5326 and 5309);
5327 20. Registered nursing consultant (class codes 5312 and
5328 5313);
5329 21. Quality management program supervisor (class code
5330 5314);
5331 22. Executive nursing director (class codes 5320 and 5321);
5332 23. Speech and hearing therapist (class code 5406); or
5333 24. Pharmacy manager (class code 5251);
5334 (g) Effective July 1, 2001, the member must be employed as
5335 a youth custody officer and be certified, or required to be
5336 certified, in compliance with s. 943.1395. In addition, the

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5337 member's primary duties and responsibilities must be the
5338 supervised custody, surveillance, control, investigation,
5339 apprehension, arrest, and counseling of assigned juveniles
5340 within the community;
5341 (h) Effective October 1, 2005, through June 30, 2008, the
5342 member must be employed by a law enforcement agency or medical
5343 examiner's office in a forensic discipline recognized by the
5344 International Association for Identification and must qualify
5345 for active membership in the International Association for
5346 Identification. The member's primary duties and responsibilities
5347 must include the collection, examination, preservation,
5348 documentation, preparation, or analysis of physical evidence or
5349 testimony, or both, or the member must be the direct supervisor,
5350 quality management supervisor, or command officer of one or more
5351 individuals with such responsibility. Administrative support
5352 personnel, including, but not limited to, those whose primary
5353 responsibilities are clerical or in accounting, purchasing,
5354 legal, and personnel, are not included;
5355 (i) Effective July 1, 2008, the member must be employed by
5356 the Department of Law Enforcement in the crime laboratory or by
5357 the Division of State Fire Marshal in the forensic laboratory in
5358 one of the following classes:
5359 1. Forensic technologist (class code 8459);
5360 2. Crime laboratory technician (class code 8461);
5361 3. Crime laboratory analyst (class code 8463);
5362 4. Senior crime laboratory analyst (class code 8464);
5363 5. Crime laboratory analyst supervisor (class code 8466);
5364 6. Forensic chief (class code 9602); or
5365 7. Forensic services quality manager (class code 9603);

5366 (j) Effective July 1, 2008, the member must be employed by
5367 a local government law enforcement agency or medical examiner's
5368 office and must spend at least 65 percent of his or her time
5369 performing duties that involve the collection, examination,
5370 preservation, documentation, preparation, or analysis of human
5371 tissues or fluids or physical evidence having potential
5372 biological, chemical, or radiological hazard or contamination,
5373 or use chemicals, processes, or materials that may have
5374 carcinogenic or health-damaging properties in the analysis of
5375 such evidence, or the member must be the direct supervisor of
5376 one or more individuals having such responsibility. If a special
5377 risk member changes to another position within the same agency,
5378 he or she must submit a complete application as provided in
5379 paragraph (4)(a); or
5380 (k) The member must have already qualified for and be
5381 actively participating in special risk membership under
5382 paragraph (a), paragraph (b), or paragraph (c), must have
5383 suffered a qualifying injury as defined in this paragraph, must
5384 not be receiving disability retirement benefits as provided in
5385 s. 121.091(4), and must satisfy the requirements of this
5386 paragraph.
5387 1. The ability to qualify for the class of membership
5388 defined in paragraph (2)(i) occurs when two licensed medical
5389 physicians, one of whom is a primary treating physician of the
5390 member, certify the existence of the physical injury and medical
5391 condition that constitute a qualifying injury as defined in this
5392 paragraph and that the member has reached maximum medical
5393 improvement after August 1, 2008. The certifications from the
5394 licensed medical physicians must include, at a minimum, that the

5395 injury to the special risk member has resulted in a physical
5396 loss, or loss of use, of at least two of the following: left
5397 arm, right arm, left leg, or right leg; and:
5398 a. That this physical loss or loss of use is total and
5399 permanent, except if ~~in the event that~~ the loss of use is due to
5400 a physical injury to the member's brain, in which event the loss
5401 of use is permanent with at least 75 percent loss of motor
5402 function with respect to each arm or leg affected.
5403 b. That this physical loss or loss of use renders the
5404 member physically unable to perform the essential job functions
5405 of his or her special risk position.
5406 c. That, notwithstanding this physical loss or loss of use,
5407 the individual can ~~is able to~~ perform the essential job
5408 functions required by the member's new position, as provided in
5409 subparagraph 3.
5410 d. That use of artificial limbs is ~~either~~ not possible or
5411 does not alter the member's ability to perform the essential job
5412 functions of the member's position.
5413 e. That the physical loss or loss of use is a direct result
5414 of a physical injury and not a result of any mental,
5415 psychological, or emotional injury.
5416 2. For the purposes of this paragraph, "qualifying injury"
5417 means an injury sustained in the line of duty, as certified by
5418 the member's employing agency, by a special risk member that
5419 does not result in total and permanent disability as defined in
5420 s. 121.091(4)(b). An injury is a qualifying injury if the injury
5421 is a physical injury to the member's physical body resulting in
5422 a physical loss, or loss of use, of at least two of the
5423 following: left arm, right arm, left leg, or right leg.

5424 Notwithstanding any other provision of this section, an injury
5425 that would otherwise qualify as a qualifying injury is not
5426 considered a qualifying injury if and when the member ceases
5427 employment with the employer for whom he or she was providing
5428 special risk services on the date the injury occurred.
5429 3. The new position, as described in sub-subparagraph 1.c.,
5430 that is required for qualification as a special risk member
5431 under this paragraph is not required to be a position with
5432 essential job functions that entitle an individual to special
5433 risk membership. Whether a new position as described in sub-
5434 subparagraph 1.c. exists and is available to the special risk
5435 member is a decision to be made solely by the employer in
5436 accordance with its hiring practices and applicable law.
5437 4. This paragraph does not grant or create additional
5438 rights for any individual to continued employment or to be hired
5439 or rehired by his or her employer that are not already provided
5440 within the Florida Statutes, the State Constitution, the
5441 Americans with Disabilities Act, if applicable, or any other
5442 applicable state or federal law.
5443 (6) CREDIT FOR PAST SERVICE.—A special risk member may
5444 purchase retirement credit in the Special Risk Class based upon
5445 past service, and may upgrade retirement credit for such past
5446 service, to the extent of 2 percent of the member's average
5447 monthly compensation as specified in s. 121.091(1)(a) for such
5448 service as follows:
5449 (a) The member may purchase special risk credit for past
5450 service with a municipality or special district which has
5451 elected to join the Florida Retirement System, or with a
5452 participating agency to which a member's governmental unit was

5453 transferred, merged, or consolidated as provided in s.
5454 121.081(1)(f), if the member was employed with the municipality
5455 or special district when ~~at the time~~ it commenced participating
5456 in the Florida Retirement System or with the governmental unit
5457 at the time of its transfer, merger, or consolidation with the
5458 participating agency. The service must satisfy the criteria set
5459 forth in subsection (3) for Special Risk Class membership as a
5460 law enforcement officer, firefighter, or correctional officer;
5461 however, a certificate or waiver of certificate of compliance
5462 with s. 943.1395 or s. 633.408 ~~633.35~~ is not required for such
5463 service.
5464 Section 125. Paragraph (d) of subsection (1) of section
5465 125.01, Florida Statutes, is amended to read:
5466 125.01 Powers and duties.—
5467 (1) The legislative and governing body of a county shall
5468 have the power to carry on county government. To the extent not
5469 inconsistent with general or special law, this power includes,
5470 but is not restricted to, the power to:
5471 (d) Provide fire protection, including the enforcement of
5472 the Florida Fire Prevention Code, as provided in ss. 633.206
5473 ~~633.022~~ and 633.208 ~~633.025~~, and adopt and enforce local
5474 technical amendments to the Florida Fire Prevention Code as
5475 provided in those sections and pursuant to s. 633.202 ~~633.0215~~.
5476 Section 126. Subsection (2) of section 125.01045, Florida
5477 Statutes, is amended to read:
5478 125.01045 Prohibition of fees for first responder
5479 services.—
5480 (2) As used in this section, the term “first responder”
5481 means a law enforcement officer as defined in s. 943.10, a

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5482 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency
5483 medical technician or paramedic as defined in s. 401.23 who is
5484 employed by the state or a local government. A volunteer law
5485 enforcement officer, firefighter, or emergency medical
5486 technician or paramedic engaged by the state or a local
5487 government is also considered a first responder of the state or
5488 local government for purposes of this section.
5489 Section 127. Subsection (1) of section 125.56, Florida
5490 Statutes, is amended to read:
5491 125.56 Enforcement and amendment of the Florida Building
5492 Code and the Florida Fire Prevention Code; inspection fees;
5493 inspectors; etc.—
5494 (1) The board of county commissioners of each of the
5495 several counties of the state may ~~is authorized to~~ enforce the
5496 Florida Building Code and the Florida Fire Prevention Code, as
5497 provided in ss. 553.80, 633.206 ~~633.022~~, and 633.208 ~~633.025~~,
5498 and, at its discretion, to adopt local technical amendments to
5499 the Florida Building Code, pursuant to s. 553.73(4)(b) and (c)
5500 and local technical amendments to the Florida Fire Prevention
5501 Code, pursuant to s. 633.202 ~~633.0215~~, to provide for the safe
5502 construction, erection, alteration, repair, securing, and
5503 demolition of any building within its territory outside the
5504 corporate limits of any municipality. Upon a determination to
5505 consider amending the Florida Building Code or the Florida Fire
5506 Prevention Code by a majority of the members of the board of
5507 county commissioners of such county, the board shall call a
5508 public hearing and comply with the public notice requirements of
5509 s. 125.66(2). The board shall hear all interested parties at the
5510 public hearing and may then amend the building code or the fire

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5511 code consistent with the terms and purposes of this act. Upon
5512 adoption, an amendment to the code shall be in full force and
5513 effect throughout the unincorporated area of such county until
5514 otherwise notified by the Florida Building Commission pursuant
5515 to s. 553.73 or the State Fire Marshal pursuant to s. 633.202
5516 ~~633.0215~~. Nothing herein contained shall be construed to prevent
5517 the board of county commissioners from repealing such amendment
5518 to the building code or the fire code at any regular meeting of
5519 such board.
5520 Section 128. Subsection (2) of section 166.0446, Florida
5521 Statutes, is amended to read:
5522 166.0446 Prohibition of fees for first responder services.—
5523 (2) As used in this section, the term "first responder"
5524 means a law enforcement officer as defined in s. 943.10, a
5525 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency
5526 medical technician or paramedic as defined in s. 401.23 who is
5527 employed by the state or a local government. A volunteer law
5528 enforcement officer, firefighter, or emergency medical
5529 technician or paramedic engaged by the state or a local
5530 government is also considered a first responder of the state or
5531 local government for purposes of this section.
5532 Section 129. Paragraph (a) of subsection (8) of section
5533 175.032, Florida Statutes, is amended to read:
5534 175.032 Definitions.—For any municipality, special fire
5535 control district, chapter plan, local law municipality, local
5536 law special fire control district, or local law plan under this
5537 chapter, the following words and phrases have the following
5538 meanings:
5539 (8)(a) "Firefighter" means a ~~any~~ person employed solely by

5540 a constituted fire department of any municipality or special
5541 fire control district who is certified as a firefighter as a
5542 condition of employment in accordance with s. 633.408 ~~633.35~~ and
5543 whose duty it is to extinguish fires, to protect life, or to
5544 protect property. The term includes all certified, supervisory,
5545 and command personnel whose duties include, in whole or in part,
5546 the supervision, training, guidance, and management
5547 responsibilities of full-time firefighters, part-time
5548 firefighters, or auxiliary firefighters but does not include
5549 part-time firefighters or auxiliary firefighters. However, for
5550 purposes of this chapter only, the term also includes public
5551 safety officers who are responsible for performing both police
5552 and fire services, who are certified as police officers or
5553 firefighters, and who are certified by their employers to the
5554 Chief Financial Officer as participating in this chapter before
5555 October 1, 1979. Effective October 1, 1979, public safety
5556 officers who have not been certified as participating in this
5557 chapter are considered police officers for retirement purposes
5558 and are eligible to participate in chapter 185. Any plan may
5559 provide that the fire chief has an option to participate, or
5560 not, in that plan.
5561 Section 130. Subsection (3) of section 175.121, Florida
5562 Statutes, is amended to read:
5563 175.121 Department of Revenue and Division of Retirement to
5564 keep accounts of deposits; disbursements.—For any municipality
5565 or special fire control district having a chapter or local law
5566 plan established pursuant to this chapter:
5567 (3)(a) All moneys not distributed to municipalities and
5568 special fire control districts under this section as a result of

5569 the limitation on disbursement contained in s. 175.122, or as a
5570 result of any municipality or special fire control district not
5571 having qualified in any given year, or portion thereof, shall be
5572 transferred to the Firefighters' Supplemental Compensation Trust
5573 Fund administered by the Department of Revenue, as provided in
5574 s. 633.422 ~~633.382~~.
5575 (b)1. Moneys transferred under paragraph (a) but not needed
5576 to support the supplemental compensation program in a given year
5577 shall be redistributed pro rata to those participating
5578 municipalities and special fire control districts that transfer
5579 any portion of their funds to support the supplemental
5580 compensation program in that year. Such additional moneys shall
5581 be used to cover or offset costs of the retirement plan.
5582 2. To assist the Department of Revenue, the division shall
5583 identify those municipalities and special fire control districts
5584 that are eligible for redistribution as provided in s.
5585 633.422(3)(c)2. ~~633.382(4)(c)2.~~, by listing the municipalities
5586 and special fire control districts from which funds were
5587 transferred under paragraph (a) and specifying the amount
5588 transferred by each.
5589 Section 131. Paragraph (e) of subsection (1) of section
5590 218.23, Florida Statutes, is amended to read:
5591 218.23 Revenue sharing with units of local government.—
5592 (1) To be eligible to participate in revenue sharing beyond
5593 the minimum entitlement in any fiscal year, a unit of local
5594 government is required to have:
5595 (e) Certified that persons in its employ as firefighters,
5596 as defined in s. 633.102 ~~633.30(1)~~, meet the qualification for
5597 employment as established by the Division of State Fire Marshal

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5598 pursuant to ~~the provisions of~~ ss. 633.412 ~~633.34~~ and 633.408
5599 ~~633.35~~ and that ~~the provisions of~~ s. 633.422 has ~~633.382 have~~
5600 been met.
5601
5602 Additionally, to receive its share of revenue sharing funds, a
5603 unit of local government shall certify to the Department of
5604 Revenue that the requirements of s. 200.065, if applicable, were
5605 met. The certification shall be made annually within 30 days of
5606 adoption of an ordinance or resolution establishing a final
5607 property tax levy or, if no property tax is levied, not later
5608 than November 1. The portion of revenue sharing funds which,
5609 pursuant to this part, would otherwise be distributed to a unit
5610 of local government which has not certified compliance or has
5611 otherwise failed to meet the requirements of s. 200.065 shall be
5612 deposited in the General Revenue Fund for the 12 months
5613 following a determination of noncompliance by the department.
5614 Section 132. Paragraph (a) of subsection (3) of section
5615 252.515, Florida Statutes, is amended to read:
5616 252.515 Postdisaster Relief Assistance Act; immunity from
5617 civil liability.—
5618 (3) As used in this section, the term:
5619 (a) "Emergency first responder" means:
5620 1. A physician licensed under chapter 458.
5621 2. An osteopathic physician licensed under chapter 459.
5622 3. A chiropractic physician licensed under chapter 460.
5623 4. A podiatric physician licensed under chapter 461.
5624 5. A dentist licensed under chapter 466.
5625 6. An advanced registered nurse practitioner certified
5626 under s. 464.012.

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5627 7. A physician assistant licensed under s. 458.347 or s.
5628 459.022.
5629 8. A worker employed by a public or private hospital in the
5630 state.
5631 9. A paramedic as defined in s. 401.23(17).
5632 10. An emergency medical technician as defined in s.
5633 401.23(11).
5634 11. A firefighter as defined in s. 633.102 ~~633.30~~.
5635 12. A law enforcement officer as defined in s. 943.10.
5636 13. A member of the Florida National Guard.
5637 14. Any other personnel designated as emergency personnel
5638 by the Governor pursuant to a declared emergency.
5639 Section 133. Section 255.45, Florida Statutes, is amended
5640 to read:
5641 255.45 Correction of firesafety violations in certain
5642 state-owned property.—The Department of Management Services is
5643 responsible for ensuring that firesafety violations that are
5644 noted by the State Fire Marshal pursuant to s. 633.218 ~~633.085~~
5645 are corrected as soon as practicable for all state-owned
5646 property which is leased from the Department of Management
5647 Services.
5648 Section 134. Subsection (4) of section 258.0145, Florida
5649 Statutes, is amended to read:
5650 258.0145 Military state park fee discounts.—The Division of
5651 Recreation and Parks shall provide the following discounts on
5652 park fees to persons who present written documentation
5653 satisfactory to the division which evidences their eligibility
5654 for the discounts:
5655 (4) The surviving spouse and parents of a law enforcement

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5656 officer, as defined in s. 943.10(1), or a firefighter, as
5657 defined in s. 633.102 ~~633.30(1)~~, who has died in the line of
5658 duty shall receive lifetime family annual entrance passes at no
5659 charge.
5660 Section 135. Subsection (1) of section 281.02, Florida
5661 Statutes, is amended to read:
5662 281.02 Powers and duties of the Department of Management
5663 Services with respect to firesafety and security.—The Department
5664 of Management Services has the following powers and duties with
5665 respect to firesafety and security:
5666 (1) To assist the State Fire Marshal in maintaining the
5667 firesafety of public buildings pursuant to s. 633.218 ~~633.085~~.
5668 Section 136. Subsection (1) of section 384.287, Florida
5669 Statutes, is amended to read:
5670 384.287 Screening for sexually transmissible disease.—
5671 (1) An officer as defined in s. 943.10(14); support
5672 personnel as defined in s. 943.10(11) who are employed by the
5673 Department of Law Enforcement, including, but not limited to,
5674 any crime scene analyst, forensic technologist, or crime lab
5675 analyst; firefighter as defined in s. 633.102 ~~633.30~~; or
5676 ambulance driver, paramedic, or emergency medical technician as
5677 defined in s. 401.23, acting within the scope of employment, who
5678 comes into contact with a person in such a way that significant
5679 exposure, as defined in s. 381.004, has occurred may request
5680 that the person be screened for a sexually transmissible disease
5681 that can be transmitted through a significant exposure.
5682 Section 137. Paragraph (a) of subsection (1) of section
5683 395.0163, Florida Statutes, is amended to read:
5684 395.0163 Construction inspections; plan submission and

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5685 approval; fees.—
5686 (1)(a) The design, construction, erection, alteration,
5687 modification, repair, and demolition of all public and private
5688 health care facilities are governed by the Florida Building Code
5689 and the Florida Fire Prevention Code under ss. 553.73 and
5690 633.206 ~~633.022~~. In addition to the requirements of ss. 553.79
5691 and 553.80, the agency shall review facility plans and survey
5692 the construction of any facility licensed under this chapter.
5693 The agency shall make, or cause to be made, such construction
5694 inspections and investigations as it deems necessary. The agency
5695 may prescribe by rule that any licensee or applicant desiring to
5696 make specified types of alterations or additions to its
5697 facilities or to construct new facilities shall, before
5698 commencing such alteration, addition, or new construction,
5699 submit plans and specifications therefor to the agency for
5700 preliminary inspection and approval or recommendation with
5701 respect to compliance with applicable provisions of the Florida
5702 Building Code or agency rules and standards. The agency shall
5703 approve or disapprove the plans and specifications within 60
5704 days after receipt of the fee for review of plans as required in
5705 subsection (2). The agency may be granted one 15-day extension
5706 for the review period if the director of the agency approves the
5707 extension. If the agency fails to act within the specified time,
5708 it shall be deemed to have approved the plans and
5709 specifications. When the agency disapproves plans and
5710 specifications, it shall set forth in writing the reasons for
5711 its disapproval. Conferences and consultations may be provided
5712 as necessary.
5713 Section 138. Section 400.232, Florida Statutes, is amended

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5714 to read:
5715 400.232 Review and approval of plans; fees and costs.—The
5716 design, construction, erection, alteration, modification,
5717 repair, and demolition of all public and private health care
5718 facilities are governed by the Florida Building Code and the
5719 Florida Fire Prevention Code under ss. 553.73 and 633.206
5720 ~~633.022~~. In addition to the requirements of ss. 553.79 and
5721 553.80, the agency shall review the facility plans and survey
5722 the construction of facilities licensed under this chapter.
5723 (1) The agency shall approve or disapprove the plans and
5724 specifications within 60 days after receipt of the final plans
5725 and specifications. The agency may be granted one 15-day
5726 extension for the review period, if the director of the agency
5727 so approves. If the agency fails to act within the specified
5728 time, it shall be deemed to have approved the plans and
5729 specifications. When the agency disapproves plans and
5730 specifications, it shall set forth in writing the reasons for
5731 disapproval. Conferences and consultations may be provided as
5732 necessary.
5733 (2) The agency may ~~is authorized to~~ charge an initial fee
5734 of $2,000 for review of plans and construction on all projects,
5735 no part of which is refundable. The agency may also collect a
5736 fee, not to exceed 1 percent of the estimated construction cost
5737 or the actual cost of review, whichever is less, for the portion
5738 of the review which encompasses initial review through the
5739 initial revised construction document review. The agency is
5740 further authorized to collect its actual costs on all subsequent
5741 portions of the review and construction inspections. Initial fee
5742 payment shall accompany the initial submission of plans and

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5743 specifications. Any subsequent payment that is due is payable
5744 upon receipt of the invoice from the agency. Notwithstanding any
5745 other ~~provisions of~~ law to the contrary, all money received by
5746 the agency pursuant to ~~the provisions of~~ this section shall be
5747 ~~deemed to be~~ trust funds, to be held and applied solely for the
5748 operations required under this section.
5749 Section 139. Section 400.915, Florida Statutes, is amended
5750 to read:
5751 400.915 Construction and renovation; requirements.—The
5752 requirements for the construction or renovation of a PPEC center
5753 shall comply with:
5754 (1) The provisions of chapter 553, which pertain to
5755 building construction standards, including plumbing, electrical
5756 code, glass, manufactured buildings, accessibility for the
5757 physically disabled;
5758 (2) Section 633.206 ~~The provisions of s. 633.022~~ and
5759 applicable rules pertaining to physical standards for
5760 nonresidential child care facilities; and
5761 (3) The standards or rules adopted pursuant to this part
5762 and part II of chapter 408.
5763 Section 140. Paragraph (a) of subsection (1) of section
5764 429.41, Florida Statutes, is amended to read:
5765 429.41 Rules establishing standards.—
5766 (1) It is the intent of the Legislature that rules
5767 published and enforced pursuant to this section shall include
5768 criteria by which a reasonable and consistent quality of
5769 resident care and quality of life may be ensured and the results
5770 of such resident care may be demonstrated. Such rules shall also
5771 ensure a safe and sanitary environment that is residential and

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5772 noninstitutional in design or nature. It is further intended
5773 that reasonable efforts be made to accommodate the needs and
5774 preferences of residents to enhance the quality of life in a
5775 facility. The agency, in consultation with the department, may
5776 adopt rules to administer the requirements of part II of chapter
5777 408. In order to provide safe and sanitary facilities and the
5778 highest quality of resident care accommodating the needs and
5779 preferences of residents, the department, in consultation with
5780 the agency, the Department of Children and Family Services, and
5781 the Department of Health, shall adopt rules, policies, and
5782 procedures to administer this part, which must include
5783 reasonable and fair minimum standards in relation to:
5784 (a) The requirements for and maintenance of facilities, not
5785 in conflict with ~~the provisions of~~ chapter 553, relating to
5786 plumbing, heating, cooling, lighting, ventilation, living space,
5787 and other housing conditions, which will ensure the health,
5788 safety, and comfort of residents and protection from fire
5789 hazard, including adequate provisions for fire alarm and other
5790 fire protection suitable to the size of the structure. Uniform
5791 firesafety standards shall be established and enforced by the
5792 State Fire Marshal in cooperation with the agency, the
5793 department, and the Department of Health.
5794 1. Evacuation capability determination.—
5795 a. The ~~provisions of the~~ National Fire Protection
5796 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
5797 for determining the ability of the residents, with or without
5798 staff assistance, to relocate from or within a licensed facility
5799 to a point of safety as provided in the fire codes adopted
5800 herein. An evacuation capability evaluation for initial

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5801 licensure shall be conducted within 6 months after the date of
5802 licensure. For existing licensed facilities that are not
5803 equipped with an automatic fire sprinkler system, the
5804 administrator shall evaluate the evacuation capability of
5805 residents at least annually. The evacuation capability
5806 evaluation for each facility not equipped with an automatic fire
5807 sprinkler system shall be validated, without liability, by the
5808 State Fire Marshal, by the local fire marshal, or by the local
5809 authority having jurisdiction over firesafety, before the
5810 license renewal date. If the State Fire Marshal, local fire
5811 marshal, or local authority having jurisdiction over firesafety
5812 has reason to believe that the evacuation capability of a
5813 facility as reported by the administrator may have changed, it
5814 may, with assistance from the facility administrator, reevaluate
5815 the evacuation capability through timed exiting drills.
5816 Translation of timed fire exiting drills to evacuation
5817 capability may be determined:
5818 (I) Three minutes or less: prompt.
5819 (II) More than 3 minutes, but not more than 13 minutes:
5820 slow.
5821 (III) More than 13 minutes: impractical.
5822 b. The Office of the State Fire Marshal shall provide or
5823 cause the provision of training and education on the proper
5824 application of Chapter 5, NFPA 101A, 1995 edition, to its
5825 employees, to staff of the Agency for Health Care Administration
5826 who are responsible for regulating facilities under this part,
5827 and to local governmental inspectors. The Office of the State
5828 Fire Marshal shall provide or cause the provision of this
5829 training within its existing budget, but may charge a fee for

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5830 this training to offset its costs. The initial training must be
5831 delivered within 6 months after July 1, 1995, and as needed
5832 thereafter.
5833 c. The Office of the State Fire Marshal, in cooperation
5834 with provider associations, shall provide or cause the provision
5835 of a training program designed to inform facility operators on
5836 how to properly review bid documents relating to the
5837 installation of automatic fire sprinklers. The Office of the
5838 State Fire Marshal shall provide or cause the provision of this
5839 training within its existing budget, but may charge a fee for
5840 this training to offset its costs. The initial training must be
5841 delivered within 6 months after July 1, 1995, and as needed
5842 thereafter.
5843 d. The administrator of a licensed facility shall sign an
5844 affidavit verifying the number of residents occupying the
5845 facility at the time of the evacuation capability evaluation.
5846 2. Firesafety requirements.—
5847 a. Except for the special applications provided herein,
5848 effective January 1, 1996, the ~~provisions of the~~ National Fire
5849 Protection Association, Life Safety Code, NFPA 101, 1994
5850 edition, Chapter 22 for new facilities and Chapter 23 for
5851 existing facilities shall be the uniform fire code applied by
5852 the State Fire Marshal for assisted living facilities, pursuant
5853 to s. 633.206 ~~633.022~~.
5854 b. Any new facility, regardless of size, that applies for a
5855 license on or after January 1, 1996, must be equipped with an
5856 automatic fire sprinkler system. The exceptions as provided in
5857 s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply
5858 to any new facility housing eight or fewer residents. On July 1,

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5859 1995, local governmental entities responsible for the issuance
5860 of permits for construction shall inform, without liability, any
5861 facility whose permit for construction is obtained before ~~prior~~
5862 ~~to~~ January 1, 1996, of this automatic fire sprinkler
5863 requirement. As used in this part, the term "a new facility"
5864 does not mean an existing facility that has undergone change of
5865 ownership.
5866 c. Notwithstanding any provision of s. 633.206 ~~633.022~~ or
5867 of the National Fire Protection Association, NFPA 101A, Chapter
5868 5, 1995 edition, to the contrary, any existing facility housing
5869 eight or fewer residents is not required to install an automatic
5870 fire sprinkler system, nor to comply with any other requirement
5871 in Chapter 23, NFPA 101, 1994 edition, that exceeds the
5872 firesafety requirements of NFPA 101, 1988 edition, that applies
5873 to this size facility, unless the facility has been classified
5874 as impractical to evacuate. Any existing facility housing eight
5875 or fewer residents that is classified as impractical to evacuate
5876 must install an automatic fire sprinkler system within the
5877 timeframes granted in this section.
5878 d. Any existing facility that is required to install an
5879 automatic fire sprinkler system under this paragraph need not
5880 meet other firesafety requirements of Chapter 23, NFPA 101, 1994
5881 edition, which exceed the provisions of NFPA 101, 1988 edition.
5882 The mandate contained in this paragraph which requires certain
5883 facilities to install an automatic fire sprinkler system
5884 supersedes any other requirement.
5885 e. This paragraph does not supersede the exceptions granted
5886 in NFPA 101, 1988 edition or 1994 edition.
5887 f. This paragraph does not exempt facilities from other

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5888 firesafety provisions adopted under s. 633.206 ~~633.022~~ and local
5889 building code requirements in effect before July 1, 1995.
5890 g. A local government may charge fees only in an amount not
5891 to exceed the actual expenses incurred by local government
5892 relating to the installation and maintenance of an automatic
5893 fire sprinkler system in an existing and properly licensed
5894 assisted living facility structure as of January 1, 1996.
5895 h. If a licensed facility undergoes major reconstruction or
5896 addition to an existing building on or after January 1, 1996,
5897 the entire building must be equipped with an automatic fire
5898 sprinkler system. Major reconstruction of a building means
5899 repair or restoration that costs in excess of 50 percent of the
5900 value of the building as reported on the tax rolls, excluding
5901 land, before reconstruction. Multiple reconstruction projects
5902 within a 5-year period the total costs of which exceed 50
5903 percent of the initial value of the building when ~~at the time~~
5904 the first reconstruction project was permitted are to be
5905 considered as major reconstruction. Application for a permit for
5906 an automatic fire sprinkler system is required upon application
5907 for a permit for a reconstruction project that creates costs
5908 that go over the 50-percent threshold.
5909 i. Any facility licensed before January 1, 1996, that is
5910 required to install an automatic fire sprinkler system shall
5911 ensure that the installation is completed within the following
5912 timeframes based upon evacuation capability of the facility as
5913 determined under subparagraph 1.:
5914 (I) Impractical evacuation capability, 24 months.
5915 (II) Slow evacuation capability, 48 months.
5916 (III) Prompt evacuation capability, 60 months.

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5917

5918 The beginning date from which the deadline for the automatic
5919 fire sprinkler installation requirement must be calculated is
5920 upon receipt of written notice from the local fire official that
5921 an automatic fire sprinkler system must be installed. The local
5922 fire official shall send a copy of the document indicating the
5923 requirement of a fire sprinkler system to the Agency for Health
5924 Care Administration.
5925 j. It is recognized that the installation of an automatic
5926 fire sprinkler system may create financial hardship for some
5927 facilities. The appropriate local fire official shall, without
5928 liability, grant two 1-year extensions to the timeframes for
5929 installation established herein, if an automatic fire sprinkler
5930 installation cost estimate and proof of denial from two
5931 financial institutions for a construction loan to install the
5932 automatic fire sprinkler system are submitted. However, for any
5933 facility with a class I or class II, or a history of uncorrected
5934 class III, firesafety deficiencies, an extension must not be
5935 granted. The local fire official shall send a copy of the
5936 document granting the time extension to the Agency for Health
5937 Care Administration.
5938 k. A facility owner whose facility is required to be
5939 equipped with an automatic fire sprinkler system under Chapter
5940 23, NFPA 101, 1994 edition, as adopted herein, must disclose to
5941 any potential buyer of the facility that an installation of an
5942 automatic fire sprinkler requirement exists. The sale of the
5943 facility does not alter the timeframe for the installation of
5944 the automatic fire sprinkler system.
5945 l. Existing facilities required to install an automatic

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5946 fire sprinkler system as a result of construction-type
5947 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted
5948 herein, or evacuation capability requirements shall be notified
5949 by the local fire official in writing of the automatic fire
5950 sprinkler requirement, as well as the appropriate date for final
5951 compliance as provided in this subparagraph. The local fire
5952 official shall send a copy of the document to the Agency for
5953 Health Care Administration.
5954 m. Except in cases of life-threatening fire hazards, if an
5955 existing facility experiences a change in the evacuation
5956 capability, or if the local authority having jurisdiction
5957 identifies a construction-type restriction, such that an
5958 automatic fire sprinkler system is required, it shall be given
5959 ~~afforded~~ time for installation as provided in this subparagraph.
5960

5961 Facilities that are fully sprinkled and in compliance with other
5962 firesafety standards are not required to conduct more than one
5963 of the required fire drills between the hours of 11 p.m. and 7
5964 a.m., per year. In lieu of the remaining drills, staff
5965 responsible for residents during such hours may be required to
5966 participate in a mock drill that includes a review of evacuation
5967 procedures. Such standards must be included or referenced in the
5968 rules adopted by the State Fire Marshal. Pursuant to s.
5969 633.206(1)(b) ~~633.022(1)(b)~~, the State Fire Marshal is the final
5970 administrative authority for firesafety standards established
5971 and enforced pursuant to this section. All licensed facilities
5972 must have an annual fire inspection conducted by the local fire
5973 marshal or authority having jurisdiction.
5974 3. Resident elopement requirements.—Facilities are required

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5975 to conduct a minimum of two resident elopement prevention and
5976 response drills per year. All administrators and direct care
5977 staff must participate in the drills which shall include a
5978 review of procedures to address resident elopement. Facilities
5979 must document the implementation of the drills and ensure that
5980 the drills are conducted in a manner consistent with the
5981 facility's resident elopement policies and procedures.
5982 Section 141. Subsection (1) of section 429.44, Florida
5983 Statutes, is amended to read:
5984 429.44 Construction and renovation; requirements.—
5985 (1) The requirements for the construction and renovation of
5986 a facility shall comply with ~~the provisions of~~ chapter 553 which
5987 pertain to building construction standards, including plumbing,
5988 electrical code, glass, manufactured buildings, accessibility
5989 for persons with disabilities, and the state minimum building
5990 code and with ~~the provisions of~~ s. 633.206 ~~633.022~~, which
5991 pertain to uniform firesafety standards.
5992 Section 142. Subsection (2) of section 429.73, Florida
5993 Statutes, is amended to read:
5994 429.73 Rules and standards relating to adult family-care
5995 homes.—
5996 (2) The department shall by rule provide minimum standards
5997 and procedures for emergencies. Pursuant to s. 633.206 ~~633.022~~,
5998 the State Fire Marshal, in consultation with the department and
5999 the agency, shall adopt uniform firesafety standards for adult
6000 family-care homes.
6001 Section 143. Subsection (4) of section 447.203, Florida
6002 Statutes, is amended to read:
6003 447.203 Definitions.—As used in this part:

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6004 (4) "Managerial employees" are those employees who:
6005 (a) Perform jobs that are not of a routine, clerical, or
6006 ministerial nature and require the exercise of independent
6007 judgment in the performance of such jobs and to whom one or more
6008 of the following applies:
6009 1. They formulate or assist in formulating policies which
6010 are applicable to bargaining unit employees.
6011 2. They may reasonably be required on behalf of the
6012 employer to assist in the preparation for the conduct of
6013 collective bargaining negotiations.
6014 3. They have a role in the administration of agreements
6015 resulting from collective bargaining negotiations.
6016 4. They have a significant role in personnel
6017 administration.
6018 5. They have a significant role in employee relations.
6019 6. They are included in the definition of administrative
6020 personnel contained in s. 1012.01(3).
6021 7. They have a significant role in the preparation or
6022 administration of budgets for any public agency or institution
6023 or subdivision thereof.
6024 (b) Serve as police chiefs, fire chiefs, or directors of
6025 public safety of any police, fire, or public safety department.
6026 Other police officers, as defined in s. 943.10(1), and
6027 firefighters, as defined in s. 633.102 ~~633.30(1)~~, may be
6028 determined by the commission to be managerial employees of such
6029 departments. In making such determinations, the commission shall
6030 consider, in addition to the criteria established in paragraph
6031 (a), the paramilitary organizational structure of the department
6032 involved.

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6033
6034 However, in determining whether an individual is a managerial
6035 employee pursuant to ~~either~~ paragraph (a) or paragraph (b),
6036 above, the commission may consider historic relationships of the
6037 employee to the public employer and to coemployees.
6038 Section 144. Subsection (1) of section 468.602, Florida
6039 Statutes, is amended to read:
6040 468.602 Exemptions.—This part does not apply to:
6041 (1) Persons who possess a valid certificate, issued
6042 pursuant to s. 633.216 ~~633.081~~, for conducting firesafety
6043 inspections, when conducting firesafety inspections.
6044 Section 145. Paragraph (c) of subsection (2) of section
6045 468.609, Florida Statutes, is amended to read:
6046 468.609 Administration of this part; standards for
6047 certification; additional categories of certification.—
6048 (2) A person may take the examination for certification as
6049 a building code inspector or plans examiner pursuant to this
6050 part if the person:
6051 (c) Meets eligibility requirements according to one of the
6052 following criteria:
6053 1. Demonstrates 5 years' combined experience in the field
6054 of construction or a related field, building code inspection, or
6055 plans review corresponding to the certification category sought;
6056 2. Demonstrates a combination of postsecondary education in
6057 the field of construction or a related field and experience
6058 which totals 4 years, with at least 1 year of such total being
6059 experience in construction, building code inspection, or plans
6060 review;
6061 3. Demonstrates a combination of technical education in the

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6062 field of construction or a related field and experience which
6063 totals 4 years, with at least 1 year of such total being
6064 experience in construction, building code inspection, or plans
6065 review;
6066 4. Currently holds a standard certificate as issued by the
6067 board, or a fire safety inspector license issued pursuant to
6068 chapter 633, has a minimum of 5 years' verifiable full-time
6069 experience in inspection or plan review, and satisfactorily
6070 completes a building code inspector or plans examiner training
6071 program of not less than 200 hours in the certification category
6072 sought. The board shall establish by rule criteria for the
6073 development and implementation of the training programs; or
6074 5. Demonstrates a combination of the completion of an
6075 approved training program in the field of building code
6076 inspection or plan review and a minimum of 2 years' experience
6077 in the field of building code inspection, plan review, fire code
6078 inspections and fire plans review of new buildings as a
6079 firesafety inspector certified under s. 633.216 ~~633.081(2)~~, or
6080 construction. The approved training portion of this requirement
6081 shall include proof of satisfactory completion of a training
6082 program of not less than 300 hours which is approved by the
6083 board in the chosen category of building code inspection or plan
6084 review in the certification category sought with not less than
6085 20 hours of instruction in state laws, rules, and ethics
6086 relating to professional standards of practice, duties, and
6087 responsibilities of a certificateholder. The board shall
6088 coordinate with the Building Officials Association of Florida,
6089 Inc., to establish by rule the development and implementation of
6090 the training program.

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6091 Section 146. Subsection (22) of section 489.103, Florida
6092 Statutes, is amended to read:
6093 489.103 Exemptions.—This part does not apply to:
6094 (22) A person licensed pursuant to s. 633.304(1)(d)
6095 ~~633.061(1)(d)~~ or (3)(b) performing work authorized by such
6096 license.
6097 Section 147. Paragraph (n) of subsection (3) of section
6098 489.105, Florida Statutes, is amended to read:
6099 489.105 Definitions.—As used in this part:
6100 (3) "Contractor" means the person who is qualified for, and
6101 is only responsible for, the project contracted for and means,
6102 except as exempted in this part, the person who, for
6103 compensation, undertakes to, submits a bid to, or does himself
6104 or herself or by others construct, repair, alter, remodel, add
6105 to, demolish, subtract from, or improve any building or
6106 structure, including related improvements to real estate, for
6107 others or for resale to others; and whose job scope is
6108 substantially similar to the job scope described in one of the
6109 paragraphs of this subsection. For the purposes of regulation
6110 under this part, the term "demolish" applies only to demolition
6111 of steel tanks more than 50 feet in height; towers more than 50
6112 feet in height; other structures more than 50 feet in height;
6113 and all buildings or residences. Contractors are subdivided into
6114 two divisions, Division I, consisting of those contractors
6115 defined in paragraphs (a)-(c), and Division II, consisting of
6116 those contractors defined in paragraphs (d)-(q):
6117 (n) "Underground utility and excavation contractor" means a
6118 contractor whose services are limited to the construction,
6119 installation, and repair, on public or private property, whether

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6120 accomplished through open excavations or through other means,
6121 including, but not limited to, directional drilling, auger
6122 boring, jacking and boring, trenchless technologies, wet and dry
6123 taps, grouting, and slip lining, of main sanitary sewer
6124 collection systems, main water distribution systems, storm sewer
6125 collection systems, and the continuation of utility lines from
6126 the main systems to a point of termination up to and including
6127 the meter location for the individual occupancy, sewer
6128 collection systems at property line on residential or single-
6129 occupancy commercial properties, or on multioccupancy properties
6130 at manhole or wye lateral extended to an invert elevation as
6131 engineered to accommodate future building sewers, water
6132 distribution systems, or storm sewer collection systems at storm
6133 sewer structures. However, an underground utility and excavation
6134 contractor may install empty underground conduits in rights-of-
6135 way, easements, platted rights-of-way in new site development,
6136 and sleeves for parking lot crossings no smaller than 2 inches
6137 in diameter if each conduit system installed is designed by a
6138 licensed professional engineer or an authorized employee of a
6139 municipality, county, or public utility and the installation of
6140 such conduit does not include installation of any conductor
6141 wiring or connection to an energized electrical system. An
6142 underground utility and excavation contractor may not install
6143 piping that is an integral part of a fire protection system as
6144 defined in s. 633.102 ~~633.021~~ beginning at the point where the
6145 piping is used exclusively for such system.
6146 Section 148. Subsection (9) of section 496.404, Florida
6147 Statutes, is amended to read:
6148 496.404 Definitions.—As used in ss. 496.401-496.424:

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6149 (9) "Emergency service employee" means any employee who is
6150 a firefighter, as defined in s. 633.102 ~~633.30~~, or ambulance
6151 driver, emergency medical technician, or paramedic, as defined
6152 in s. 401.23.
6153 Section 149. Paragraph (a) of subsection (7) of section
6154 509.032, Florida Statutes, is amended to read:
6155 509.032 Duties.—
6156 (7) PREEMPTION AUTHORITY.—
6157 (a) The regulation of public lodging establishments and
6158 public food service establishments, including, but not limited
6159 to, sanitation standards, inspections, training and testing of
6160 personnel, and matters related to the nutritional content and
6161 marketing of foods offered in such establishments, is preempted
6162 to the state. This paragraph does not preempt the authority of a
6163 local government or local enforcement district to conduct
6164 inspections of public lodging and public food service
6165 establishments for compliance with the Florida Building Code and
6166 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
6167 633.206 ~~633.022~~.
6168 Section 150. Section 513.05, Florida Statutes, is amended
6169 to read:
6170 513.05 Rules.—The department may adopt rules pertaining to
6171 the location, construction, modification, equipment, and
6172 operation of mobile home parks, lodging parks, recreational
6173 vehicle parks, and recreational camps, except as provided in s.
6174 633.206 ~~633.022~~, as necessary to administer this chapter. Such
6175 rules may include definitions of terms; requirements for plan
6176 reviews of proposed and existing parks and camps; plan reviews
6177 of parks that consolidate space or change space size; water

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6178 supply; sewage collection and disposal; plumbing and backflow
6179 prevention; garbage and refuse storage, collection, and
6180 disposal; insect and rodent control; space requirements; heating
6181 facilities; food service; lighting; sanitary facilities;
6182 bedding; an occupancy equivalency to spaces for permits for
6183 recreational camps; sanitary facilities in recreational vehicle
6184 parks; and the owners' responsibilities at recreational vehicle
6185 parks and recreational camps.
6186 Section 151. Paragraph (d) of subsection (1) and paragraph
6187 (f) of subsection (11) of section 553.73, Florida Statutes, are
6188 amended to read:
6189 553.73 Florida Building Code.—
6190 (1)
6191 (d) Conflicting requirements between the Florida Building
6192 Code and the Florida Fire Prevention Code and Life Safety Code
6193 of the state established pursuant to ss. 633.206 ~~633.022~~ and
6194 633.208 ~~633.025~~ shall be resolved by agreement between the
6195 commission and the State Fire Marshal in favor of the
6196 requirement that offers the greatest degree of lifesafety or
6197 alternatives that would provide an equivalent degree of
6198 lifesafety and an equivalent method of construction. If the
6199 commission and State Fire Marshal are unable to agree on a
6200 resolution, the question shall be referred to a mediator,
6201 mutually agreeable to both parties, to resolve the conflict in
6202 favor of the provision that offers the greatest lifesafety, or
6203 alternatives that would provide an equivalent degree of
6204 lifesafety and an equivalent method of construction.
6205 (11)
6206 (f) All decisions of the local building official and local

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6207 fire official and all decisions of the administrative board
6208 shall be in writing and shall be binding upon a person ~~all~~
6209 ~~persons~~ but do ~~shall~~ not limit the authority of the State Fire
6210 Marshal or the Florida Building Commission pursuant to paragraph
6211 (1)(d) and ss. 633.104 ~~633.01~~ and 633.228 ~~633.161~~. Decisions of
6212 general application shall be indexed by building and fire code
6213 sections and shall be available for inspection during normal
6214 business hours.
6215 Section 152. Paragraph (e) of subsection (1) of section
6216 553.77, Florida Statutes, is amended to read:
6217 553.77 Specific powers of the commission.—
6218 (1) The commission shall:
6219 (e) Participate with the Florida Fire Code Advisory Council
6220 created under s. 633.204 ~~633.72~~, to provide assistance and
6221 recommendations relating to firesafety code interpretations. The
6222 administrative staff of the commission shall attend meetings of
6223 the Florida Fire Code Advisory Council and coordinate efforts to
6224 provide consistency between the Florida Building Code and the
6225 Florida Fire Prevention Code and the Life Safety Code.
6226 Section 153. Subsections (2) and (12) of section 553.79,
6227 Florida Statutes, are amended to read:
6228 553.79 Permits; applications; issuance; inspections.—
6229 (2) Except as provided in subsection (6), an enforcing
6230 agency may not issue any permit for construction, erection,
6231 alteration, modification, repair, or demolition of any building
6232 or structure until the local building code administrator or
6233 inspector has reviewed the plans and specifications required by
6234 the Florida Building Code, or local amendment thereto, for such
6235 proposal and found the plans to be in compliance with the

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6236 Florida Building Code. If the local building code administrator
6237 or inspector finds that the plans are not in compliance with the
6238 Florida Building Code, the local building code administrator or
6239 inspector shall identify the specific plan features that do not
6240 comply with the applicable codes, identify the specific code
6241 chapters and sections upon which the finding is based, and
6242 provide this information to the local enforcing agency. The
6243 local enforcing agency shall provide this information to the
6244 permit applicant. In addition, an enforcing agency may not issue
6245 any permit for construction, erection, alteration, modification,
6246 repair, or demolition of any building until the appropriate
6247 firesafety inspector certified pursuant to s. 633.216 ~~633.081~~
6248 has reviewed the plans and specifications required by the
6249 Florida Building Code, or local amendment thereto, for such
6250 proposal and found that the plans comply with the Florida Fire
6251 Prevention Code and the Life Safety Code. Any building or
6252 structure which is not subject to a firesafety code shall not be
6253 required to have its plans reviewed by the firesafety inspector.
6254 Any building or structure that is exempt from the local building
6255 permit process may not be required to have its plans reviewed by
6256 the local building code administrator. Industrial construction
6257 on sites where design, construction, and firesafety are
6258 supervised by appropriate design and inspection professionals
6259 and which contain adequate in-house fire departments and rescue
6260 squads is exempt, subject to local government option, from
6261 review of plans and inspections, providing owners certify that
6262 applicable codes and standards have been met and supply
6263 appropriate approved drawings to local building and firesafety
6264 inspectors. The enforcing agency shall issue a permit to

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6265 construct, erect, alter, modify, repair, or demolish any
6266 building or structure when the plans and specifications for such
6267 proposal comply with ~~the provisions of~~ the Florida Building Code
6268 and the Florida Fire Prevention Code and the Life Safety Code as
6269 determined by the local authority in accordance with this
6270 chapter and chapter 633.
6271 (12) One-family and two-family detached residential
6272 dwelling units are not subject to plan review by the local fire
6273 official as described in this section or inspection by the local
6274 fire official as described in s. 633.216 ~~633.081~~, unless
6275 expressly made subject to the ~~said~~ plan review or inspection by
6276 local ordinance.
6277 Section 154. Paragraph (d) of subsection (1) of section
6278 590.02, Florida Statutes, is amended to read:
6279 590.02 Florida Forest Service; powers, authority, and
6280 duties; liability; building structures; Florida Center for
6281 Wildfire and Forest Resources Management Training.—
6282 (1) The Florida Forest Service has the following powers,
6283 authority, and duties:
6284 (d) To appoint center managers, forest area supervisors,
6285 forestry program administrators, a forest protection bureau
6286 chief, a forest protection assistant bureau chief, a field
6287 operations bureau chief, deputy chiefs of field operations,
6288 district managers, forest operations administrators, senior
6289 forest rangers, investigators, forest rangers, firefighter
6290 rotorcraft pilots, and other employees who may, at the Florida
6291 Forest Service's discretion, be certified as forestry
6292 firefighters pursuant to s. 633.408(8) ~~633.35(4)~~. Other
6293 ~~provisions of~~ law notwithstanding, center managers, district

6294 managers, forest protection assistant bureau chief, and deputy
6295 chiefs of field operations shall have Selected Exempt Service
6296 status in the state personnel designation;
6297 Section 155. Section 627.4107, Florida Statutes, is amended
6298 to read:
6299 627.4107 Government employees exposed to toxic drug
6300 chemicals; cancellation of life or health policy or certificate
6301 prohibited.—No life or health insurer may cancel or nonrenew a
6302 life or health insurance policy or certificate of insurance
6303 providing coverage to a state or local law enforcement officer
6304 as defined in s. 943.10, firefighter as defined in s. 633.102
6305 ~~633.30~~, emergency medical technician as defined in s. 401.23, or
6306 paramedic as defined in s. 401.23, a volunteer firefighter
6307 engaged by state or local government, a law enforcement officer
6308 employed by the Federal Government, or any other local, state,
6309 or Federal Government employee solely based on the fact that the
6310 individual has been exposed to toxic chemicals or suffered
6311 injury or disease as a result of the individual's lawful duties
6312 arising out of the commission of a violation of chapter 893 by
6313 another person. This section does not apply to a ~~any~~ person who
6314 commits an offense under chapter 893. This section does not
6315 prohibit an insurer from canceling or nonrenewing an insurance
6316 policy or certificate, as permitted under the applicable state
6317 insurance code, based on an act or practice of the policyholder
6318 or certificateholder that constitutes fraud or intentional
6319 misrepresentation of material fact by the policyholder or
6320 certificateholder.
6321 Section 156. Subsection (10) of section 893.13, Florida
6322 Statutes, is amended to read:

6323 893.13 Prohibited acts; penalties.—
6324 (10) If a person violates any provision of this chapter and
6325 the violation results in a serious injury to a state or local
6326 law enforcement officer as defined in s. 943.10, firefighter as
6327 defined in s. 633.102 ~~633.30~~, emergency medical technician as
6328 defined in s. 401.23, paramedic as defined in s. 401.23,
6329 employee of a public utility or an electric utility as defined
6330 in s. 366.02, animal control officer as defined in s. 828.27,
6331 volunteer firefighter engaged by state or local government, law
6332 enforcement officer employed by the Federal Government, or any
6333 other local, state, or Federal Government employee injured
6334 during the course and scope of his or her employment, the person
6335 commits a felony of the third degree, punishable as provided in
6336 s. 775.082, s. 775.083, or s. 775.084. If the injury sustained
6337 results in death or great bodily harm, the person commits a
6338 felony of the second degree, punishable as provided in s.
6339 775.082, s. 775.083, or s. 775.084.
6340 Section 157. Paragraph (g) of subsection (2) of section
6341 934.03, Florida Statutes, is amended to read:
6342 934.03 Interception and disclosure of wire, oral, or
6343 electronic communications prohibited.—
6344 (2)
6345 (g) It is lawful under ss. 934.03-934.09 for an employee
6346 of:
6347 1. An ambulance service licensed pursuant to s. 401.25, a
6348 fire station employing firefighters as defined by s. 633.102
6349 ~~633.30~~, a public utility, a law enforcement agency as defined by
6350 s. 934.02(10), or any other entity with published emergency
6351 telephone numbers;

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6352 2. An agency operating an emergency telephone number "911"
6353 system established pursuant to s. 365.171; or
6354 3. The central abuse hotline operated pursuant to s. 39.201
6355
6356 to intercept and record incoming wire communications; however,
6357 such employee may intercept and record incoming wire
6358 communications on designated "911" telephone numbers and
6359 published nonemergency telephone numbers staffed by trained
6360 dispatchers at public safety answering points only. It is also
6361 lawful for such employee to intercept and record outgoing wire
6362 communications to the numbers from which such incoming wire
6363 communications were placed when necessary to obtain information
6364 required to provide the emergency services being requested. For
6365 the purpose of this paragraph, the term "public utility" has the
6366 same meaning as provided in s. 366.02 and includes a person,
6367 partnership, association, or corporation now or hereafter owning
6368 or operating equipment or facilities in the state for conveying
6369 or transmitting messages or communications by telephone or
6370 telegraph to the public for compensation.
6371 Section 158. Paragraph (b) of subsection (4) of section
6372 943.61, Florida Statutes, is amended to read:
6373 943.61 Powers and duties of the Capitol Police.—
6374 (4) The Capitol Police shall have the following
6375 responsibilities, powers, and duties:
6376 (b) To provide and maintain the security of all property
6377 located in the Capitol Complex in a manner consistent with the
6378 security plans developed and approved under paragraph (a) and,
6379 in consultation with the State Fire Marshal, to provide for
6380 evacuations, information, and training required for firesafety

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6381 on such property in a manner consistent with s. 633.218 ~~633.085~~.
6382 Section 159. Paragraph (b) of subsection (18) of section
6383 1002.33, Florida Statutes, is amended to read:
6384 1002.33 Charter schools.—
6385 (18) FACILITIES.—
6386 (b) A charter school shall use ~~utilize~~ facilities that
6387 comply with the Florida Fire Prevention Code, pursuant to s.
6388 633.208 ~~633.025~~, as adopted by the authority in whose
6389 jurisdiction the facility is located as provided in paragraph
6390 (a).
6391 Section 160. Subsection (9) of section 1002.34, Florida
6392 Statutes, is amended to read:
6393 1002.34 Charter technical career centers.—
6394 (9) FACILITIES.—A center may be located in any suitable
6395 location, including part of an existing public school or Florida
6396 College System institution building, space provided on a public
6397 worksite, or a public building. A center's facilities must
6398 comply with the State Uniform Building Code for Public
6399 Educational Facilities Construction adopted pursuant to s.
6400 1013.37, or with applicable state minimum building codes
6401 pursuant to chapter 553, and state minimum fire protection codes
6402 pursuant to s. 633.208 ~~633.025~~, adopted by the authority in
6403 whose jurisdiction the facility is located. If K-12 public
6404 school funds are used for construction, the facility must remain
6405 on the local school district's Florida Inventory of School
6406 Houses (FISH) school building inventory of the district school
6407 board and must revert to the district school board if the
6408 consortium dissolves and the program is discontinued. If Florida
6409 College System institution public school funds are used for

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6410 construction, the facility must remain on the local Florida
6411 College System institution's facilities inventory and must
6412 revert to the local Florida College System institution board of
6413 trustees if the consortium dissolves and the program is
6414 discontinued. The additional student capacity created by the
6415 addition of the center to the local school district's FISH may
6416 not be calculated in the permanent student capacity for the
6417 purpose of determining need or eligibility for state capital
6418 outlay funds while the facility is used as a center. If the
6419 construction of the center is funded jointly by K-12 public
6420 school funds and Florida College System institution funds, the
6421 sponsoring entities must agree, before granting the charter, on
6422 the appropriate owner and terms of transfer of the facility if
6423 the charter is dissolved.
6424 Section 161. Subsection (1), paragraph (c) of subsection
6425 (2), and paragraphs (a) and (c) of subsection (6) of section
6426 1013.12, Florida Statutes, are amended to read:
6427 1013.12 Casualty, safety, sanitation, and firesafety
6428 standards and inspection of property.—
6429 (1) FIRESAFETY.—The State Board of Education shall adopt
6430 and administer rules prescribing standards for the safety and
6431 health of occupants of educational and ancillary plants as a
6432 part of State Requirements for Educational Facilities or the
6433 Florida Building Code for educational facilities construction as
6434 provided in s. 1013.37, except that the State Fire Marshal in
6435 consultation with the Department of Education shall adopt
6436 uniform firesafety standards for educational and ancillary
6437 plants and educational facilities, as provided in s.
6438 633.206(1)(b) ~~633.022(1)(b)~~, and a firesafety evaluation system

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

6439 to be used as an alternate firesafety inspection standard for
6440 existing educational and ancillary plants and educational
6441 facilities. The uniform firesafety standards and the alternate
6442 firesafety evaluation system shall be administered and enforced
6443 by fire officials certified by the State Fire Marshal under s.
6444 633.216 ~~633.081~~. These standards must be used by all public
6445 agencies when inspecting public educational and ancillary
6446 plants, and the firesafety standards must be used by county,
6447 municipal, or independent special fire control district
6448 inspectors when performing firesafety inspections of public
6449 educational and ancillary plants and educational facilities. In
6450 accordance with such standards, each board shall prescribe
6451 policies and procedures establishing a comprehensive program of
6452 safety and sanitation for the protection of occupants of public
6453 educational and ancillary plants. Such policies must contain
6454 procedures for periodic inspections as prescribed in this
6455 section or chapter 633 and for withdrawal of any educational and
6456 ancillary plant, or portion thereof, from use until unsafe or
6457 unsanitary conditions are corrected or removed.
6458 (2) PERIODIC INSPECTION OF PROPERTY BY DISTRICT SCHOOL
6459 BOARDS.—
6460 (c) Under the direction of the fire official appointed by
6461 the board under s. 1013.371(2), firesafety inspections of each
6462 educational and ancillary plant located on property owned or
6463 leased by the board, or other educational facilities operated by
6464 the board, must be made no sooner than 1 year after issuance of
6465 a certificate of occupancy and annually thereafter. Such
6466 inspections shall be made by persons certified by the Division
6467 of State Fire Marshal under s. 633.216 ~~633.081~~ to conduct

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

6468 firesafety inspections in public educational and ancillary
6469 plants. The board shall submit a copy of the firesafety
6470 inspection report to the county, municipality, or independent
6471 special fire control district providing fire protection services
6472 to the school facility within 10 business days after the date of
6473 the inspection. Alternate schedules for delivery of reports may
6474 be agreed upon between the school district and the county,
6475 municipality, or independent special fire control district
6476 providing fire protection services to the site in cases in which
6477 delivery is impossible due to hurricanes or other natural
6478 disasters. Regardless, if immediate life-threatening
6479 deficiencies are noted in the report, the report shall be
6480 delivered immediately. In addition, the board and any other
6481 authority conducting the fire safety inspection shall certify to
6482 the State Fire Marshal that the annual inspection has been
6483 completed. The certification shall be made electronically or by
6484 such other means as directed by the State Fire Marshal.
6485 (6) INSPECTIONS OF PUBLIC POSTSECONDARY EDUCATION
6486 FACILITIES.—
6487 (a) Firesafety inspections of public college facilities,
6488 including charter schools located on board-owned or board-leased
6489 facilities or otherwise operated by public college boards, shall
6490 be made in accordance with the Florida Fire Prevention Code, as
6491 adopted by the State Fire Marshal. Notwithstanding s. 633.202
6492 ~~633.0215~~, provisions of the code relating to inspections of such
6493 facilities are not subject to any local amendments as provided
6494 by s. 1013.371. Each public college facility shall be inspected
6495 annually by persons certified under s. 633.216 ~~633.081~~.
6496 (c) Firesafety inspections of state universities shall

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

6497 comply with the Florida Fire Prevention Code, as adopted by the
6498 State Fire Marshal under s. 633.202 ~~633.0215~~.
6499 Section 162. Paragraphs (a), (b), and (d) of subsection (2)
6500 and paragraph (a) of subsection (4) of section 1013.38, Florida
6501 Statutes, are amended to read:
6502 1013.38 Boards to ensure that facilities comply with
6503 building codes and life safety codes.—
6504 (2) In addition to the submission of site plans, boards may
6505 provide compliance as follows:
6506 (a) Boards or consortia may individually or cooperatively
6507 provide review services under the insurance risk management
6508 oversight through the use of board employees or consortia
6509 employees registered pursuant to chapter 471, chapter 481, or
6510 part XII of chapter 468 and firesafety inspectors certified
6511 under s. 633.216 ~~633.081~~.
6512 (b) Boards may elect to review construction documents using
6513 their own employees registered pursuant to chapter 471, chapter
6514 481, or part XII of chapter 468 and firesafety inspectors
6515 certified under s. 633.216 ~~633.081~~.
6516 (d) Boards or consortia may contract for plan review
6517 services directly with engineers and architects registered
6518 pursuant to chapter 471 or chapter 481 and firesafety inspectors
6519 certified under s. 633.216 ~~633.081~~.
6520 (4)(a) Before the commencement of any new construction,
6521 renovation, or remodeling, the board shall:
6522 1. Approve or cause to be approved the construction
6523 documents and evaluate such documents for compliance with the
6524 Florida Building Code and the Florida Fire Prevention Code.
6525 2. Ensure compliance with all applicable firesafety codes

6526 and standards by contracting with a firesafety inspector
6527 certified by the State Fire Marshal under s. 633.216 ~~633.081~~.
6528 Section 163. This act shall take effect July 1, 2013.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2
Meeting Date

Topic _____

Bill Number SB 1410 *(if applicable)*

Name Elizabeth Boyd

Amendment Barcode _____ *(if applicable)*

Job Title Deputy Director legislative affairs

Address 400 S Monroe St
Street

Tallahassee FL 32399
City *State* *Zip*

Phone 850-413-2829

E-mail Elizabeth.Boyd@myfloridacfo.com

Speaking: [X] For [ ] Against [ ] Information

Representing CFO's Office

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 924

INTRODUCER: Senator Latvala

SUBJECT: Dentists

DATE: March 15, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	**Favorable**
2.	Burgess	Burgess	BI	**Favorable**
3.			AP	
4.			RC	
5.				
6.				

I. Summary:

SB 924 prohibits an insurer, health maintenance organization (HMO), or prepaid limited health service organization from contracting with a licensed dentist to provide services to an insured or subscriber at a specified fee unless such services are "covered services" under the applicable contract. The bill prohibits an insurer, HMO, or prepaid limited health services organization from requiring that a contracted dentist participate in a discount medical plan. The bill also prohibits an insurer from requiring that a contracted health care provider accept the terms of other practitioner contracts with a prepaid limited health service organization that is under common management and control with the contracting insurer.

This bill substantially amends the following sections of the Florida Statutes: 627.6474, 636.035, and 641.315.

II. Present Situation:

Prohibition Against "All Products" Clauses in Health Care Provider Contracts

Section 627.6474, F.S., prohibits a health insurer from requiring that a contracted health care practitioner accept the terms of other practitioner contracts (including Medicare and Medicaid practitioner contracts) with the insurer or with another insurer, HMO, preferred provider organization, or exclusive provider organization that is under common management and control with the contracting insurer. The statute exempts practitioners in group practices who must accept the contract terms negotiated by the group. These contractual provisions are referred to as "all products" clauses, and, before being prohibited by the 2001 Legislature, typically required the health care provider, as a condition of participating in any of the health plan products, to

participate in *all* of the health plan's current or future health plan products. The 2001 Legislature outlawed "all products" clauses after concerns were raised by physicians that the clauses:

- may force providers to render services at below market rates;
- harm consumers through suppressed market competition;
- may require physicians to accept future contracts with unknown and unpredictable business risk; and
- may unfairly keep competing health plans out of the marketplace.

Prepaid Limited Health Service Organizations Contracts

Prepaid limited health service organizations (PLHSO) provide limited health services to enrollees through an exclusive panel of providers in exchange for a prepayment, and are authorized in ch. 636, F.S. Limited health services are ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, and pharmaceutical services.[1] Provider arrangements for prepaid limited health service organizations are authorized in s. 636.035, F.S., and must comply with the requirements in that section.

Health Maintenance Organization Provider Contracts

An HMO is an organization that provides a wide range of health care services, including emergency care, inpatient hospital care, physician care, ambulatory diagnostic treatment and preventive health care pursuant to contractual arrangements with preferred providers in a designated service area.[2] Traditionally, an HMO member must use the HMO's network of health care providers in order for the HMO to make payment of benefits. The use of a health care provider outside the HMO's network generally results in the HMO limiting or denying the payment of benefits for the out-of-network services rendered to the member. Section 641.315, F.S., specifies requirements for the HMO provider contracts with providers of health care services.

Discount Medical Plan Organizations

Discount medical plan organizations (DMPOs)[3] offer a variety of health care services to consumers at a discounted rate. These plans are not health insurance and therefore do not pay for services on behalf of members; instead, the plans offer members access to specific health care products and services at a discounted fee. These health products and services may include, but are not limited to, dental services, emergency services, mental health services, vision care, chiropractic services, and hearing care. Generally, a DMPO has a contract with a provider network under which the individual providers render the medical services at a discount.

The DMPOs are regulated by the Office of Insurance Regulation (OIR) under part II of ch. 636, F.S. That statute establishes licensure requirements, annual reporting, minimum capital

[1] S. 636.003(5), F.S.
[2] S. 641.19(12), F.S.
[3] S. 636.202(2), F.S.

requirements, authority for examinations and investigations, marketing restrictions, prohibited activities, and criminal penalties, among other regulations.

Before transacting business in Florida, a DMPO must be incorporated and possess a license as a DMPO.[4] As a condition of licensure, each DMPO must maintain a net worth requirement of $150,000.[5] All charges to members of such plans must be filed with OIR and any charge to members greater than $30 per month or $360 per year must be approved by OIR before the charges can be used by the plan.[6] All forms used by the organization must be filed with and approved by OIR.

III. Effect of Proposed Changes:

Inclusion of PLHSOs in Prohibition Against "All Products" Health Care Provider Contracts

Under current law, a health insurer cannot require that a contracted health care practitioner accept the terms of other practitioner contracts (including Medicare and Medicaid practitioner contracts) with the insurer or with an insurer, HMO, preferred provider organization, or exclusive provider organization that is under common management and control with the contracting insurer. The bill adds to that list by prohibiting the insurer from requiring that a contracted health care provider accept the terms of other practitioner contracts with a PLHSO that is under common management and control with the contracting insurer.

Dentist Provider Contracts: Prohibition Against Specifying Fees for Non-Covered Services

The bill prohibits insurers, HMOs, and PLHSOs from executing a contract with a licensed dentist that requires the dentist to provide services to an insured or subscriber at a specified fee unless such services are "covered services" under the applicable contract. "Covered services" are defined as those services that are listed as a benefit that the subscriber is entitled to receive under the contract. This will prevent contracts between dentists and insurers, HMOs, or PLHSOs from containing provisions that subject non-covered services to negotiated payment rates.

The bill also prohibits insurers, HMOs and PLHSOs from providing merely de minimis reimbursement or coverage to avoid the requirements of the bill. The bill requires that fees for covered services must be set in good faith and cannot be nominal.

The bill prohibits insurers, HMOs, and PLHSOs from requiring that a contracted dentist participate in a DMPO.

The bill also addresses the criminal penalty specified in s. 624.15, F.S.,[7,8] by limiting the exemption from the criminal penalty currently contained in s. 627.6474, F.S., to subsection (1) of

[4] S. 636.204, F.S.
[5] S. 636.220, F.S.
[6] S. 636.216(1), F.S.
[7] Section 624.15, F.S., provides that, unless a greater specific penalty is provided by another provision of the Insurance Code or other applicable law or rule of the state, each willful violation of the Insurance Code is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S., and that each instance of such violation shall be considered a separate offense.

s. 627.6474, F.S. The provisions of subsection (2) of s. 627.6474, F.S., as created by the bill, are not specifically exempted from the criminal penalty. This leaves the current law exemption in place for the amended statutory provisions to which it currently applies, without applying the exemption to the bill's new provisions in subsection (2).

The bill provides an effective date of July 1, 2013, and the provisions in the bill apply to contracts entered into or renewed on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 6, article III of the Florida Constitution requires every law to embrace only one subject and matter properly connected therewith, and the subject is to be briefly expressed in the title. Section 1 of the bill affects all health care practitioners listed in s. 456.001(4), F.S., and not only dentists. As such, section 1 is not germane to the title of the bill ("an act relating to dentists").

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 924 may have a negative fiscal impact on health insurer, HMO, and PLHSO policyholders and subscribers who may pay higher costs for dental care if the Legislature prohibits these entities from contracting with dentists to provide services that are not covered at a negotiated fee.

[8] Section 775.082, F.S., provides that a person convicted of a misdemeanor of the second degree may be sentenced to a term of imprisonment not exceeding 60 days. Section 775.083, F.S., provides that a person convicted of a misdemeanor of the second degree may be sentenced to pay a fine not exceeding $500 plus court costs.

The bill may have a positive fiscal impact on dentists who may be able to benefit from increased payments from insurers, HMOs, and PLHSOs due to the contract restrictions in this bill.

C. Government Sector Impact:

According to the Office of Insurance Regulation writing on a similar 2011 Senate bill,[9] implementing the provisions of this bill will have no fiscal impact on the office. There also should be no direct impact on the costs that the state incurs for the state employees' Preferred Provider Organization, (PPO) or the HMO Plans. However, members of the state dental coverage plans could be affected if dentists have the ability to bill and charge amounts above contracted rates when members are financially responsible for the service in question.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 1 of this bill is not germane to the title of the bill ("an act relating to dentists") as it affects more health care practitioners than only dentists. A germane title might be "an act relating to insurance contracts with health care providers."

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[9] SB 546

By Senator Latvala

20-00157A-13 2013924__

A bill to be entitled

An act relating to dentists; amending s. 627.6474, F.S.; prohibiting a contract between a health insurer and a dentist from requiring the dentist to provide services at a fee set by the insurer under certain circumstances; providing that covered services are those services listed as a benefit that the insured is entitled to receive under a contract; prohibiting an insurer from providing merely de minimis reimbursement or coverage; requiring that fees for covered services be set in good faith and not be nominal; prohibiting a health insurer from requiring as a condition of a contract that a dentist participate in a discount medical plan; amending s. 636.035, F.S.; prohibiting a contract between a prepaid limited health service organization and a dentist from requiring the dentist to provide services at a fee set by the organization under certain circumstances; providing that covered services are those services listed as a benefit that a subscriber of a prepaid limited health service organization is entitled to receive under a contract; prohibiting a prepaid limited health service organization from providing merely de minimis reimbursement or coverage; requiring that fees for covered services be set in good faith and not be nominal; prohibiting the prepaid limited health service organization from requiring as a condition of a contract that a dentist participate in a discount medical plan; amending s. 641.315, F.S.; prohibiting a

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20-00157A-13 2013924__

contract between a health maintenance organization and a dentist from requiring the dentist to provide services at a fee set by the organization under certain circumstances; providing that covered services are those services listed as a benefit that a subscriber of a health maintenance organization is entitled to receive under a contract; prohibiting a health maintenance organization from providing merely de minimis reimbursement or coverage; requiring that fees for covered services be set in good faith and not be nominal; prohibiting the health maintenance organization from requiring as a condition of a contract that a dentist participate in a discount medical plan; providing for application of the act; providing an effective date.

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

Section 1. Section 627.6474, Florida Statutes, is amended to read:

627.6474 Provider contracts.—

(1) A health insurer may ~~shall~~ not require a contracted health care practitioner as defined in s. 456.001(4) to accept the terms of other health care practitioner contracts with the insurer or any other insurer, or health maintenance organization, under common management and control with the insurer, including Medicare and Medicaid practitioner contracts and those authorized by s. 627.6471, s. 627.6472, s. 636.035, or s. 641.315, except for a practitioner in a group practice as

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59 defined in s. 456.053 who must accept the terms of a contract
60 negotiated for the practitioner by the group, as a condition of
61 continuation or renewal of the contract. Any contract provision
62 that violates this section is void. A violation of this
63 subsection ~~section~~ is not subject to the criminal penalty
64 specified in s. 624.15.
65 (2)(a) A contract between a health insurer and a dentist
66 licensed under chapter 466 for the provision of services to an
67 insured may not contain any provision that requires the dentist
68 to provide services to the insured under such contract at a fee
69 set by the health insurer unless such services are covered
70 services under the applicable contract.
71 (b) Covered services are those services that are listed as
72 a benefit that the insured is entitled to receive under the
73 contract. An insurer may not provide merely de minimis
74 reimbursement or coverage in order to avoid the requirements of
75 this section. Fees for covered services shall be set in good
76 faith and must not be nominal.
77 (c) A health insurer may not require as a condition of the
78 contract that the dentist participate in a discount medical plan
79 under part II of chapter 636.
80 Section 2. Subsection (13) is added to section 636.035,
81 Florida Statutes, to read:
82 636.035 Provider arrangements.—
83 (13)(a) A contract between a prepaid limited health service
84 organization and a dentist licensed under chapter 466 for the
85 provision of services to a subscriber of the prepaid limited
86 health service organization may not contain any provision that
87 requires the dentist to provide services to the subscriber of

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88 the prepaid limited health service organization at a fee set by
89 the prepaid limited health service organization unless such
90 services are covered services under the applicable contract.
91 (b) Covered services are those services that are listed as
92 a benefit that the subscriber is entitled to receive under the
93 contract. A prepaid limited health service organization may not
94 provide merely de minimis reimbursement or coverage in order to
95 avoid the requirements of this section. Fees for covered
96 services shall be set in good faith and must not be nominal.
97 (c) A prepaid limited health service organization may not
98 require as a condition of the contract that the dentist
99 participate in a discount medical plan under part II of this
100 chapter.
101 Section 3. Subsection (11) is added to section 641.315,
102 Florida Statutes, to read:
103 641.315 Provider contracts.—
104 (11)(a) A contract between a health maintenance
105 organization and a dentist licensed under chapter 466 for the
106 provision of services to a subscriber of the health maintenance
107 organization may not contain any provision that requires the
108 dentist to provide services to the subscriber of the health
109 maintenance organization at a fee set by the health maintenance
110 organization unless such services are covered services under the
111 applicable contract.
112 (b) Covered services are those services that are listed as
113 a benefit that the subscriber is entitled to receive under the
114 contract. A health maintenance organization may not provide
115 merely de minimis reimbursement or coverage in order to avoid
116 the requirements of this section. Fees for covered services

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117 shall be set in good faith and must not be nominal.
118 (c) A health maintenance organization may not require as a
119 condition of the contract that the dentist participate in a
120 discount medical plan under part II of chapter 636.
121 Section 4. This act shall take effect July 1, 2013, and
122 applies to contracts entered into or renewed on or after that
123 date.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Non Covered Services (dental)

Bill Number: 924 (if applicable)

Name: Jeff Album

Amendment Barcode: (if applicable)

Job Title: VP, Public & Government Affairs

Address: 100 First St.
Street

San Francisco, CA 94015
City, State, Zip

Phone: (415) 309-3182

E-mail: jalbum@delta.org

Speaking: ☐ For ☒ Against ☐ Information

Representing: Delta Dental Insurance Co.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Dental Noncovered Services

Bill Number: SB924 *(if applicable)*

Name: Tim Meeman

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 204 S. Monroe St.
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 681-6710

E-mail: Tim@BlankLaw.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: AHIP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Dentists

Bill Number: SB 924 *(if applicable)*

Name: Ron Watson

Amendment Barcode: *(if applicable)*

Job Title: Lobbyist

Address: 118 E. Jefferson Street
Street

Tall, FL 32301
City *State* *Zip*

Phone:

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Dental Association

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-23-13
Meeting Date

Topic _____

Bill Number 924 *(if applicable)*

Name Paul Sanford

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 106 S. Monroe st
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone _____

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing FIC, Florida Blue

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

SECTION BY SECTION SUMMARY
OF BILL DRAFT TO REPEAL PIP AND MANDATE BODILY INJURY COVERAGE

Motor Vehicle Financial Responsibility Law

Section 1. Amends s. 316.646, F.S., to authorize electronic proof of insurance and specify that presenting an electronic device to law enforcement does not constitute consent to otherwise search the device.

Section 2. Amends s. 324.011, F.S., to revises the purpose of the motor vehicle financial responsibility law.

Section 3. Amends s. 324.021, F.S., to amend the definition of "proof of financial responsibility" to mean the ability to respond in damages for liability in the amount of $25,000 for bodily injury or death to another and, subject to the $25,000 limit for one person, in the amount of $50,000 for bodily injury or death of two or more people in one crash.

Section 4. Amends s. 324.022, F.S., to revise the financial responsibility requirements that apply to every owner or operator of a motor vehicle registered in Florida. The bill requires a driver to maintain the ability to respond in damages for the driver's liability from a motor vehicle accident in the following amounts:

- Property Damage – At least $10,000 in any one crash.
- Bodily Injury - $25,000 for bodily injury or death in any one crash and $50,000 for bodily injury or death of two or more persons in any one crash (subject to the $25,000 limit on an individual).

The financial responsibility requirements may be met by maintaining an insurance policy providing coverage in at least the minimum mandatory amounts for property damage coverage and bodily injury liability coverage. A policy that provides at least $60,000 for combined property damage and bodily injury liability also satisfies the financial responsibility requirements.

Under current law, all owners and operators of private passenger motor vehicles are required to maintain:

- Property Damage – At least $10,000 in any one crash.
- Personal Injury Protection – At least $10,000 for a first-party insured and $20,000 for two or more first-party insureds (subject to the $10,000 limit on an individual).
- The operator of a motor vehicle who is involved in a crash must subsequently show proof of financial responsibility to pay for bodily injury damages in future crashes in at least $10,000 for bodily injury or death in one crash and $20,000 for bodily injury or death of two or more persons in one crash (subject to the $10,000) limit on liability.

The financial responsibility requirements may be met by maintaining an insurance policy providing coverage in at least the minimum mandatory amounts. A policy providing at least $30,000 in combined property damage and bodily injury liability coverage meets the requirement for property damage liability coverage.

Section 5. Amends s. 324.0221, F.S., to require insurers to report to the DHSMV the issuance of a new BI or PD motor vehicle policy within 10 days. Under current law, the insurer has 30 days to report a new PIP or PD policy to the department.

Section 6. Amends s. 324.023, F.S, regarding the financial responsibility requirements for owners or operators who commit a DUI, to conform to the elimination of posting a bond as a means of complying with the financial responsibility laws.

Section 7. Amends s. 324.031, F.S., to eliminate the ability of an owner or operator of a motor vehicle (other than a for-hire transportation vehicle) to meet financial responsibility requirements by posting a surety bond with the DHSMV. It also revises the option to prove financial responsibility by furnishing a certificate of self-insurance showing a deposit of cash or securities, by requiring a deposit of $60,000 for each vehicle owned, up to a maximum of $240,000.

Section 8. Amends s. 324.071, F.S., to revise the amount of license or registration reinstatement fees, from $15 to the amounts specified in s. 324.0221, F.S., ($150 for the first reinstatement, $250 for the second, and $500 for any subsequent reinstatement).

Section 9. Amends s. 324.161, F.S., to require a deposit of $60,000 in cash, securities, or trust funds with the DHSMV in order to obtain a certificate of deposit from the department that satisfies proof of financial responsibility requirements. Current law requires a $30,000 deposit.

Section 10. Amends s. 324.171, F.S., to revise the requirements for qualifying as a self-insurer for purposes of satisfying financial responsibility. A private individual with private passenger vehicles must have a net unencumbered worth of at least $60,000. Current law requires an unencumbered net worth of $40,000. A person such as a firm, partnership, association, corporation who is not a natural person must possess a net unencumbered worth of at least $60,000 for the first motor vehicle ($40,000 in current law) and $30,000 for each additional motor vehicle ($20,000 in current law) or maintain sufficient net worth, as determined by the DHSMV, to be financially responsible for losses.

Repeal of the Florida Motor Vehicle No-Fault Law and Revision of Security Requirements

Section 11. Repeals s. 627.730, F.S., which names ss. 627.730-627.7405, F.S., the Florida Motor Vehicle No-Fault Law.

Section 12. Repeals s. 627.731, F.S., which states the purpose of the Florida Motor Vehicle No-Fault Law.

Section 13. Repeals s. 627.7311, F.S., which details how the Florida Motor Vehicle No-Fault Law affects motor vehicle insurance policies.

Section 14. Amends s. 627.732, F.S., to repeal definitions unique to provisions of the Florida Motor Vehicle No-Fault law that govern personal injury protection coverage, but retain

definitions for terms used in ss. 627.733 – 627.7355, F.S., relating to the security requirements placed on owners and registrants of motor vehicles.

The definition of "motor vehicle" is retained and amended to delete language limiting the term to self-propelled vehicles with 4 or more wheels. The revision of this definition will require motorcycles to comply with security requirements, likely by obtaining an insurance policy that provides bodily injury and property damage liability coverages in at least the limits required by s. 324.022, F.S. The bill retains definitions of "private passenger motor vehicle," "commercial motor vehicle," "owner," and "knowingly."

Section 15. Amends s. 627.733, F.S., to revise the required security that each owner or registrant of a motor vehicle (other than a school must or limousine) must maintain. The owner or registrant must maintain the security required by s. 324.022, F.S., which is the ability to respond in damages for at least $10,000 for property damage and $25,000 for bodily injury incurred by one person and subject to the individual BI limit, $50,000 for bodily injury incurred by more than one person. The section eliminates the requirement that drivers must maintain personal injury protection.

Section 16. Amends s. 627.734, F.S., to conform the proof of security requirements to the repeal of the Florida Motor Vehicle No-Fault Law and the requirement to maintain bodily injury liability coverage.

Section 17. Amends s. 627.7401, F.S., and renumbers it as s. 627.7341, F.S., to require the Financial Services Commission to adopt a form for notify insureds of the security requirements of s. 627.733, F.S., and the proof of security requirement under s. 627.734. The notice must describe the benefits provided by bodily injury liability coverage and property damage liability coverage. Under current law, the notice serves to notify insureds of their right to receive PIP benefits.

Section 18. Creates s. 627.7355, F.S., which requires all claims arising out of the plaintiff's injuries in any action for which security has been provided as required (PD coverage with limits of at $10,000 and BI coverage with limits of at least $25,000/$50,000) to be brought together.

Section 19. Repeals s. 627.736, F.S., which sets forth the benefits provided by personal injury protection coverage, the payment of PIP benefits, the PIP fee schedule, discovery of facts about an injured person under PIP, mental and physical examinations, attorney fees, and demand letters.

Section 20. Repeals s. 627.737, F.S., which contains the tort exemption for damages payable by PIP and the "verbal threshold" that limits the ability of a plaintiff to recover tort damages for pain and suffering.

Section 21. Repeals s. 627.739, F.S., which governs the deductibles that may apply to personal injury protection and how the deductible is applied.

Section 22. Repeals s. 627.7403, F.S., which requires mandatory joinder of derivative claims. A similar provision is created in s. 627.7355, F.S., by Section 26 of the bill.

Section 23. Repeals s. 627.7405, F.S., which details insurers' right of reimbursement under the Florida Motor Vehicle No-Fault Law.

Section 24. Repeals s. 627.7407, F.S., which specified how to apply Florida Motor Vehicle No-Fault Law in the aftermath of the re-enactment of the law on January 1, 2008.

Section 25. Repeals s. 15 and s. 16 of chapter 2012-197, Laws of Florida. Section 15 requires insurers to make rate filings that provide specified premium reductions or provide a detailed explanation why the premium reduction cannot be provided. Section 16 requires the Office of Insurance Regulation to perform a PIP data call and publish the results by January 1, 2015.

Technical Changes

Sections 26-57. Makes technical and conforming changes to the following statutes: 318.18, 320.02, 320.0609, 320.27, 320.771, 322.251, 400.9905, 400.991, 400.9935, 409.901, 409.910, 456.057, 456.072, 626.9541, 626.989, 626.9895, 627.06501, 627.0652, 627.0653, 627.4132, 627.6482, 627.7263, 627.727, 627.7275, 627.728, 627.7295, 627.8405, 627.915, 628.909, 705.184, 713.78, and 817.234, F.S.

Application of Bill

Section 58. Specifies how the provisions of the bill will be applied and requires insurers to provide notice to policyholders regarding the repeal of the Florida Motor Vehicle No-Fault Law and the requirement to maintain security for bodily injury liability. The bill will be applied as follows:

- Effective January 1, 2014, any person subject to the financial responsibility requirements of s. 324.022, F.S., and the security requirements of s. 627.733, F.S., must maintain "minimum security requirements" of at least:
    - $10,000 related to property damage of others caused by an insured.
    - $25,000 related to bodily injury of one person caused by an insured.
    - $50,000 related to bodily injury of more than one person caused by the insured, subject to the $25,000 limit on an individual.
- Effective January 1, 2014, all new and renewal motor vehicle policies must provide property damage coverage with limits of at least $10,000 and bodily injury coverage with limits of at least $25,000/$50,000.
- On or after January 1, 2014, an existing motor vehicle policy issued prior to that date that provides PIP and PD coverage that met the requirements of s. 324.022, F.S, and s. 627.733, F.S., on December 31, 2013, but will not meet minimum security requirements (because it lacks the necessary BI coverage) shall be deemed to meet the security requirements of s. 627.022, F.S., and s. 627.733, F.S., until the policy is renewed, nonrenewed, or cancelled on or after January 1, 2014.
- Each insurer must allow each insured who change his or her policy to add the required bodily injury coverage and eliminate PIP coverage. The insurer may not charge an

additional fee to the policyholder that is applicable solely to a change in coverage, however, this may not be interpreted to prevent the insurer from charging an appropriate additional premium.

- All motor vehicle insurance policies issued or renewed on or after January 1, 2014, may not include PIP.
- No later than September 1, 2013, each motor vehicle insurer must provide notice of the provisions of this section to each insured.

This section is effective upon the act becoming law.

Existing Suspensions for Failure to Maintain Security

Section 59. Specifies that all suspensions for failure to maintain required security as required by law prior to January 1, 2014, remain in full force and effect after that date.

Effective Date

Section 60. Except as otherwise provided, the act is effective January 1, 2014.

597-03046B-13

1
2 A bill to be entitled
3 An act relating to motor vehicle liability insurance;
4 amending s. 316.646, F.S.; authorizing the use of an
5 electronic device to provide proof of insurance;
6 authorizing the Department of Highway Safety and Motor
7 Vehicles to adopt rules; amending s. 324.011, F.S.;
8 revising legislative intent with respect to financial
9 responsibility for the damages caused by the operation
10 of a motor vehicle; amending ss. 324.021 and 324.022,
11 F.S.; increasing financial responsibility limits with
12 respect to bodily injury or death; conforming
13 provisions to changes made by the act; amending s.
14 324.0221, F.S.; requiring insurers to submit
15 information to the Department of Highway Safety and
16 Motor Vehicles and to notify insureds about bodily
17 injury insurance rather than personal injury
18 protection coverage; amending s. 324.023, F.S.;
19 conforming a cross-reference; amending s. 324.031,
20 F.S.; deleting the requirement that the owner of a
21 for-hire vehicle post a bond to prove financial
22 responsibility; increasing the financial
23 responsibility limits for motor vehicle liability;
24 amending s. 324.071, F.S.; conforming provisions to
25 changes made by the act; amending s. 324.161, F.S.;
26 increasing the amount required for a surety bond or
27 deposit; amending s. 324.171, F.S.; revising the
28 required threshold limit for self-insurers; repealing
29 s. 627.730, F.S., providing citation to the Florida

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597-03046B-13

30 Motor Vehicle No-Fault Law; repealing s. 627.731,
31 F.S., relating to the purpose of the No-Fault Law;
32 repealing s. 627.7311, F.S., relating to the effect of
33 law on personal injury protection policies; amending
34 s. 627.732, F.S.; deleting definitions relating to the
35 no-fault law; amending s. 627.733, F.S.; deleting
36 security requirements with respect to no-fault
37 coverage to substitute security requirements under ch.
38 324, F.S.; amending s. 627.734, F.S.; conforming
39 cross-references; renumbering and amending s.
40 627.7401, F.S.; applying notice requirements to bodily
41 injury and property damage liability security instead
42 of personal injury protection; creating s. 627.7355,
43 F.S.; requiring all claims relating to personal injury
44 to be brought in a single action; repealing s.
45 627.736, F.S., relating to personal injury protection
46 benefits; repealing s. 627.737, F.S., relating to
47 exemption from tort liability for persons maintaining
48 personal injury protection coverage; repealing s.
49 627.739, F.S., relating to personal injury protection
50 deductibles; repealing s. 627.7403, F.S., relating to
51 the mandatory joinder of derivative claims; repealing
52 s. 627.7405, F.S., relating to the insurers' right of
53 reimbursement; repealing s. 627.7407, F.S., relating
54 to the application of the No-Fault Law; repealing ss.
55 15 and 16 of chapter 2012-197, Laws of Florida,
56 requiring the Office of Insurance Regulation to
57 contract for a study and perform a data call relating
58 to changes made to the No-Fault Law in 2012; amending

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597-03046B-13

59 ss. 318.18, 320.02, 320.0609, 320.27, 320.771,
60 322.251, 400.9905, 400.991, 400.9935, 409.901,
61 409.910, 456.057, 456.072, 626.9541, 626.989,
62 626.9895, 627.06501, 627.0652, 627.0653, 627.4132,
63 627.6482, 627.7263, 627.727, 627.7275, 627.728,
64 627.7295, 627.8405, 627.915, 628.909, 705.184, 713.78,
65 and 817.234 F.S.; conforming provisions to changes
66 made by the act by removing references to personal
67 injury protection and the Florida Motor Vehicle No-
68 Fault Law; making technical changes; conforming cross-
69 references; providing for the termination of personal
70 injury protection policies and the requirement for
71 maintaining minimum security requirements that allow a
72 person to respond to property damage and bodily injury
73 by a certain date; requiring the insurer to notify the
74 insured about such changes by a certain date;
75 providing for applicability of suspensions for failure
76 to maintain security; providing effective dates.
77
78 Be It Enacted by the Legislature of the State of Florida:
79
80 Section 1. Subsection (1) of section 316.646, Florida
81 Statutes, is amended, and subsection (5) is added to that
82 section, to read:
83 316.646 Security required; proof of security and display
84 thereof; dismissal of cases.—
85 (1) Any person required by s. 324.022 to maintain property
86 damage liability security and~~, required by s. 324.023 to~~
87 ~~maintain~~ liability security for bodily injury or death must~~, or~~

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597-03046B-13

88 ~~required by s. 627.733 to maintain personal injury protection~~
89 ~~security on a motor vehicle shall~~ have in his or her immediate
90 possession at all times while operating a ~~such~~ motor vehicle
91 proper proof of maintenance of the required security.
92 (a) Such proof must ~~shall~~ be in a uniform paper or
93 electronic format, as ~~proof-of-insurance card in a form~~
94 prescribed by the department, or a valid insurance policy, an
95 insurance policy binder, a certificate of insurance, or such
96 other proof as may be prescribed by the department.
97 (b) The act of presenting to a law enforcement officer an
98 electronic device that displays proof of insurance in an
99 electronic format does not constitute consent for the officer to
100 access any other information on the device. The person who
101 presents the device to the officer assumes liability for any
102 resulting damage to the device.
103 (5) The department shall adopt rules to administer this
104 section.
105 Section 2. Section 324.011, Florida Statutes, is amended to
106 read:
107 324.011 Legislative intent and purpose ~~of chapter~~.—It is
108 the intent of this chapter that the privilege of owning and
109 operating a motor vehicle be exercised ~~to recognize the existing~~
110 ~~privilege to own or operate a motor vehicle on the public~~
111 ~~streets and highways of this state when such vehicles are used~~
112 with due consideration for others and their property in order~~,~~
113 ~~and~~ to promote safety and provide financial security
114 requirements for ~~such~~ owners or operators whose responsibility
115 it is to recompense others for injury to person or property
116 caused by the operation of a motor vehicle. Therefore, this

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117 chapter requires ~~it is required herein~~ that the owner or
118 operator of a motor vehicle establish and maintain the ability
119 to ~~involved in a crash or convicted of certain traffic offenses~~
120 ~~meeting the operative provisions of s. 324.051(2) shall~~ respond
121 in ~~for such~~ damages and show proof of financial ability to
122 respond for damages arising out of the use of a motor vehicle ~~in~~
123 ~~future accidents~~ as a requisite to his or her ~~future~~ exercise of
124 such privileges.
125 Section 3. Subsections (1) and (7) of section 324.021,
126 Florida Statutes, are amended to read:
127 324.021 Definitions; minimum insurance required.—The
128 following words and phrases when used in this chapter shall, for
129 the purpose of this chapter, have the meanings respectively
130 ascribed to them in this section, except in those instances
131 where the context clearly indicates a different meaning:
132 (1) MOTOR VEHICLE.~~—~~A ~~Every~~ self-propelled vehicle that
133 ~~which~~ is designed and required to be licensed for use upon a
134 highway, including trailers and semitrailers designed for use
135 with such vehicles, except for traction engines, road rollers,
136 farm tractors, power shovels, and well drillers, and a ~~every~~
137 vehicle that ~~which~~ is propelled by electric power obtained from
138 overhead wires but not operated upon rails, but not including a
139 ~~any~~ bicycle or moped. ~~However, the term "motor vehicle" shall~~
140 ~~not include any motor vehicle as defined in s. 627.732(3) when~~
141 ~~the owner of such vehicle has complied with the requirements of~~
142 ~~ss. 627.730-627.7405, inclusive, unless the provisions of s.~~
143 ~~324.051 apply; and, in such case, the applicable proof of~~
144 ~~insurance provisions of s. 320.02 apply.~~
145 (7) PROOF OF FINANCIAL RESPONSIBILITY.~~—That~~ Proof of

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146 ability to respond in damages for liability on account of
147 crashes arising out of the use of a motor vehicle:
148 (a) In the amount of $25,000 for ~~$10,000 because of~~ bodily
149 injury to, or the death of, one person in any one crash;
150 (b) Subject to the ~~such~~ limits for one person under
151 paragraph (a), in the amount of $50,000 for ~~$20,000 because of~~
152 bodily injury to, or the death of, two or more persons in any
153 one crash;
154 (c) In the amount of $10,000 for damage ~~because of injury~~
155 to, or destruction of, the property of others in any one crash;
156 and
157 (d) With respect to commercial motor vehicles and nonpublic
158 sector buses, in the amounts specified in ss. 627.7415 and
159 627.742, respectively.
160 Section 4. Section 324.022, Florida Statutes, is amended to
161 read:
162 324.022 Financial responsibility requirements ~~for property~~
163 ~~damage~~.—
164 (1)(a) The ~~Every~~ owner or operator of a motor vehicle
165 required to be registered in this state shall establish and
166 maintain the ability to respond in damages for liability on
167 account of accidents arising out of the use of the motor vehicle
168 in the amount of:
169 1. Ten thousand dollars for ~~$10,000 because of~~ damage to,
170 or destruction of, property of others in any one crash.
171 2. Twenty-five thousand dollar for bodily injury to, or the
172 death of, one person in any one crash and, subject to such
173 limits for one person, in the amount of $50,000 for bodily
174 injury to, or the death of, two or more persons in any one

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175 crash.
176 (b) The requirements of this section may be met by one of
177 the methods established in s. 324.031; by self-insuring as
178 authorized by s. 768.28(16); or by maintaining an insurance
179 policy providing coverage in at least the amounts for bodily
180 injury liability coverage and property damage coverage specified
181 in paragraph (a) ~~for property damage liability in the amount of~~
182 ~~at least $10,000 because of damage to, or destruction of,~~
183 ~~property of others in any one accident arising out of the use of~~
184 ~~the motor vehicle~~. The requirements of this section may also be
185 met by having a policy that ~~which~~ provides coverage in the
186 amount of at least $60,000 ~~$30,000~~ for combined property damage
187 liability and bodily injury liability for any one crash arising
188 out of the use of the motor vehicle.
189 (c) The policy, with respect to coverage for property
190 damage liability and bodily injury liability, must meet the
191 applicable requirements of s. 324.151, subject to the usual
192 policy exclusions that have been approved in policy forms by the
193 Office of Insurance Regulation.
194 (d) An ~~No~~ insurer does not ~~shall~~ have a ~~any~~ duty to defend
195 uncovered claims regardless ~~irrespective~~ of their joinder with
196 covered claims.
197 (2) As used in this section, the term:
198 (a) “Motor vehicle” means a ~~any~~ self-propelled vehicle that
199 has four or more wheels and ~~that~~ is of a type designed and
200 required to be licensed for use on the highways of this state,
201 and any trailer or semitrailer designed for use with such
202 vehicle. The term does not include:
203 1. A mobile home.

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204 2. A motor vehicle that is used in mass transit and
205 designed to transport more than five passengers, exclusive of
206 the operator of the motor vehicle, and that is owned by a
207 municipality, transit authority, or political subdivision of the
208 state.
209 3. A school bus as defined in s. 1006.25.
210 4. A vehicle providing for-hire transportation that is
211 subject to ~~the provisions of~~ s. 324.031. The owner of a taxicab
212 shall maintain security as required under s. 324.032(1).
213 (b) "Owner" means the person who holds legal title to a
214 motor vehicle or the debtor or lessee who has the right to
215 possession of a motor vehicle that is the subject of a security
216 agreement or lease with an option to purchase.
217 (3) Each nonresident owner or registrant of a motor vehicle
218 that, whether operated or not, has been physically present
219 within this state for more than 90 days during the preceding 365
220 days shall maintain security as required by subsection (1) which
221 ~~that~~ is in effect continuously throughout the period the motor
222 vehicle remains within this state.
223 (4) An ~~The~~ owner or registrant of a motor vehicle who is
224 ~~exempt from the requirements of this section if she or he is~~ a
225 member of the United States Armed Forces and is called to or on
226 active duty outside the United States in an emergency situation
227 is exempt from this section. The exemption ~~provided by this~~
228 ~~subsection~~ applies only as long as the member of the armed
229 forces is on ~~such~~ active duty outside the United States and
230 applies only while the vehicle covered by the security is not
231 operated by any person. Upon receipt of a written request by the
232 insured to whom the exemption ~~provided in this subsection~~

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233 applies, the insurer shall cancel the coverages and return any
234 unearned premium or suspend the security required by this
235 section. Notwithstanding s. 324.0221(2) ~~324.0221(3)~~, the
236 department may not suspend the registration or operator's
237 license of an ~~any~~ owner or registrant of a motor vehicle during
238 the time she or he qualifies for the ~~an~~ exemption ~~under this~~
239 ~~subsection~~. An ~~Any~~ owner or registrant of a motor vehicle who
240 qualifies for the ~~an~~ exemption ~~under this subsection~~ shall
241 immediately notify the department before ~~prior to~~ and at the end
242 of the expiration of the exemption.
243 Section 5. Subsections (1) and (2) of section 324.0221,
244 Florida Statutes, are amended to read:
245 324.0221 Reports by insurers to the department; suspension
246 of driver's license and vehicle registrations; reinstatement.—
247 (1)(a) Each insurer that has issued a policy providing
248 bodily injury liability ~~personal injury protection~~ coverage or
249 property damage liability coverage shall report the renewal,
250 cancellation, or nonrenewal thereof to the department within 45
251 days after the effective date of each renewal, cancellation, or
252 nonrenewal. Upon the issuance of a policy providing bodily
253 injury liability ~~personal injury protection coverage~~ or property
254 damage liability coverage to a named insured not previously
255 insured by the insurer during that calendar year, the insurer
256 shall report the issuance of the new policy to the department
257 within 10 ~~30~~ days. The report must ~~shall~~ be in the form ~~and~~
258 ~~format~~ and contain any information required by the department
259 and must be provided in a format that is compatible with the
260 data processing capabilities of the department. The department
261 may adopt rules regarding the form and documentation required.

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262 Failure by an insurer to file proper reports with the department
263 as required by this subsection or related rules ~~adopted with~~
264 ~~respect to the requirements of this subsection~~ constitutes a
265 violation of the Florida Insurance Code. These records shall be
266 used by the department only for enforcement and regulatory
267 purposes, including the generation by the department of data
268 regarding compliance by owners of motor vehicles with the
269 requirements for financial responsibility coverage.
270 (b) With respect to an insurance policy that provides
271 ~~providing~~ bodily injury liability ~~personal injury protection~~
272 ~~coverage~~ or property damage liability coverage, each insurer
273 shall notify the named insured, or the first-named insured in
274 the case of a commercial fleet policy, in writing that any
275 cancellation or nonrenewal of the policy will be reported by the
276 insurer to the department. The notice must also inform the named
277 insured that failure to maintain bodily injury liability
278 ~~personal injury protection coverage~~ and property damage
279 liability coverage on a motor vehicle when required by law may
280 result in the loss of registration and driving privileges in
281 this state and inform the named insured of the amount of the
282 reinstatement fees required by this section. This notice is for
283 informational purposes only, and an insurer is not civilly
284 liable for failing to provide this notice.
285 (2) The department shall suspend, after due notice and an
286 opportunity to be heard, the registration and driver ~~driver's~~
287 license of any owner or registrant of a motor vehicle with
288 respect to which security is required under ss. 324.022 and
289 627.733 upon:
290 (a) The department's records showing that the owner or

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597-03046B-13

291 registrant of such motor vehicle did not have the ~~in full force~~
292 ~~and effect when~~ required security in full force and effect ~~that~~
293 ~~complies with the requirements of ss. 324.022 and 627.733~~; or
294 (b) Notification by the insurer to the department, in a
295 form approved by the department, of cancellation or termination
296 of the required security.
297 Section 6. Section 324.023, Florida Statutes, is amended to
298 read:
299 324.023 Financial responsibility for bodily injury or
300 death.—In addition to any other financial responsibility
301 required by law, every owner or operator of a motor vehicle that
302 is required to be registered in this state, or that is located
303 within this state, and who, regardless of adjudication of guilt,
304 has been found guilty of or entered a plea of guilty or nolo
305 contendere to a charge of driving under the influence under s.
306 316.193 after October 1, 2007, shall, by one of the methods
307 established in s. 324.031(1) or~~,~~ (2), ~~or (3),~~ establish and
308 maintain the ability to respond in damages for liability on
309 account of accidents arising out of the use of a motor vehicle
310 in the amount of $100,000 because of bodily injury to, or death
311 of, one person in any one crash and, subject to such limits for
312 one person, in the amount of $300,000 because of bodily injury
313 to, or death of, two or more persons in any one crash and in the
314 amount of $50,000 because of property damage in any one crash.
315 If the owner or operator chooses to establish and maintain such
316 ability by ~~posting a bond or~~ furnishing a certificate of deposit
317 pursuant to s. 324.031(2) ~~or (3)~~, such ~~bond or~~ certificate of
318 deposit must be in an amount not less than $350,000. Such higher
319 limits must be carried for a minimum period of 3 years. If the

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597-03046B-13

320 owner or operator has not been convicted of driving under the
321 influence or a felony traffic offense for ~~a period of~~ 3 years
322 from the date of reinstatement of driving privileges for a
323 violation of s. 316.193, the owner or operator is ~~shall be~~
324 exempt from this section.
325 Section 7. Section 324.031, Florida Statutes, is amended to
326 read:
327 324.031 Manner of proving financial responsibility.—The
328 owner or operator of a taxicab, limousine, jitney, or any other
329 for-hire passenger transportation vehicle may prove financial
330 responsibility by providing satisfactory evidence of holding a
331 motor vehicle liability policy as defined in s. 324.021(8) or s.
332 324.151, which ~~policy~~ is issued by an insurance carrier that
333 ~~which~~ is a member of the Florida Insurance Guaranty Association.
334 The operator or owner of any other vehicle may prove his or her
335 financial responsibility by:
336 (1) Furnishing satisfactory evidence of holding such ~~a~~
337 motor vehicle liability policy ~~as defined in ss. 324.021(8) and~~
338 ~~324.151~~;
339 ~~(2) Posting with the department a satisfactory bond of a~~
340 ~~surety company authorized to do business in this state,~~
341 ~~conditioned for payment of the amount specified in s.~~
342 ~~324.021(7);~~
343 (2)~~(3)~~ Furnishing a certificate of self insurance ~~the~~
344 ~~department~~ showing a deposit of cash or securities in accordance
345 with s. 324.161; or
346 (3)~~(4)~~ Furnishing a certificate of self-insurance issued by
347 the department in accordance with s. 324.171.
348

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597-03046B-13

349 Any person, including a ~~any~~ firm, partnership, association,
350 corporation, or other person, other than a natural person,
351 electing to use the method of proof specified in subsection (2)
352 or subsection (3) shall post a bond or deposit equal to the
353 number of vehicles owned times $60,000 ~~$30,000~~, up to a maximum
354 of $240,000. ~~$120,000;~~ In addition, any such person, other than
355 a natural person, shall maintain insurance providing coverage in
356 excess of limits of $25,000/50,000/10,000 ~~$10,000/20,000/10,000~~
357 or $60,000 ~~$30,000~~ combined single limits, and such excess
358 insurance must ~~shall~~ provide minimum limits of
359 $125,000/250,000/50,000 or $300,000 combined single limits.
360 These increased limits do ~~shall~~ not affect the requirements for
361 proving financial responsibility under s. 324.032(1).
362 Section 8. Section 324.071, Florida Statutes, is amended to
363 read:
364 324.071 Reinstatement; renewal of license; reinstatement
365 fee.—An ~~Any~~ operator or owner whose license or registration has
366 been suspended pursuant to s. 324.051(2), s. 324.072, s.
367 324.081, or s. 324.121 may effect its reinstatement upon
368 compliance with ~~the provisions of~~ s. 324.051(2)(a)3. or 4., or
369 s. 324.081(2) and (3), as the case may be, and with one of the
370 provisions of s. 324.031 and upon payment to the department of a
371 nonrefundable reinstatement fee as specified in s. 324.0221 ~~of~~
372 ~~$15~~. Only one such fee shall be paid by any one person
373 regardless ~~irrespective~~ of the number of licenses and
374 registrations to be ~~then~~ reinstated or issued to such person.
375 All such fees shall be deposited to a department trust fund. If
376 ~~When~~ the reinstatement of any license or registration is
377 effected by compliance with s. 324.051(2)(a)3. or 4., the

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378 department may ~~shall~~ not renew the license or registration
379 within ~~a period of~~ 3 years after ~~from~~ such reinstatement, nor
380 may ~~shall~~ any other license or registration be issued in the
381 name of such person, unless the operator continues ~~is continuing~~
382 to comply with one of the provisions of s. 324.031.
383 Section 9. Section 324.161, Florida Statutes, is amended to
384 read:
385 324.161 Proof of financial responsibility; surety bond or
386 deposit.—A ~~The~~ certificate of ~~the department of a~~ deposit issued
387 by the department may be obtained by depositing $60,000 in ~~with~~
388 ~~it $30,000~~ cash or in securities that ~~such as~~ may be legally
389 purchased by savings banks or for trust funds which have~~, of~~ a
390 market value of $60,000 ~~$30,000~~ and which ~~deposit~~ shall be held
391 by the department to satisfy, in accordance with ~~the provisions~~
392 ~~of~~ this chapter, any execution on a judgment issued against such
393 person making the deposit~~,~~ for damages for ~~because of~~ bodily
394 injury to or death of any person or for damages or ~~because of~~
395 injury to, or destruction of, property resulting from the use or
396 operation of any motor vehicle occurring after such deposit was
397 made. Money or securities so deposited are ~~shall~~ not ~~be~~ subject
398 to attachment or execution unless such attachment or execution
399 arises ~~shall arise~~ out of a suit for such damages ~~as aforesaid~~.
400 Section 10. Subsections (1) and (2) of section 324.171,
401 Florida Statutes, are amended to read:
402 324.171 Self-insurer.—
403 (1) A ~~Any~~ person may qualify as a self-insurer by obtaining
404 a certificate of self-insurance from the department. ~~which may,~~
405 ~~in its discretion and~~ Upon application of such a person, the
406 department may issue a ~~said~~ certificate if the applicant ~~of~~

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597-03046B-13

407 ~~self-insurance when such person~~ has satisfied the requirements
408 of this section ~~to qualify as a self-insurer under this section~~:
409 (a) A private individual with private passenger vehicles
410 must ~~shall~~ possess a net unencumbered worth of at least $60,000
411 ~~$40,000~~.
412 (b) A person, including any firm, partnership, association,
413 corporation, or other person, other than a natural person, must
414 ~~shall~~:
415 1. Possess a net unencumbered worth of at least $60,000
416 ~~$40,000~~ for the first motor vehicle and $30,000 ~~$20,000~~ for each
417 additional motor vehicle; or
418 2. Maintain sufficient net worth, as determined annually by
419 the department~~,~~ pursuant to rules adopted ~~promulgated~~ by the
420 department, with the assistance of the Office of Insurance
421 Regulation of the Financial Services Commission, to be
422 financially responsible for potential losses. The rules must
423 consider any ~~shall take into consideration~~ excess insurance
424 carried by the applicant. The department's determination shall
425 be based upon reasonable actuarial principles considering the
426 frequency, severity, and loss development of claims incurred by
427 casualty insurers writing coverage on the type of motor vehicles
428 for which a certificate of self-insurance is desired.
429 (c) The owner of a commercial motor vehicle, as defined in
430 s. 207.002(2) or s. 320.01, may qualify as a self-insurer
431 subject to the standards provided ~~for~~ in subparagraph (b)2.
432 (2) The self-insurance certificate must ~~shall~~ provide
433 limits of liability insurance in the amounts specified under s.
434 324.021(7) or s. 627.7415 ~~and shall provide personal injury~~
435 ~~protection coverage under s. 627.733(3)(b)~~.

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597-03046B-13

436 Section 11. Section 627.730, Florida Statutes, is repealed.
437 Section 12. Section 627.731, Florida Statutes, is repealed.
438 Section 13. Section 627.7311, Florida Statutes, is
439 repealed.
440 Section 14. Section 627.732, Florida Statutes, is reordered
441 and amended to read:
442 627.732 Definitions.—As used in ss. 627.733-627.7355
443 ~~627.730-627.7405~~, the term:
444 ~~(1) "Broker" means any person not possessing a license~~
445 ~~under chapter 395, chapter 400, chapter 429, chapter 458,~~
446 ~~chapter 459, chapter 460, chapter 461, or chapter 641 who~~
447 ~~charges or receives compensation for any use of medical~~
448 ~~equipment and is not the 100-percent owner or the 100-percent~~
449 ~~lessee of such equipment. For purposes of this section, such~~
450 ~~owner or lessee may be an individual, a corporation, a~~
451 ~~partnership, or any other entity and any of its 100-percent-~~
452 ~~owned affiliates and subsidiaries. For purposes of this~~
453 ~~subsection, the term "lessee" means a long-term lessee under a~~
454 ~~capital or operating lease, but does not include a part-time~~
455 ~~lessee. The term "broker" does not include a hospital or~~
456 ~~physician management company whose medical equipment is~~
457 ~~ancillary to the practices managed, a debt collection agency, or~~
458 ~~an entity that has contracted with the insurer to obtain a~~
459 ~~discounted rate for such services; nor does the term include a~~
460 ~~management company that has contracted to provide general~~
461 ~~management services for a licensed physician or health care~~
462 ~~facility and whose compensation is not materially affected by~~
463 ~~the usage or frequency of usage of medical equipment or an~~
464 ~~entity that is 100-percent owned by one or more hospitals or~~

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597-03046B-13

465 ~~physicians. The term "broker" does not include a person or~~
466 ~~entity that certifies, upon request of an insurer, that:~~
467 ~~(a) It is a clinic licensed under ss. 400.990-400.995;~~
468 ~~(b) It is a 100-percent owner of medical equipment; and~~
469 ~~(c) The owner's only part-time lease of medical equipment~~
470 ~~for personal injury protection patients is on a temporary basis~~
471 ~~not to exceed 30 days in a 12-month period, and such lease is~~
472 ~~solely for the purposes of necessary repair or maintenance of~~
473 ~~the 100-percent-owned medical equipment or pending the arrival~~
474 ~~and installation of the newly purchased or a replacement for the~~
475 ~~100-percent-owned medical equipment, or for patients for whom,~~
476 ~~because of physical size or claustrophobia, it is determined by~~
477 ~~the medical director or clinical director to be medically~~
478 ~~necessary that the test be performed in medical equipment that~~
479 ~~is open-style. The leased medical equipment cannot be used by~~
480 ~~patients who are not patients of the registered clinic for~~
481 ~~medical treatment of services. Any person or entity making a~~
482 ~~false certification under this subsection commits insurance~~
483 ~~fraud as defined in s. 817.234. However, the 30-day period~~
484 ~~provided in this paragraph may be extended for an additional 60~~
485 ~~days as applicable to magnetic resonance imaging equipment if~~
486 ~~the owner certifies that the extension otherwise complies with~~
487 ~~this paragraph.~~
488 ~~(2) "Medically necessary" refers to a medical service or~~
489 ~~supply that a prudent physician would provide for the purpose of~~
490 ~~preventing, diagnosing, or treating an illness, injury, disease,~~
491 ~~or symptom in a manner that is:~~
492 ~~(a) In accordance with generally accepted standards of~~
493 ~~medical practice;~~

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597-03046B-13

494 ~~(b) Clinically appropriate in terms of type, frequency,~~
495 ~~extent, site, and duration; and~~
496 ~~(c) Not primarily for the convenience of the patient,~~
497 ~~physician, or other health care provider.~~
498 (2)~~(3)~~ “Motor vehicle” means any self-propelled vehicle
499 that ~~with four or more wheels which~~ is of a type both designed
500 and required to be licensed for use on the highways of this
501 state and any trailer or semitrailer designed for use with such
502 vehicle and includes:
503 (a) A “private passenger motor vehicle,” which is any motor
504 vehicle which is a sedan, station wagon, or jeep-type vehicle
505 and, if not used primarily for occupational, professional, or
506 business purposes, a motor vehicle of the pickup, panel, van,
507 camper, or motor home type.
508 (b) A “commercial motor vehicle,” which is any motor
509 vehicle which is not a private passenger motor vehicle.
510
511 The term “motor vehicle” does not include a mobile home or any
512 motor vehicle which is used in mass transit, other than public
513 school transportation, and designed to transport more than five
514 passengers exclusive of the operator of the motor vehicle and
515 which is owned by a municipality, a transit authority, or a
516 political subdivision of the state.
517 ~~(4) “Named insured” means a person, usually the owner of a~~
518 ~~vehicle, identified in a policy by name as the insured under the~~
519 ~~policy.~~
520 (3)~~(5)~~ “Owner” means a person who holds the legal title to
521 a motor vehicle; or, in the event a motor vehicle is the subject
522 of a security agreement or lease with an option to purchase with

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597-03046B-13

523 the debtor or lessee having the right to possession, then the
524 debtor or lessee shall be deemed the owner ~~for the purposes of~~
525 ~~ss. 627.730-627.7405~~.
526 ~~(6) "Relative residing in the same household" means a~~
527 ~~relative of any degree by blood or by marriage who usually makes~~
528 ~~her or his home in the same family unit, whether or not~~
529 ~~temporarily living elsewhere.~~
530 ~~(7) "Certify" means to swear or attest to being true or~~
531 ~~represented in writing.~~
532 ~~(8) "Immediate personal supervision," as it relates to the~~
533 ~~performance of medical services by nonphysicians not in a~~
534 ~~hospital, means that an individual licensed to perform the~~
535 ~~medical service or provide the medical supplies must be present~~
536 ~~within the confines of the physical structure where the medical~~
537 ~~services are performed or where the medical supplies are~~
538 ~~provided such that the licensed individual can respond~~
539 ~~immediately to any emergencies if needed.~~
540 ~~(9) "Incident," with respect to services considered as~~
541 ~~incident to a physician's professional service, for a physician~~
542 ~~licensed under chapter 458, chapter 459, chapter 460, or chapter~~
543 ~~461, if not furnished in a hospital, means such services must be~~
544 ~~an integral, even if incidental, part of a covered physician's~~
545 ~~service.~~
546 (1)~~(10)~~ "Knowingly" means that a person, with respect to
547 information, has actual knowledge of the information; acts in
548 deliberate ignorance of the truth or falsity of the information;
549 or acts in reckless disregard of the information, and proof of
550 specific intent to defraud is not required.
551 ~~(11) "Lawful" or "lawfully" means in substantial compliance~~

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597-03046B-13

552 ~~with all relevant applicable criminal, civil, and administrative~~
553 ~~requirements of state and federal law related to the provision~~
554 ~~of medical services or treatment.~~
555 ~~(12) "Hospital" means a facility that, at the time services~~
556 ~~or treatment were rendered, was licensed under chapter 395.~~
557 ~~(13) "Properly completed" means providing truthful,~~
558 ~~substantially complete, and substantially accurate responses as~~
559 ~~to all material elements to each applicable request for~~
560 ~~information or statement by a means that may lawfully be~~
561 ~~provided and that complies with this section, or as agreed by~~
562 ~~the parties.~~
563 ~~(14) "Upcoding" means an action that submits a billing code~~
564 ~~that would result in payment greater in amount than would be~~
565 ~~paid using a billing code that accurately describes the services~~
566 ~~performed. The term does not include an otherwise lawful bill by~~
567 ~~a magnetic resonance imaging facility, which globally combines~~
568 ~~both technical and professional components, if the amount of the~~
569 ~~global bill is not more than the components if billed~~
570 ~~separately; however, payment of such a bill constitutes payment~~
571 ~~in full for all components of such service.~~
572 ~~(15) "Unbundling" means an action that submits a billing~~
573 ~~code that is properly billed under one billing code, but that~~
574 ~~has been separated into two or more billing codes, and would~~
575 ~~result in payment greater in amount than would be paid using one~~
576 ~~billing code.~~
577 ~~(16) "Emergency medical condition" means a medical~~
578 ~~condition manifesting itself by acute symptoms of sufficient~~
579 ~~severity, which may include severe pain, such that the absence~~
580 ~~of immediate medical attention could reasonably be expected to~~

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597-03046B-13

581 ~~result in any of the following:~~
582 ~~(a) Serious jeopardy to patient health.~~
583 ~~(b) Serious impairment to bodily functions.~~
584 ~~(c) Serious dysfunction of any bodily organ or part.~~
585 ~~(17) "Entity wholly owned" means a proprietorship, group~~
586 ~~practice, partnership, or corporation that provides health care~~
587 ~~services rendered by licensed health care practitioners and in~~
588 ~~which licensed health care practitioners are the business owners~~
589 ~~of all aspects of the business entity, including, but not~~
590 ~~limited to, being reflected as the business owners on the title~~
591 ~~or lease of the physical facility, filing taxes as the business~~
592 ~~owners, being account holders on the entity's bank account,~~
593 ~~being listed as the principals on all incorporation documents~~
594 ~~required by this state, and having ultimate authority over all~~
595 ~~personnel and compensation decisions relating to the entity.~~
596 ~~However, this definition does not apply to an entity that is~~
597 ~~wholly owned, directly or indirectly, by a hospital licensed~~
598 ~~under chapter 395.~~
599 Section 15. Section 627.733, Florida Statutes, is amended
600 to read:
601 627.733 Required security.—
602 (1)(a) The ~~Every~~ owner or registrant of a motor vehicle,
603 other than a motor vehicle used as a school bus as defined in s.
604 1006.25 or limousine, required to be registered and licensed in
605 this state shall maintain security as required by this section
606 ~~subsection (3)~~ in effect continuously throughout the
607 registration or licensing period.
608 (b) Notwithstanding paragraph (a), an ~~Every~~ owner or
609 registrant of a motor vehicle used as a taxicab shall ~~not be~~

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597-03046B-13

610 ~~governed by paragraph (1)(a) but shall~~ maintain security as
611 required under s. 324.032(1)~~, and s. 627.737 shall not apply to~~
612 ~~any motor vehicle used as a taxicab~~.
613 (2) Every nonresident owner or registrant of a motor
614 vehicle that ~~which~~, whether operated or not, has been physically
615 present within this state for more than 90 days during the
616 preceding 365 days shall ~~thereafter~~ maintain security as
617 required by this section ~~defined by subsection (3)~~ in effect
618 ~~continuously~~ throughout the period the ~~such~~ motor vehicle
619 remains within this state.
620 (3) Such security must ~~shall~~ be provided:
621 (a) By an insurance policy delivered or issued for delivery
622 in this state by an authorized or eligible motor vehicle
623 liability insurer which provides the security required under s.
624 324.022 ~~the benefits and exemptions contained in ss. 627.730-~~
625 ~~627.7405~~. Any policy of insurance that provides, or is
626 represented or sold as providing, the security required in this
627 section is ~~hereunder shall be~~ deemed to provide insurance for
628 the payment of the required benefits; or
629 (b) By any other method authorized by s. 324.031(2) or~~,~~
630 (3)~~, or (4)~~ and approved by the Department of Highway Safety and
631 Motor Vehicles as providing ~~affording~~ security equivalent to
632 that afforded by a policy of insurance or by self-insuring as
633 authorized by s. 768.28(16). ~~The person filing such security~~
634 ~~shall have all of the obligations and rights of an insurer under~~
635 ~~ss. 627.730-627.7405.~~
636 ~~(4) An owner of a motor vehicle with respect to which~~
637 ~~security is required by this section who fails to have such~~
638 ~~security in effect at the time of an accident shall have no~~

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639 ~~immunity from tort liability, but shall be personally liable for~~
640 ~~the payment of benefits under s. 627.736. With respect to such~~
641 ~~benefits, such an owner shall have all of the rights and~~
642 ~~obligations of an insurer under ss. 627.730-627.7405.~~
643 (4) ~~(5) In addition to other persons who are not required to~~
644 ~~provide required security as required under this section and s.~~
645 ~~324.022,~~ The owner or registrant of a motor vehicle who is
646 ~~exempt from such requirements if she or he is~~ a member of the
647 United States Armed Forces and is called to or on active duty
648 outside the United States in an emergency situation is exempt
649 from this section. The exemption ~~provided by this subsection~~
650 applies only as long as the member of the armed forces is on
651 ~~such~~ active duty outside the United States and applies only
652 while the vehicle covered by the security required by this
653 section and s. 324.022 is not operated by any person. Upon
654 receipt of a written request by the insured to whom the
655 exemption ~~provided in this subsection~~ applies, the insurer shall
656 cancel the coverages and return any unearned premium or suspend
657 the security required by this section and s. 324.022.
658 Notwithstanding s. 324.0221(2), the Department of Highway Safety
659 and Motor Vehicles may not suspend the registration or
660 operator's license of an ~~any~~ owner or registrant of a motor
661 vehicle during the time she or he qualifies for the ~~an~~ exemption
662 ~~under this subsection~~. An ~~Any~~ owner or registrant of a motor
663 vehicle who qualifies for the ~~an~~ exemption ~~under this subsection~~
664 shall immediately notify the department before ~~prior to~~ and at
665 the end of the expiration of the exemption.
666 Section 16. Section 627.734, Florida Statutes, is amended
667 to read:

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668 627.734 Proof of security; security requirements;
669 penalties.—
670 (1) The provisions of chapter 324 which pertain to the
671 method of giving and maintaining proof of financial
672 responsibility and which govern and define a motor vehicle
673 liability policy ~~shall~~ apply to filing and maintaining proof of
674 security required under s. 627.733 ~~by ss. 627.730-627.7405~~.
675 (2) Any person who:
676 (a) Gives information required in a report ~~or otherwise as~~
677 ~~provided for in ss. 627.730-627.7405,~~ knowing or having reason
678 to believe that such information is false;
679 (b) Forges or, without authority, signs any evidence of
680 proof of security; or
681 (c) Files, or offers for filing, any such evidence of
682 proof, knowing or having reason to believe that it is forged or
683 signed without authority,
684
685 commits ~~is guilty of~~ a misdemeanor of the first degree,
686 punishable as provided in s. 775.082 or s. 775.083.
687 Section 17. Section 627.7401, Florida Statutes, is
688 renumbered as section 627.7341, Florida Statutes, and amended to
689 read:
690 627.7341 ~~627.7401~~ Notification of security requirements
691 ~~insured's rights~~.—
692 (1) The commission, by rule, shall adopt a form for
693 notifying ~~the notification of~~ insureds of the security required
694 under s. 627.733 and the proof of security requirement under s.
695 627.734 ~~their right to receive personal injury protection~~
696 ~~benefits under the Florida Motor Vehicle No-Fault Law~~. Such

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597-03046B-13

697 notice must ~~shall~~ include:

698 (a) A description of the benefits provided by bodily injury
699 liability coverage and property damage liability coverage
700 ~~personal injury protection, including, but not limited to, the~~
701 ~~specific types of services for which medical benefits are paid,~~
702 ~~disability benefits, death benefits, significant exclusions from~~
703 ~~and limitations on personal injury protection benefits, when~~
704 ~~payments are due, how benefits are coordinated with other~~
705 ~~insurance benefits that the insured may have, penalties and~~
706 ~~interest that may be imposed on insurers for failure to make~~
707 ~~timely payments of benefits, and rights of parties regarding~~
708 ~~disputes as to benefits~~.

709 (b) An advisory informing insureds that,~~:~~

710 ~~1.~~ pursuant to s. 626.9892, the Department of Financial
711 Services may pay rewards of up to $25,000 to persons providing
712 information leading to the arrest and conviction of persons
713 committing crimes investigated by the Division of Insurance
714 Fraud arising from violations of s. 440.105, s. 624.15, s.
715 626.9541, s. 626.989, or s. 817.234.

716 ~~2. Pursuant to s. 627.736(5)(e)1., if the insured notifies~~
717 ~~the insurer of a billing error, the insured may be entitled to a~~
718 ~~certain percentage of a reduction in the amount paid by the~~
719 ~~insured's motor vehicle insurer.~~

720 (c) A notice that solicitation of a person injured in a
721 motor vehicle crash for purposes of filing ~~personal injury~~
722 ~~protection or~~ tort claims could be a violation of s. 817.234, s
723 817.505, or the rules regulating The Florida Bar and should be
724 immediately reported to the Division of Insurance Fraud ~~if such~~
725 ~~conduct has taken place~~.

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726 (2) Each insurer issuing a policy in this state providing
727 the security required under s. 627.733 shall ~~personal injury~~
728 ~~protection benefits must~~ mail or deliver the notice as specified
729 in subsection (1) to an insured within 21 days after receiving
730 notice from the insured ~~notice~~ of an automobile accident or
731 claim involving ~~personal injury to~~ an insured who is covered
732 under the policy. The office may allow an insurer up to 30 days
733 of additional time to provide the notice ~~specified in subsection~~
734 ~~(1) not to exceed 30 days,~~ upon a showing by the insurer that an
735 emergency justifies an extension of time.
736 (3) The notice required by this section does not alter or
737 modify the terms of the insurance contract or other security
738 requirements of this part ~~act~~.
739 Section 18. Section 627.7355, Florida Statutes, is created
740 to read:
741 627.7355 Motor vehicle insurance claims brought in a single
742 action.—In any action in which the owner, registrant, operator,
743 or occupant of a motor vehicle, to which security has been
744 provided pursuant to s. 627.733, is claiming personal injury,
745 all claims arising out of the plaintiff's injuries, including
746 all derivative claims, shall be brought together, unless good
747 cause is shown why such claims should be brought separately.
748 Section 19. Section 627.736, Florida Statutes, is repealed.
749 Section 20. Section 627.737, Florida Statutes, is repealed.
750 Section 21. Section 627.739, Florida Statutes, is repealed.
751 Section 22. Section 627.7403, Florida Statutes, is
752 repealed.
753 Section 23. Section 627.7405, Florida Statutes, is
754 repealed.

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597-03046B-13

755 Section 24. Section 627.7407, Florida Statutes, is
756 repealed.
757 Section 25. Sections 15 and 16 of chapter 2012-197, Laws of
758 Florida, are repealed.
759 Section 26. Paragraph (b) of subsection (2) of section
760 318.18, Florida Statutes, is amended to read:
761 318.18 Amount of penalties.—The penalties required for a
762 noncriminal disposition pursuant to s. 318.14 or a criminal
763 offense listed in s. 318.17 are as follows:
764 (2) Thirty dollars for all nonmoving traffic violations
765 and:
766 (b) For all violations of ss. 320.0605, 320.07(1), 322.065,
767 and 322.15(1). A ~~Any~~ person who is cited for a violation of s.
768 320.07(1) shall be charged a delinquent fee pursuant to s.
769 320.07(4).
770 1. If a person who is cited for a violation of s. 320.0605
771 or s. 320.07 can show proof of having a valid registration at
772 the time of arrest, the clerk of the court may dismiss the case
773 and may assess a dismissal fee of up to $10. A person who finds
774 it impossible or impractical to obtain a valid registration
775 certificate must submit an affidavit detailing the reasons for
776 the impossibility or impracticality. The reasons may include,
777 but are not limited to, the fact that the vehicle was sold,
778 stolen, or destroyed; that the state in which the vehicle is
779 registered does not issue a certificate of registration; or that
780 the vehicle is owned by another person.
781 2. If a person who is cited for a violation of s. 322.03,
782 s. 322.065, or s. 322.15 can show a driver ~~driver's~~ license
783 issued to him or her and valid at the time of arrest, the clerk

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597-03046B-13

784 of the court may dismiss the case and may assess a dismissal fee
785 of up to $10.
786 3. If a person who is cited for a violation of s. 316.646
787 can show proof of security as required by s. 627.733, issued to
788 the person and valid at the time of arrest, the clerk of the
789 court may dismiss the case and may assess a dismissal fee of up
790 to $10. A person who finds it impossible or impractical to
791 obtain proof of security must submit an affidavit detailing the
792 reasons for the impracticality. The reasons may include, but are
793 not limited to, the fact that the vehicle has since been sold,
794 stolen, or destroyed,~~; that the owner or registrant of the~~
795 ~~vehicle is not required by s. 627.733 to maintain personal~~
796 ~~injury protection insurance;~~ or that the vehicle is owned by
797 another person.
798 Section 27. Paragraphs (a) and (d) of subsection (5) of
799 section 320.02, Florida Statutes, are amended to read:
800 320.02 Registration required; application for registration;
801 forms.—
802 (5)(a) Proof that bodily injury liability and property
803 damage liability coverage ~~personal injury protection~~ benefits
804 have been purchased if ~~when~~ required under ss. 324.022 and ~~s.~~
805 627.733~~, that property damage liability coverage has been~~
806 ~~purchased as required under s. 324.022~~, that bodily injury or
807 death coverage has been purchased if required under s. 324.023,
808 and that combined bodily liability insurance and property damage
809 liability insurance have been purchased if ~~when~~ required under
810 s. 627.7415 shall be provided in the manner prescribed by law by
811 the applicant at the time of application for registration of any
812 motor vehicle that is subject to such requirements. The issuing

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597-03046B-13

813 agent may not ~~shall refuse to~~ issue registration if such proof
814 of purchase is not provided. Insurers shall furnish uniform
815 proof-of-purchase cards in a form prescribed by the department
816 and ~~shall~~ include the name of the insured's insurance company,
817 the coverage identification number, and the make, year, and
818 vehicle identification number of the vehicle insured. The card
819 must ~~shall~~ contain a statement notifying the applicant of the
820 penalty specified in s. 316.646(4). The card or insurance
821 policy, insurance policy binder, or certificate of insurance or
822 a photocopy of any of these; an affidavit containing the name of
823 the insured's insurance company, the insured's policy number,
824 and the make and year of the vehicle insured; or such other
825 proof as may be prescribed by the department constitutes ~~shall~~
826 ~~constitute~~ sufficient proof of purchase. If an affidavit is
827 provided as proof, it must ~~shall~~ be in substantially the
828 following form:
829
830 Under penalty of perjury, I ...(Name of insured)... do hereby
831 certify that I have ...(P~~ersonal Injury Protection,~~ Property
832 Damage Liability~~,~~ and~~, when required,~~ Bodily Injury
833 Liability)... Insurance currently in effect with ...(Name of
834 insurance company)... under ...(policy number)... covering
835 ...(make, year, and vehicle identification number of
836 vehicle).... ...(Signature of Insured)...
837
838 The ~~Such~~ affidavit must ~~shall~~ include the following warning:
839
840 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
841 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA

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597-03046B-13

842 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
843 SUBJECT TO PROSECUTION.
844
845 If ~~When~~ an application is made through a licensed motor vehicle
846 dealer as required under ~~in~~ s. 319.23, the original or a
847 photostatic copy of such card, insurance policy, insurance
848 policy binder, or certificate of insurance or the original
849 affidavit from the insured shall be forwarded by the dealer to
850 the tax collector of the county or the Department of Highway
851 Safety and Motor Vehicles for processing. By executing the
852 ~~aforesaid~~ affidavit, the ~~no~~ licensed motor vehicle dealer will
853 not be liable in damages for any inadequacy, insufficiency, or
854 falsification of any statement contained therein. ~~A card shall~~
855 ~~also indicate the existence of any bodily injury liability~~
856 ~~insurance voluntarily purchased.~~
857 (d) The verifying of proof of ~~personal injury protection~~
858 ~~insurance, proof of~~ property damage liability insurance, proof
859 of combined bodily liability insurance and property damage
860 liability insurance, or proof of financial responsibility
861 insurance and the issuance or failure to issue the motor vehicle
862 registration under the provisions of this chapter is ~~may~~ not ~~be~~
863 ~~construed in any court as~~ a warranty of the reliability or
864 accuracy of the evidence of such proof. Neither the department
865 nor a ~~any~~ tax collector is liable in damages for any inadequacy,
866 insufficiency, falsification, or unauthorized modification of
867 any item of the proof of ~~personal injury protection insurance,~~
868 ~~proof of~~ property damage liability insurance, proof of combined
869 bodily liability insurance and property damage liability
870 insurance, or proof of financial responsibility insurance before

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597-03046B-13

871 ~~prior to~~, during, or after ~~subsequent to~~ the verification of the
872 proof. The issuance of a motor vehicle registration does not
873 constitute prima facie evidence or a presumption of insurance
874 coverage.
875 Section 28. Paragraph (b) of subsection (1) of section
876 320.0609, Florida Statutes, is amended to read:
877 320.0609 Transfer and exchange of registration license
878 plates; transfer fee.—
879 (1)
880 (b) The transfer of a license plate from a vehicle disposed
881 of to a newly acquired vehicle does not constitute a new
882 registration. The application for transfer shall be accepted
883 without requiring proof of ~~personal injury protection or~~
884 liability insurance.
885 Section 29. Subsection (3) of section 320.27, Florida
886 Statutes, is amended to read:
887 320.27 Motor vehicle dealers.—
888 (3) APPLICATION AND FEE.—The ~~application for the~~ license
889 application shall be in such form as may be prescribed by the
890 department and is ~~shall be~~ subject to such rules ~~with respect~~
891 ~~thereto~~ as may be ~~so~~ prescribed by the department ~~it~~. The ~~Such~~
892 application shall be verified by oath or affirmation and must
893 ~~shall~~ contain a full statement of the name and birth date of the
894 person or persons applying for the license ~~therefor~~; the name of
895 the firm or copartnership, with the names and places of
896 residence of all members ~~thereof,~~ if such applicant is a firm or
897 copartnership; the names and places of residence of the
898 principal officers, if the applicant is a body corporate or
899 other artificial body; the name of the state under whose laws

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597-03046B-13

900 the corporation is organized; the present and former place or
901 places of residence of the applicant; and the prior business in
902 which the applicant has been engaged and its ~~the~~ location
903 ~~thereof~~. The ~~Such~~ application must ~~shall~~ describe the exact
904 location of the place of business and ~~shall~~ state whether the
905 place of business is owned by the applicant and when acquired,
906 or, if leased, a true copy of the lease shall be attached to the
907 application. The applicant shall certify that the location
908 provides an adequately equipped office and is not a residence;
909 that the location affords sufficient unoccupied space upon and
910 within which adequately to store all motor vehicles offered and
911 displayed for sale; and that the location is a suitable place
912 where the applicant can in good faith carry on such business and
913 keep and maintain books, records, and files necessary to conduct
914 such business, which shall be available at all reasonable hours
915 to inspection by the department or any of its inspectors or
916 other employees. The applicant shall certify that the business
917 of a motor vehicle dealer is the principal business that will
918 ~~which shall~~ be conducted at that location. The application must
919 ~~shall~~ contain a statement that the applicant is ~~either~~
920 franchised by a manufacturer of motor vehicles, in which case
921 the name of each motor vehicle that the applicant is franchised
922 to sell must ~~shall~~ be included, or an independent
923 (nonfranchised) motor vehicle dealer. The application must ~~shall~~
924 contain other relevant information as may be required by the
925 department, including evidence that the applicant is insured
926 under a garage liability insurance policy or a general liability
927 insurance policy coupled with a business automobile policy,
928 which includes ~~shall include~~, at a minimum, $60,000 ~~$25,000~~

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597-03046B-13

929 combined single-limit liability coverage including bodily injury
930 and property damage protection ~~and $10,000 personal injury~~
931 ~~protection~~. However, a salvage motor vehicle dealer as defined
932 in subparagraph (1)(c)5. is exempt from the requirements for
933 garage liability insurance ~~and personal injury protection~~
934 ~~insurance~~ on those vehicles that cannot be legally operated on
935 roads, highways, or streets in this state. Franchise dealers
936 must submit a garage liability insurance policy, and all other
937 dealers must submit a garage liability insurance policy or a
938 general liability insurance policy coupled with a business
939 automobile policy. Such policy shall be for the license period,
940 and evidence of a new or continued policy shall be delivered to
941 the department at the beginning of each license period. Upon
942 making initial application, the applicant shall pay to the
943 department a fee of $300 in addition to any other fees now
944 required by law. Upon making a subsequent renewal application,
945 the applicant shall pay to the department a fee of $75 in
946 addition to any other fees now required by law. Upon making an
947 application for a change of location, the applicant ~~person~~ shall
948 pay a fee of $50 in addition to any other fees now required by
949 law. The department shall, in the case of every application for
950 initial licensure, verify whether certain facts set forth in the
951 application are true. Each applicant, general partner in the
952 case of a partnership, or corporate officer and director in the
953 case of a corporate applicant, must file a set of fingerprints
954 with the department for the purpose of determining any prior
955 criminal record or any outstanding warrants. The department
956 shall submit the fingerprints to the Department of Law
957 Enforcement for state processing and forwarding to the Federal

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597-03046B-13

958 Bureau of Investigation for federal processing. The actual cost
959 of state and federal processing shall be borne by the applicant
960 and is in addition to the fee for licensure. The department may
961 issue a license to an applicant pending the results of the
962 fingerprint investigation, which license is fully revocable if
963 the department subsequently determines that any facts set forth
964 in the application are not true or correctly represented.
965 Section 30. Paragraph (j) of subsection (3) of section
966 320.771, Florida Statutes, is amended to read:
967 320.771 License required of recreational vehicle dealers.—
968 (3) APPLICATION.—The application for such license shall be
969 in the form prescribed by the department and subject to such
970 rules as may be prescribed by it. The application shall be
971 verified by oath or affirmation and shall contain:
972 (j) A statement that the applicant is insured under a
973 garage liability insurance policy, which includes ~~shall include~~,
974 at a minimum, $60,000 ~~$25,000~~ combined single-limit liability
975 coverage, including bodily injury and property damage
976 protection, ~~and $10,000 personal injury protection,~~ if the
977 applicant is to be licensed as a dealer in, or intends to sell,
978 recreational vehicles.
979
980 The department shall, if it deems necessary, cause an
981 investigation to be made to ascertain if the facts set forth in
982 the application are true and shall not issue a license to the
983 applicant until it is satisfied that the facts set forth in the
984 application are true.
985 Section 31. Subsection (2) of section 322.251, Florida
986 Statutes, is amended to read:

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597-03046B-13

987 322.251 Notice of cancellation, suspension, revocation, or
988 disqualification of license.—
989 (2) The giving of notice and an order of cancellation,
990 suspension, revocation, or disqualification by mail is complete
991 ~~upon expiration of~~ 20 days after deposit in the United States
992 mail for all notices except those issued under chapter 324 or
993 ss. 627.733-627.734 ~~627.732-627.734~~, which are complete 15 days
994 after deposit in the United States mail. Proof of the giving of
995 notice and an order of cancellation, suspension, revocation, or
996 disqualification in either manner shall be made by entry in the
997 records of the department that such notice was given. The entry
998 is admissible in the courts of this state and constitutes
999 sufficient proof that such notice was given.
1000 Section 32. Subsection (4) of section 400.9905, Florida
1001 Statutes, is amended, present subsection (7) of that section is
1002 renumbered as subsection (8), and new subsection (7) is added to
1003 that section, to read:
1004 400.9905 Definitions.—
1005 (4) "Clinic" means an entity where health care services are
1006 provided to individuals and which tenders charges for
1007 reimbursement for such services, including a mobile clinic and a
1008 portable equipment provider. As used in this part, the term does
1009 not include and the licensure requirements of this part do not
1010 apply to:
1011 (a) Entities licensed or registered by the state under
1012 chapter 395; entities licensed or registered by the state and
1013 providing only health care services within the scope of services
1014 authorized under their respective licenses under ss. 383.30-
1015 383.335, chapter 390, chapter 394, chapter 397, this chapter

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597-03046B-13

1016 except part X, chapter 429, chapter 463, chapter 465, chapter
1017 466, chapter 478, part I of chapter 483, chapter 484, or chapter
1018 651; end-stage renal disease providers authorized under 42
1019 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
1020 part 485, subpart B or subpart H; or any entity that provides
1021 neonatal or pediatric hospital-based health care services or
1022 other health care services by licensed practitioners solely
1023 within a hospital licensed under chapter 395.
1024 (b) Entities that own, directly or indirectly, entities
1025 licensed or registered by the state pursuant to chapter 395;
1026 entities that own, directly or indirectly, entities licensed or
1027 registered by the state and providing only health care services
1028 within the scope of services authorized pursuant to their
1029 respective licenses under ss. 383.30-383.335, chapter 390,
1030 chapter 394, chapter 397, this chapter except part X, chapter
1031 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
1032 of chapter 483, chapter 484, or chapter 651; end-stage renal
1033 disease providers authorized under 42 C.F.R. part 405, subpart
1034 U; providers certified under 42 C.F.R. part 485, subpart B or
1035 subpart H; or any entity that provides neonatal or pediatric
1036 hospital-based health care services by licensed practitioners
1037 solely within a hospital licensed under chapter 395.
1038 (c) Entities that are owned, directly or indirectly, by an
1039 entity licensed or registered by the state pursuant to chapter
1040 395; entities that are owned, directly or indirectly, by an
1041 entity licensed or registered by the state and providing only
1042 health care services within the scope of services authorized
1043 pursuant to their respective licenses under ss. 383.30-383.335,
1044 chapter 390, chapter 394, chapter 397, this chapter except part

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597-03046B-13

1045 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
1046 478, part I of chapter 483, chapter 484, or chapter 651; end-
1047 stage renal disease providers authorized under 42 C.F.R. part
1048 405, subpart U; providers certified under 42 C.F.R. part 485,
1049 subpart B or subpart H; or any entity that provides neonatal or
1050 pediatric hospital-based health care services by licensed
1051 practitioners solely within a hospital under chapter 395.
1052 (d) Entities that are under common ownership, directly or
1053 indirectly, with an entity licensed or registered by the state
1054 pursuant to chapter 395; entities that are under common
1055 ownership, directly or indirectly, with an entity licensed or
1056 registered by the state and providing only health care services
1057 within the scope of services authorized pursuant to their
1058 respective licenses under ss. 383.30-383.335, chapter 390,
1059 chapter 394, chapter 397, this chapter except part X, chapter
1060 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
1061 of chapter 483, chapter 484, or chapter 651; end-stage renal
1062 disease providers authorized under 42 C.F.R. part 405, subpart
1063 U; providers certified under 42 C.F.R. part 485, subpart B or
1064 subpart H; or any entity that provides neonatal or pediatric
1065 hospital-based health care services by licensed practitioners
1066 solely within a hospital licensed under chapter 395.
1067 (e) An entity that is exempt from federal taxation under 26
1068 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
1069 under 26 U.S.C. s. 409 that has a board of trustees at least
1070 two-thirds of which are Florida-licensed health care
1071 practitioners and provides only physical therapy services under
1072 physician orders, any community college or university clinic,
1073 and any entity owned or operated by the federal or state

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597-03046B-13

1074 government, including agencies, subdivisions, or municipalities
1075 thereof.
1076 (f) A sole proprietorship, group practice, partnership, or
1077 corporation that provides health care services by physicians
1078 covered by s. 627.419, that is directly supervised by one or
1079 more of such physicians, and that is wholly owned by one or more
1080 of those physicians or by a physician and the spouse, parent,
1081 child, or sibling of that physician.
1082 (g) A sole proprietorship, group practice, partnership, or
1083 corporation that provides health care services by licensed
1084 health care practitioners under chapter 457, chapter 458,
1085 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
1086 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
1087 chapter 490, chapter 491, or part I, part III, part X, part
1088 XIII, or part XIV of chapter 468, or s. 464.012, and that is
1089 wholly owned by one or more licensed health care practitioners,
1090 or the licensed health care practitioners set forth in this
1091 paragraph and the spouse, parent, child, or sibling of a
1092 licensed health care practitioner if one of the owners who is a
1093 licensed health care practitioner is supervising the business
1094 activities and is legally responsible for the entity’s
1095 compliance with all federal and state laws. However, a health
1096 care practitioner may not supervise services beyond the scope of
1097 the practitioner’s license, except that, for the purposes of
1098 this part, a clinic owned by a licensee in s. 456.053(3)(b)
1099 which provides only services authorized pursuant to s.
1100 456.053(3)(b) may be supervised by a licensee specified in s.
1101 456.053(3)(b).
1102 (h) Clinical facilities affiliated with an accredited

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597-03046B-13

1103 medical school at which training is provided for medical
1104 students, residents, or fellows.
1105 (i) Entities that provide only oncology or radiation
1106 therapy services by physicians licensed under chapter 458 or
1107 chapter 459 or entities that provide oncology or radiation
1108 therapy services by physicians licensed under chapter 458 or
1109 chapter 459 which are owned by a corporation whose shares are
1110 publicly traded on a recognized stock exchange.
1111 (j) Clinical facilities affiliated with a college of
1112 chiropractic accredited by the Council on Chiropractic Education
1113 at which training is provided for chiropractic students.
1114 (k) Entities that provide licensed practitioners to staff
1115 emergency departments or to deliver anesthesia services in
1116 facilities licensed under chapter 395 and that derive at least
1117 90 percent of their gross annual revenues from the provision of
1118 such services. Entities claiming an exemption from licensure
1119 under this paragraph must provide documentation demonstrating
1120 compliance.
1121 (l) Orthotic or prosthetic clinical facilities that are a
1122 publicly traded corporation or that are wholly owned, directly
1123 or indirectly, by a publicly traded corporation. As used in this
1124 paragraph, a publicly traded corporation is a corporation that
1125 issues securities traded on an exchange registered with the
1126 United States Securities and Exchange Commission as a national
1127 securities exchange.
1128 (m) Entities that are owned by a corporation that has $250
1129 million or more in total annual sales of health care services
1130 provided by licensed health care practitioners where one or more
1131 of the owners is a health care practitioner who is licensed in

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597-03046B-13

1132 this state and who is responsible for supervising the business
1133 activities of the entity and is legally responsible for the
1134 entity's compliance with state law for purposes of this part.
1135 (n) Entities that employ 50 or more licensed health care
1136 practitioners licensed under chapter 458 or chapter 459 where
1137 the billing for medical services is under a single tax
1138 identification number. The application for exemption under this
1139 subsection must include ~~shall contain information that includes~~:
1140 the name, residence~~,~~ and business address, and telephone ~~phone~~
1141 number of the entity that owns the practice; a complete list of
1142 the names and contact information of all the officers and
1143 directors of the corporation; the name, residence address,
1144 business address, and medical license number of each licensed
1145 Florida health care practitioner employed by the entity; the
1146 corporate tax identification number of the entity seeking an
1147 exemption; a list ~~listing~~ of health care services to be provided
1148 by the entity at the health care clinics owned or operated by
1149 the entity and a certified statement prepared by an independent
1150 certified public accountant which states that the entity and the
1151 health care clinics owned or operated by the entity have not
1152 received payment for health care services related to a motor
1153 vehicle accident injury ~~under personal injury protection~~
1154 ~~insurance coverage~~ for the preceding year. If the agency
1155 determines that an entity that ~~which~~ is exempt under this
1156 subsection has received payments for medical services related to
1157 a motor vehicle accident injury ~~under personal injury protection~~
1158 ~~insurance coverage~~, the agency may deny or revoke the exemption
1159 from licensure under this subsection.
1160

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597-03046B-13

1161 ~~Notwithstanding this subsection, an entity shall be deemed a~~
1162 ~~clinic and must be licensed under this part in order to receive~~
1163 ~~reimbursement under the Florida Motor Vehicle No-Fault Law, ss.~~
1164 ~~627.730-627.7405, unless exempted under s. 627.736(5)(h).~~
1165 (7) "Motor vehicle accident injury" means accidental bodily
1166 injury sustained while occupying a motor vehicle as defined in
1167 s. 627.732 or, if the injured party is not an occupant of a
1168 motor vehicle, an injury caused by physical contract with a
1169 motor vehicle.
1170 Section 33. Subsection (6) of section 400.991, Florida
1171 Statutes, is amended to read:
1172 400.991 License requirements; background screenings;
1173 prohibitions.—
1174 (6) All agency forms for licensure application or exemption
1175 from licensure under this part must contain the following
1176 statement:
1177
1178 INSURANCE FRAUD NOTICE.—A person who knowingly submits
1179 a false, misleading, or fraudulent application or
1180 other document when applying for licensure as a health
1181 care clinic, seeking an exemption from licensure as a
1182 health care clinic, or demonstrating compliance with
1183 part X of chapter 400, Florida Statutes, with the
1184 intent to use the license, exemption from licensure,
1185 or demonstration of compliance to provide services or
1186 seek reimbursement related to a motor vehicle accident
1187 injury ~~under the Florida Motor Vehicle No-Fault Law~~,
1188 commits a fraudulent insurance act, as defined in s.
1189 626.989, Florida Statutes. A person who presents a

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597-03046B-13

1190 claim for personal injury protection benefits knowing
1191 that the payee knowingly submitted such health care
1192 clinic application or document, commits insurance
1193 fraud, as defined in s. 817.234, Florida Statutes.
1194
1195 Section 34. Paragraph (g) of subsection (1) of section
1196 400.9935, Florida Statutes, is amended to read:
1197 400.9935 Clinic responsibilities.—
1198 (1) Each clinic shall appoint a medical director or clinic
1199 director who shall agree in writing to accept legal
1200 responsibility for the following activities on behalf of the
1201 clinic. The medical director or the clinic director shall:
1202 (g) Conduct systematic reviews of clinic billings to ensure
1203 that the billings are not fraudulent or unlawful. Upon discovery
1204 of an unlawful charge, the medical director or clinic director
1205 shall take immediate corrective action. If the clinic performs
1206 only the technical component of magnetic resonance imaging,
1207 static radiographs, computed tomography, or positron emission
1208 tomography, and provides the professional interpretation of such
1209 services, in a fixed facility that is accredited by the Joint
1210 Commission on Accreditation of Healthcare Organizations or the
1211 Accreditation Association for Ambulatory Health Care, and the
1212 American College of Radiology; and if, in the preceding quarter,
1213 the percentage of scans performed by that clinic relating to a
1214 motor vehicle accident injury ~~which was billed to all personal~~
1215 ~~injury protection insurance carriers~~ was less than 15 percent,
1216 the chief financial officer of the clinic may, in a written
1217 acknowledgment provided to the agency, assume the responsibility
1218 for the conduct of the systematic reviews of clinic billings to

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597-03046B-13

1219 ensure that the billings are not fraudulent or unlawful.
1220 Section 35. Subsection (28) of section 409.901, Florida
1221 Statutes, is amended to read:
1222 409.901 Definitions; ss. 409.901-409.920.—As used in ss.
1223 409.901-409.920, except as otherwise specifically provided, the
1224 term:
1225 (28) "Third-party benefit" means any benefit that is or may
1226 be available at any time through contract, court award,
1227 judgment, settlement, agreement, or ~~any~~ arrangement between a
1228 third party and any person or entity, including, without
1229 limitation, a Medicaid recipient, a provider, another third
1230 party, an insurer, or the agency, for any Medicaid-covered
1231 injury, illness, goods, or services, including costs of medical
1232 services related thereto, for bodily ~~personal~~ injury or for
1233 death of the recipient, but specifically excluding ~~policies of~~
1234 life insurance policies on the recipient, unless available under
1235 terms of the policy to pay medical expenses before ~~prior to~~
1236 death. The term includes~~, without limitation,~~ collateral, as
1237 defined in this section, health insurance, any benefit under a
1238 health maintenance organization, a preferred provider
1239 arrangement, a prepaid health clinic, liability insurance,
1240 uninsured motorist insurance ~~or personal injury protection~~
1241 ~~coverage~~, medical benefits under workers' compensation, and any
1242 obligation under law or equity to provide medical support.
1243 Section 36. Paragraph (f) of subsection (11) of section
1244 409.910, Florida Statutes, is amended to read:
1245 409.910 Responsibility for payments on behalf of Medicaid-
1246 eligible persons when other parties are liable.—
1247 (11) The agency may, as a matter of right, in order to

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597-03046B-13

1248 enforce its rights under this section, institute, intervene in,
1249 or join any legal or administrative proceeding in its own name
1250 in one or more of the following capacities: individually, as
1251 subrogee of the recipient, as assignee of the recipient, or as
1252 lienholder of the collateral.
1253 (f) Notwithstanding any other provision in this section ~~to~~
1254 ~~the contrary~~, if ~~in the event of~~ an action in tort against a
1255 third party in which the recipient or his or her legal
1256 representative is a party ~~which~~ results in a judgment, award, or
1257 settlement from a third party, the amount recovered shall be
1258 distributed as follows:
1259 1. After attorney ~~attorney's~~ fees and taxable costs as
1260 defined by the Florida Rules of Civil Procedure, one-half of the
1261 remaining recovery shall be paid to the agency up to the total
1262 amount of medical assistance provided by Medicaid.
1263 2. The remaining amount of the recovery shall be paid to
1264 the recipient.
1265 3. For purposes of calculating the agency's recovery of
1266 medical assistance benefits paid, the fee for services of an
1267 attorney retained by the recipient or his or her legal
1268 representative shall be calculated at 25 percent of the
1269 judgment, award, or settlement.
1270 4. Notwithstanding any other provision of this section ~~to~~
1271 ~~the contrary~~, the agency is ~~shall be~~ entitled to all medical
1272 coverage benefits up to the total amount of medical assistance
1273 provided by Medicaid. For purposes of this paragraph, "medical
1274 coverage" means any benefits under health insurance, a health
1275 maintenance organization, a preferred provider arrangement, or a
1276 prepaid health clinic, and the portion of benefits designated

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597-03046B-13

1277 for medical payments under coverage for workers' compensation~~,~~
1278 ~~personal injury protection,~~ and casualty.
1279 Section 37. Paragraph (k) of subsection (2) of section
1280 456.057, Florida Statutes, is amended to read:
1281 456.057 Ownership and control of patient records; report or
1282 copies of records to be furnished.—
1283 (2) As used in this section, the terms "records owner,"
1284 "health care practitioner," and "health care practitioner's
1285 employer" do not include any of the following persons or
1286 entities; furthermore, the following persons or entities are not
1287 authorized to acquire or own medical records, but are authorized
1288 under the confidentiality and disclosure requirements of this
1289 section to maintain those documents required by the part or
1290 chapter under which they are licensed or regulated:
1291 ~~(k) Persons or entities practicing under s. 627.736(7).~~
1292 Section 38. Paragraphs (gg) through (nn) of subsection (1)
1293 of section 456.072, Florida Statutes, are redesignated as
1294 paragraphs (ee) through (ll), respectively, and paragraphs (ee)
1295 and (ff) of that subsection are amended, to read:
1296 456.072 Grounds for discipline; penalties; enforcement.—
1297 (1) The following acts shall constitute grounds for which
1298 the disciplinary actions specified in subsection (2) may be
1299 taken:
1300 ~~(ee) With respect to making a personal injury protection~~
1301 ~~claim as required by s. 627.736, intentionally submitting a~~
1302 ~~claim, statement, or bill that has been "upcoded" as defined in~~
1303 ~~s. 627.732.~~
1304 ~~(ff) With respect to making a personal injury protection~~
1305 ~~claim as required by s. 627.736, intentionally submitting a~~

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597-03046B-13

1306 ~~claim, statement, or bill for payment of services that were not~~
1307 ~~rendered.~~
1308 Section 39. Paragraph (i) of subsection (1) of section
1309 626.9541, Florida Statutes, is amended to read:
1310 626.9541 Unfair methods of competition and unfair or
1311 deceptive acts or practices defined.—
1312 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
1313 ACTS.—The following are defined as unfair methods of competition
1314 and unfair or deceptive acts or practices:
1315 (i) *Unfair claim settlement practices.*—
1316 1. Attempting to settle claims on the basis of an
1317 application~~,~~ when serving as a binder or intended to become a
1318 part of the policy, or any other material document that ~~which~~
1319 was altered without notice to, or knowledge or consent of, the
1320 insured;
1321 2. A material misrepresentation made to an insured or any
1322 other person having an interest in the proceeds that are payable
1323 under a ~~such~~ contract or policy, for the purpose and with the
1324 intent of effecting settlement of such claims, loss, or damage
1325 under such contract or policy on less favorable terms than those
1326 provided in, and contemplated by, the ~~such~~ contract or policy;
1327 or
1328 3. Committing or performing with such frequency as to
1329 indicate a general business practice any of the following:
1330 a. Failing to adopt and implement standards for the proper
1331 investigation of claims;
1332 b. Misrepresenting pertinent facts or insurance policy
1333 provisions relating to coverages at issue;
1334 c. Failing to acknowledge and act promptly upon

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597-03046B-13

1335 communications with respect to claims;
1336 d. Denying claims without conducting reasonable
1337 investigations based upon available information;
1338 e. Failing to affirm or deny full or partial coverage of
1339 claims, and, as to partial coverage, the dollar amount or extent
1340 of coverage, or failing to provide a written statement that the
1341 claim is being investigated, upon the written request of the
1342 insured, within 30 days after proof-of-loss statements have been
1343 completed;
1344 f. Failing to promptly provide a reasonable explanation in
1345 writing to the insured of the basis in the insurance policy, in
1346 relation to the facts or applicable law, for denial of a claim
1347 or for the offer of a compromise settlement;
1348 g. Failing to promptly notify the insured of any additional
1349 information necessary for the processing of a claim; or
1350 h. Failing to clearly explain the nature of the requested
1351 information and the reasons why such information is necessary.
1352 ~~i. Failing to pay personal injury protection insurance~~
1353 ~~claims within the time periods required by s. 627.736(4)(b). The~~
1354 ~~office may order the insurer to pay restitution to a~~
1355 ~~policyholder, medical provider, or other claimant, including~~
1356 ~~interest at a rate consistent with the amount set forth in s.~~
1357 ~~55.03(1), for the time period within which an insurer fails to~~
1358 ~~pay claims as required by law. Restitution is in addition to any~~
1359 ~~other penalties allowed by law, including, but not limited to,~~
1360 ~~the suspension of the insurer's certificate of authority.~~
1361 4. Failing to pay undisputed amounts of partial or full
1362 benefits owed under first-party property insurance policies
1363 within 90 days after an insurer receives notice of a residential

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597-03046B-13

1364 property insurance claim, determines the amounts of partial or
1365 full benefits, and agrees to coverage, unless payment of the
1366 undisputed benefits is prevented by an act of God, prevented by
1367 the impossibility of performance, or due to actions by the
1368 insured or claimant which ~~that~~ constitute fraud, lack of
1369 cooperation, or intentional misrepresentation regarding the
1370 claim for which benefits are owed.
1371 Section 40. Paragraph (a) of subsection (1) of section
1372 626.989, Florida Statutes, is amended to read:
1373 626.989 Investigation by department or Division of
1374 Insurance Fraud; compliance; immunity; confidential information;
1375 reports to division; division investigator's power of arrest.—
1376 (1) For the purposes of this section:
1377 (a) A person commits a "fraudulent insurance act" if the
1378 person:
1379 1. Knowingly and with intent to defraud presents, causes to
1380 be presented, or prepares with knowledge or belief that it will
1381 be presented, to or by an insurer, self-insurer, self-insurance
1382 fund, servicing corporation, purported insurer, broker, or any
1383 agent thereof, any written statement as part of, or in support
1384 of, an application for the issuance of, or the rating of, any
1385 insurance policy, or a claim for payment or other benefit
1386 pursuant to any insurance policy, which the person knows to
1387 contain materially false information concerning any fact
1388 material thereto or if the person conceals, for the purpose of
1389 misleading another, information concerning any fact material
1390 thereto.
1391 2. Knowingly submits:
1392 a. A false, misleading, or fraudulent application or other

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597-03046B-13

1393 document when applying for licensure as a health care clinic,
1394 seeking an exemption from licensure as a health care clinic, or
1395 demonstrating compliance with part X of chapter 400 with an
1396 intent to use the license, exemption from licensure, or
1397 demonstration of compliance to provide services or seek
1398 reimbursement relating to a motor vehicle accident ~~under the~~
1399 ~~Florida Motor Vehicle No-Fault Law~~.
1400 b. A claim for payment or other benefit relating to a motor
1401 vehicle accident ~~pursuant to a personal injury protection~~
1402 ~~insurance policy under the Florida Motor Vehicle No-Fault Law~~ if
1403 the person knows that the payee knowingly submitted a false,
1404 misleading, or fraudulent application or other document when
1405 applying for licensure as a health care clinic, seeking an
1406 exemption from licensure as a health care clinic, or
1407 demonstrating compliance with part X of chapter 400.
1408 Section 41. Paragraph (a) of subsection (4) of section
1409 626.9895, Florida Statutes, is amended to read:
1410 626.9895 Motor vehicle insurance fraud direct-support
1411 organization.—
1412 (4) BOARD OF DIRECTORS.—
1413 (a) The board of directors of the organization consists
1414 ~~shall consist~~ of the following 11 members:
1415 1. The Chief Financial Officer, or designee, who serves
1416 ~~shall serve~~ as chair.
1417 2. Two state attorneys, one ~~of whom shall be~~ appointed by
1418 the Chief Financial Officer and the other ~~one of whom shall be~~
1419 appointed by the Attorney General.
1420 3. Two representatives of motor vehicle insurers appointed
1421 by the Chief Financial Officer.

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597-03046B-13

1422 4. Two representatives of local law enforcement agencies,
1423 one ~~of whom shall be~~ appointed by the Chief Financial Officer
1424 and the other ~~one of whom shall be~~ appointed by the Attorney
1425 General.
1426 5. Two representatives of the types of health care
1427 providers who regularly make claims for benefits related to
1428 motor vehicle accidents ~~under ss. 627.730-627.7405~~, one ~~of whom~~
1429 ~~shall be~~ appointed by the President of the Senate and the other
1430 ~~one of whom shall be~~ appointed by the Speaker of the House of
1431 Representatives. The appointees may not represent the same type
1432 of health care provider.
1433 6. A private attorney who has experience in representing
1434 claimants in motor vehicle tort claims, ~~actions for benefits~~
1435 ~~under ss. 627.730-627.7405, who shall be~~ appointed by the
1436 President of the Senate.
1437 7. A private attorney who has experience in representing
1438 insurers in motor vehicle tort claims, ~~actions for benefits~~
1439 ~~under ss. 627.730-627.7405, who shall be~~ appointed by the
1440 Speaker of the House of Representatives.
1441 Section 42. Subsection (1) of section 627.06501, Florida
1442 Statutes, is amended to read:
1443 627.06501 Insurance discounts for certain persons
1444 completing driver improvement course.—
1445 (1) Any rate, rating schedule, or rating manual for the
1446 liability~~, personal injury protection,~~ and collision coverages
1447 of a motor vehicle insurance policy filed with the office may
1448 provide for an appropriate reduction in premium charges as to
1449 such coverages if ~~when~~ the principal operator on the covered
1450 vehicle has successfully completed a driver improvement course

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597-03046B-13

1451 approved and certified by the Department of Highway Safety and
1452 Motor Vehicles which is effective in reducing crash or violation
1453 rates, or both~~, as determined pursuant to s. 318.1451(5)~~. Any
1454 discount, not to exceed 10 percent, used by an insurer is
1455 presumed to be appropriate unless credible data demonstrates
1456 otherwise.
1457 Section 43. Subsection (1) of section 627.0652, Florida
1458 Statutes, is amended to read:
1459 627.0652 Insurance discounts for certain persons completing
1460 safety course.—
1461 (1) Any rates, rating schedules, or rating manuals for the
1462 liability~~, personal injury protection,~~ and collision coverages
1463 of a motor vehicle insurance policy filed with the office must
1464 ~~shall~~ provide for an appropriate reduction in premium charges as
1465 to such coverages if ~~when~~ the principal operator on the covered
1466 vehicle is an insured 55 years of age or older who has
1467 successfully completed a motor vehicle accident prevention
1468 course approved by the Department of Highway Safety and Motor
1469 Vehicles. Any discount used by an insurer is presumed to be
1470 appropriate unless credible data demonstrates otherwise.
1471 Section 44. Subsections (1) and (3) of section 627.0653,
1472 Florida Statutes, are amended to read:
1473 627.0653 Insurance discounts for specified motor vehicle
1474 equipment.—
1475 (1) Any rates, rating schedules, or rating manuals for the
1476 liability~~, personal injury protection,~~ and collision coverages
1477 of a motor vehicle insurance policy filed with the office must
1478 ~~shall~~ provide a premium discount if the insured vehicle is
1479 equipped with factory-installed, four-wheel antilock brakes.

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597-03046B-13

1480 (3) Any rates, rating schedules, or rating manuals for
1481 ~~personal injury protection coverage and~~ medical payments
1482 coverage, if offered, of a motor vehicle insurance policy filed
1483 with the office must ~~shall~~ provide a premium discount if the
1484 insured vehicle is equipped with one or more air bags which are
1485 factory installed.
1486 Section 45. Section 627.4132, Florida Statutes, is amended
1487 to read:
1488 627.4132 Stacking of coverages prohibited.—If an insured or
1489 named insured is protected by any type of motor vehicle
1490 insurance policy for liability~~, personal injury protection,~~ or
1491 other coverage, the policy must ~~shall~~ provide that the insured
1492 or named insured is protected only to the extent of the coverage
1493 she or he has on the vehicle involved in the accident. However,
1494 if none of the insured's or named insured's vehicles is involved
1495 in the accident, coverage is available only to the extent of
1496 coverage on any one of the vehicles with applicable coverage.
1497 Coverage on any other vehicles may ~~shall~~ not be added to or
1498 stacked onto ~~upon~~ that coverage. This section does not apply:
1499 (1) To uninsured motorist coverage, which is separately
1500 governed by s. 627.727.
1501 (2) To reduce the coverage available by reason of insurance
1502 policies insuring different named insureds.
1503 Section 46. Subsection (6) of section 627.6482, Florida
1504 Statutes, is amended to read:
1505 627.6482 Definitions.—As used in ss. 627.648-627.6498, the
1506 term:
1507 (6) "Health insurance" means any hospital and medical
1508 expense incurred policy, minimum premium plan, stop-loss

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1509 coverage, health maintenance organization contract, prepaid
1510 health clinic contract, multiple-employer welfare arrangement
1511 contract, or fraternal benefit society health benefits contract,
1512 whether sold as an individual or group policy or contract. The
1513 term does not include a ~~any~~ policy covering medical payment
1514 coverage or bodily ~~personal~~ injury liability ~~protection~~ coverage
1515 in a motor vehicle policy, coverage issued as a supplement to
1516 liability insurance, or workers' compensation.
1517 Section 47. Section 627.7263, Florida Statutes, is amended
1518 to read:
1519 627.7263 Rental and leasing driver's insurance to be
1520 primary; exception.—
1521 (1) ~~The~~ Valid and collectible liability insurance ~~or~~
1522 ~~personal injury protection insurance~~ providing coverage for the
1523 lessor of a motor vehicle for rent or lease is primary unless
1524 otherwise stated in at least 10-point type on the face of the
1525 rental or lease agreement. Such insurance is primary for the
1526 limits of liability required under s. 324.021(7) ~~and personal~~
1527 ~~injury protection coverage as required by ss. 324.021(7) and~~
1528 ~~627.736~~.
1529 (2) If the lessee's coverage is to be primary, the rental
1530 or lease agreement must contain the following language, in at
1531 least 10-point type:
1532
1533 "The valid and collectible liability insurance ~~and~~
1534 ~~personal injury protection insurance~~ of an ~~any~~
1535 authorized rental or leasing driver is primary for the
1536 limits of liability ~~and personal injury protection~~
1537 coverage required under s. ~~by ss.~~ 324.021(7) ~~and~~

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597-03046B-13

1538 ~~627.736~~, Florida Statutes."
1539 Section 48. Subsections (8) through (10) of section
1540 627.727, Florida Statutes, are renumbered as subsections (7)
1541 through (9), respectively, and subsection (1) and present
1542 subsection (7) of that section are amended, to read:
1543 627.727 Motor vehicle insurance; uninsured and underinsured
1544 vehicle coverage; insolvent insurer protection.—
1545 (1) No motor vehicle liability insurance policy which
1546 provides bodily injury liability coverage shall be delivered or
1547 issued for delivery in this state with respect to any
1548 specifically insured or identified motor vehicle registered or
1549 principally garaged in this state unless uninsured motor vehicle
1550 coverage is provided therein or supplemental thereto for the
1551 protection of persons insured thereunder who are legally
1552 entitled to recover damages from owners or operators of
1553 uninsured motor vehicles because of bodily injury, sickness, or
1554 disease, including death, resulting therefrom. However, the
1555 coverage required under this section is not applicable if ~~when~~,
1556 or to the extent that, an insured named in the policy makes a
1557 written rejection of the coverage on behalf of all insureds
1558 under the policy. If ~~When~~ a motor vehicle is leased for ~~a period~~
1559 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms
1560 of the lease contract, provides liability coverage on the leased
1561 vehicle, the lessee of such vehicle shall have the sole
1562 privilege to reject uninsured motorist coverage or to select
1563 lower limits than the bodily injury liability limits, regardless
1564 of whether the lessor is qualified as a self-insurer pursuant to
1565 s. 324.171. Unless an insured, or lessee having the privilege of
1566 rejecting uninsured motorist coverage, requests such coverage or

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597-03046B-13

1567 requests higher uninsured motorist limits in writing, the
1568 coverage or such higher uninsured motorist limits need not be
1569 provided in or supplemental to any other policy that ~~which~~
1570 renews, extends, changes, supersedes, or replaces an existing
1571 policy with the same bodily injury liability limits if ~~when~~ an
1572 insured or lessee had rejected the coverage. If ~~When~~ an insured
1573 or lessee has initially selected limits of uninsured motorist
1574 coverage lower than her or his bodily injury liability limits,
1575 higher limits of uninsured motorist coverage need not be
1576 provided in or supplemental to any other policy that ~~which~~
1577 renews, extends, changes, supersedes, or replaces an existing
1578 policy with the same bodily injury liability limits unless an
1579 insured requests higher uninsured motorist coverage in writing.
1580 The rejection or selection of lower limits shall be made on a
1581 form approved by the office. The form must ~~shall~~ fully advise
1582 the applicant of the nature of the coverage and ~~shall~~ state that
1583 the coverage is equal to bodily injury liability limits unless
1584 lower limits are requested or the coverage is rejected. The
1585 heading of the form shall be in 12-point bold type and ~~shall~~
1586 state: "You are electing not to purchase certain valuable
1587 coverage that ~~which~~ protects you and your family or you are
1588 purchasing uninsured motorist limits less than your bodily
1589 injury liability limits when you sign this form. Please read
1590 carefully." If this form is signed by a named insured, it will
1591 be conclusively presumed that there was an informed, knowing
1592 rejection of coverage or election of lower limits on behalf of
1593 all insureds. The insurer shall notify the named insured at
1594 least annually of her or his options as to the coverage required
1595 by this section. Such notice must ~~shall~~ be part of, and attached

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597-03046B-13

1596 to, the notice of premium, must ~~shall~~ provide ~~for~~ a means to
1597 allow the insured to request such coverage, and must ~~shall~~ be
1598 given in a manner approved by the office. Receipt of this notice
1599 does not constitute an affirmative waiver of the insured's right
1600 to uninsured motorist coverage if ~~where~~ the insured has not
1601 signed a selection or rejection form. The coverage described
1602 under this section is ~~shall be~~ over and above, but may ~~shall~~ not
1603 duplicate, the benefits available to an insured under any
1604 workers' compensation law, ~~personal injury protection benefits,~~
1605 disability benefits law, or similar law; under any automobile
1606 medical expense coverage; under any motor vehicle liability
1607 insurance coverage; or from the owner or operator of the
1608 uninsured motor vehicle or any other person or organization
1609 jointly or severally liable ~~together~~ with such owner or operator
1610 for the accident; and such coverage must ~~shall~~ cover the
1611 difference, if any, between the sum of such benefits and the
1612 damages sustained, up to the maximum amount of ~~such~~ coverage
1613 provided under this section. The amount of coverage available
1614 under this section may ~~shall~~ not be reduced by a setoff against
1615 any coverage, including liability insurance. Such coverage does
1616 ~~shall~~ not inure, directly or indirectly, to the benefit of any
1617 workers' compensation or disability benefits carrier or any
1618 person or organization qualifying as a self-insurer under any
1619 workers' compensation or disability benefits law or similar law.
1620 ~~(7) The legal liability of an uninsured motorist coverage~~
1621 ~~insurer does not include damages in tort for pain, suffering,~~
1622 ~~mental anguish, and inconvenience unless the injury or disease~~
1623 ~~is described in one or more of paragraphs (a)-(d) of s.~~
1624 ~~627.737(2).~~

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1625 Section 49. Subsection (1) and paragraph (a) of subsection
1626 (2) of section 627.7275, Florida Statutes, are amended to read:
1627 627.7275 Motor vehicle liability.—
1628 (1) A motor vehicle insurance policy ~~providing personal~~
1629 ~~injury protection as set forth in s. 627.736 may not be~~
1630 delivered or issued for delivery in this state for a ~~with~~
1631 ~~respect to any~~ specifically insured or identified motor vehicle
1632 registered or principally garaged in this state must provide
1633 ~~unless the policy also provides~~ coverage for property damage
1634 liability and bodily injury liability as required under ~~by~~ s.
1635 324.022.
1636 (2)(a) Insurers writing motor vehicle insurance in this
1637 state shall make available, subject to the insurers' usual
1638 underwriting restrictions:
1639 1. Coverage under policies as described in subsection (1)
1640 to any applicant for private passenger motor vehicle insurance
1641 coverage who is seeking the coverage in order to reinstate the
1642 applicant's driving privileges in this state if ~~when the~~ driving
1643 privileges were revoked or suspended pursuant to s. 316.646 or
1644 s. 324.0221 due to the failure of the applicant to maintain
1645 required security.
1646 2. Coverage under policies as described in subsection (1),
1647 which also provides bodily injury liability coverage and
1648 property damage liability coverage ~~for bodily injury, death, and~~
1649 ~~property damage arising out of the ownership, maintenance, or~~
1650 ~~use of the motor vehicle~~ in an amount not less than the limits
1651 described in s. 324.021(7) and conforms to the requirements of
1652 s. 324.151, to any applicant for private passenger motor vehicle
1653 insurance coverage who is seeking the coverage in order to

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597-03046B-13

1654 reinstate the applicant's driving privileges in this state after
1655 such privileges were revoked or suspended under s. 316.193 or s.
1656 322.26(2) for driving under the influence.
1657 Section 50. Paragraph (a) of subsection (1) of section
1658 627.728, Florida Statutes, is amended to read:
1659 627.728 Cancellations; nonrenewals.—
1660 (1) As used in this section, the term:
1661 (a) "Policy" means ~~the~~ bodily injury and property damage
1662 liability, ~~personal injury protection,~~ medical payments,
1663 comprehensive, collision, and uninsured motorist coverage
1664 portions of a policy of motor vehicle insurance delivered or
1665 issued for delivery in this state:
1666 1. Insuring a natural person as named insured or one or
1667 more related individuals <u>who are residents</u> ~~resident~~ of the same
1668 household; and
1669 2. Insuring only a motor vehicle of the private passenger
1670 type or station wagon type which is not used as a public or
1671 livery conveyance for passengers or rented to others; or
1672 insuring any other four-wheel motor vehicle having a load
1673 capacity of 1,500 pounds or less which is not used in the
1674 occupation, profession, or business of the insured other than
1675 farming; other than any policy issued under an automobile
1676 insurance assigned risk plan; insuring more than four
1677 automobiles; or covering garage, automobile sales agency, repair
1678 shop, service station, or public parking place operation
1679 hazards.
1680
1681 The term "policy" does not include a binder as defined in s.
1682 627.420 unless the duration of the binder period exceeds 60

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597-03046B-13

1683 days.
1684 Section 51. Paragraphs (a) and (b) of subsection (1),
1685 paragraph (a) of subsection (5), and subsection (7) of section
1686 627.7295, Florida Statutes, are amended to read:
1687 627.7295 Motor vehicle insurance contracts.—
1688 (1) As used in this section, the term:
1689 (a) "Policy" means a motor vehicle insurance policy that
1690 provides bodily injury liability ~~personal injury protection~~
1691 coverage, property damage liability coverage, or both.
1692 (b) "Binder" means a binder that provides motor vehicle
1693 bodily injury liability ~~personal injury protection~~ and property
1694 damage liability coverage.
1695 (5)(a) A licensed general lines agent may charge a per-
1696 policy fee of up to ~~not to exceed~~ $10 to cover the agent's
1697 administrative costs ~~of the agent~~ associated with selling the
1698 motor vehicle insurance policy if the policy covers only bodily
1699 injury liability ~~personal injury protection~~ coverage ~~as provided~~
1700 ~~by s. 627.736~~ and property damage liability coverage as provided
1701 by s. 627.7275 and if no other insurance is sold or issued in
1702 conjunction with or collateral to the policy. The fee is not
1703 ~~considered~~ part of the premium.
1704 (7) A policy of private passenger motor vehicle insurance
1705 or a binder for such a policy may be initially issued in this
1706 state only if, before the effective date of such binder or
1707 policy, the insurer or agent has collected ~~from the insured an~~
1708 ~~amount equal to~~ 2 months' premium from the insured. An insurer,
1709 agent, or premium finance company may not, directly or
1710 indirectly, take any action that results ~~resulting~~ in the
1711 insured paying ~~having paid~~ from the insured's own funds an

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597-03046B-13

1712 amount less than the 2 months' premium required by this
1713 subsection. This subsection applies without regard to whether
1714 the premium is financed by a premium finance company or is paid
1715 pursuant to a periodic payment plan of an insurer or an
1716 insurance agent.
1717 (a) This subsection does not apply:
1718 1. If an insured or member of the insured's family is
1719 renewing or replacing a policy or a binder for such policy
1720 written by the same insurer or a member of the same insurer
1721 group; ~~. This subsection does not apply~~
1722 2. To an insurer that issues private passenger motor
1723 vehicle coverage primarily to active duty or former military
1724 personnel or their dependents; or ~~. This subsection does not~~
1725 ~~apply~~
1726 3. If all policy payments are paid pursuant to a payroll
1727 deduction plan or an automatic electronic funds transfer payment
1728 plan from the policyholder.
1729 (b) This subsection and subsection (4) do not apply if:
1730 1. All policy payments to an insurer are paid pursuant to
1731 an automatic electronic funds transfer payment plan from an
1732 agent, a managing general agent, or a premium finance company
1733 and if the policy includes, at a minimum, bodily injury
1734 liability and ~~personal injury protection pursuant to ss.~~
1735 ~~627.730-627.7405;~~ motor vehicle property damage liability
1736 pursuant to s. 627.7275; or ~~and bodily injury liability in at~~
1737 ~~least the amount of $10,000 because of bodily injury to, or~~
1738 ~~death of, one person in any one accident and in the amount of~~
1739 ~~$20,000 because of bodily injury to, or death of, two or more~~
1740 ~~persons in any one accident. This subsection and subsection (4)~~

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597-03046B-13

1741 ~~do not apply if~~
1742 2. An insured has had a policy in effect for at least 6
1743 months, the insured's agent is terminated by the insurer that
1744 issued the policy, and the insured obtains coverage on the
1745 policy's renewal date with a new company through the terminated
1746 agent.
1747 Section 52. Section 627.8405, Florida Statutes, is amended
1748 to read:
1749 627.8405 Prohibited acts; financing companies.—A ~~No~~ premium
1750 finance company ~~shall~~, in a premium finance agreement or other
1751 agreement, may not finance the cost of or otherwise provide for
1752 the collection or remittance of dues, assessments, fees, or
1753 other periodic payments of money for the cost of:
1754 (1) A membership in an automobile club. The term
1755 "automobile club" means a legal entity that ~~which~~, in
1756 consideration of dues, assessments, or periodic payments of
1757 money, promises its members or subscribers to assist them in
1758 matters relating to the ownership, operation, use, or
1759 maintenance of a motor vehicle; however, the term ~~this~~
1760 ~~definition of "automobile club"~~ does not include persons,
1761 associations, or corporations that ~~which~~ are organized and
1762 operated solely for the purpose of conducting, sponsoring, or
1763 sanctioning motor vehicle races, exhibitions, or contests upon
1764 racetracks, or upon racecourses established and marked as such
1765 for the duration of such particular events. The term ~~words~~
1766 "motor vehicle" has ~~used herein have~~ the same meaning as
1767 provided ~~defined~~ in chapter 320.
1768 (2) An accidental death and dismemberment policy sold in
1769 combination with a bodily injury liability ~~personal injury~~

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597-03046B-13

1770 ~~protection~~ and property-damage-only ~~property damage only~~ policy.
1771 (3) Any product not regulated under the provisions of this
1772 insurance code.
1773
1774 This section also applies to premium financing by any insurance
1775 agent or insurance company under part XVI. The commission shall
1776 adopt rules to assure disclosure, at the time of sale, of
1777 coverages financed with bodily injury liability coverage
1778 ~~personal injury protection~~ and shall prescribe the form of such
1779 disclosure.
1780 Section 53. Subsection (1) of section 627.915, Florida
1781 Statutes, is amended to read:
1782 627.915 Insurer experience reporting.—
1783 (1) Each insurer transacting private passenger automobile
1784 insurance in this state shall report certain information
1785 annually to the office. The information is ~~will be~~ due on or
1786 before July 1 of each year. The information shall be divided
1787 into the following categories: bodily injury liability; property
1788 damage liability; uninsured motorist; ~~personal injury protection~~
1789 ~~benefits;~~ medical payments; comprehensive and collision. The
1790 information must ~~given shall~~ be on direct insurance writings in
1791 the state alone and ~~shall~~ represent total limits data. The
1792 information set forth in paragraphs (a)-(f) is applicable to
1793 voluntary private passenger and Joint Underwriting Association
1794 private passenger writings and shall be reported for each of the
1795 latest 3 calendar-accident years, with an evaluation date of
1796 March 31 of the current year. The information set forth in
1797 paragraphs (g)-(j) is applicable to voluntary private passenger
1798 writings and shall be reported on a calendar-accident year basis

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597-03046B-13

1799 ultimately seven times at seven different stages of development.
1800 (a) Premiums earned for the latest 3 calendar-accident
1801 years.
1802 (b) Loss development factors and the historic development
1803 of those factors.
1804 (c) Policyholder dividends incurred.
1805 (d) Expenses for other acquisition and general expense.
1806 (e) Expenses for agents' commissions and taxes, licenses,
1807 and fees.
1808 (f) Profit and contingency factors as utilized in the
1809 insurer's automobile rate filings for the applicable years.
1810 (g) Losses paid.
1811 (h) Losses unpaid.
1812 (i) Loss adjustment expenses paid.
1813 (j) Loss adjustment expenses unpaid.
1814 Section 54. Present paragraph (e) of subsection (2) of
1815 section 628.909, Florida Statutes, is redesignated as paragraph
1816 (d), present paragraph (d) of that subsection is amended,
1817 present paragraph (e) of subsection (3) of that section is
1818 redesignated as paragraph (d), and present paragraph (d) of that
1819 subsection is amended, to read:
1820 628.909 Applicability of other laws.—
1821 (2) The following provisions of the Florida Insurance Code
1822 apply to captive insurers who are not industrial insured captive
1823 insurers to the extent that such provisions are not inconsistent
1824 with this part:
1825 ~~(d) Sections 627.730-627.7405, when no-fault coverage is~~
1826 ~~provided.~~
1827 (3) The following provisions of the Florida Insurance Code

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597-03046B-13

1828 apply to industrial insured captive insurers to the extent that
1829 such provisions are not inconsistent with this part:
1830 ~~(d) Sections 627.730-627.7405 when no-fault coverage is~~
1831 ~~provided.~~
1832 Section 55. Subsections (2), (6), and (7) of section
1833 705.184, Florida Statutes, are amended to read:
1834 705.184 Derelict or abandoned motor vehicles on the
1835 premises of public-use airports.—
1836 (2) The airport director or the director’s designee shall
1837 contact the Department of Highway Safety and Motor Vehicles to
1838 notify that department that the airport has possession of the
1839 abandoned or derelict motor vehicle and to determine the name
1840 and address of the owner of the motor vehicle, the insurance
1841 company insuring the motor vehicle, ~~notwithstanding the~~
1842 ~~provisions of s. 627.736,~~ and any person who has filed a lien on
1843 the motor vehicle. Within 7 business days after receipt of the
1844 information, the director or the director’s designee shall send
1845 notice by certified mail, return receipt requested, to the owner
1846 of the motor vehicle, the insurance company insuring the motor
1847 vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all
1848 persons of record claiming a lien against the motor vehicle. The
1849 notice shall state the fact of possession of the motor vehicle,
1850 that charges for reasonable towing, storage, and parking fees,
1851 if any, have accrued and the amount thereof, that a lien as
1852 provided in subsection (6) will be claimed, that the lien is
1853 subject to enforcement pursuant to law, that the owner or
1854 lienholder, if any, has the right to a hearing as set forth in
1855 subsection (4), and that any motor vehicle which, at the end of
1856 30 calendar days after receipt of the notice, has not been

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597-03046B-13

1857 removed from the airport upon payment in full of all accrued
1858 charges for reasonable towing, storage, and parking fees, if
1859 any, may be disposed of as provided in s. 705.182(2)(a), (b),
1860 (d), or (e), including, but not limited to, the motor vehicle
1861 being sold free of all prior liens after 35 calendar days after
1862 the time the motor vehicle is stored if any prior liens on the
1863 motor vehicle are more than 5 years of age or after 50 calendar
1864 days after the time the motor vehicle is stored if any prior
1865 liens on the motor vehicle are 5 years of age or less.
1866 (6) The airport pursuant to this section or, if used, a
1867 licensed independent wrecker company pursuant to s. 713.78 shall
1868 have a lien on an abandoned or derelict motor vehicle for all
1869 reasonable towing, storage, and accrued parking fees, if any,
1870 except that no storage fee shall be charged if the motor vehicle
1871 is stored less than 6 hours. As a prerequisite to perfecting a
1872 lien under this section, the airport director or the director's
1873 designee must serve a notice in accordance with subsection (2)
1874 on the owner of the motor vehicle, the insurance company
1875 insuring the motor vehicle, ~~notwithstanding the provisions of s.~~
1876 ~~627.736,~~ and all persons of record claiming a lien against the
1877 motor vehicle. If attempts to notify the owner, the insurance
1878 company insuring the motor vehicle, ~~notwithstanding the~~
1879 ~~provisions of s. 627.736,~~ or lienholders are not successful, the
1880 requirement of notice by mail shall be considered met. Serving
1881 of the notice does not dispense with recording the claim of
1882 lien.
1883 (7)(a) For the purpose of perfecting its lien under this
1884 section, the airport shall record a claim of lien which states
1885 ~~shall state~~:

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597-03046B-13

1886 1. The name and address of the airport.
1887 2. The name of the owner of the motor vehicle, the
1888 insurance company insuring the motor vehicle, ~~notwithstanding~~
1889 ~~the provisions of s. 627.736,~~ and all persons of record claiming
1890 a lien against the motor vehicle.
1891 3. The costs incurred from reasonable towing, storage, and
1892 parking fees, if any.
1893 4. A description of the motor vehicle sufficient for
1894 identification.
1895 (b) The claim of lien shall be signed and sworn to or
1896 affirmed by the airport director or the director's designee.
1897 (c) The claim of lien is ~~shall be~~ sufficient if it is in
1898 substantially the following form:
1899
1900 CLAIM OF LIEN
1901 State of .....
1902 County of .....
1903 Before me, the undersigned notary public, personally appeared
1904 ....., who was duly sworn and says that he/she is the
1905 ..... of ....., whose address is.....; and that the
1906 following described motor vehicle:
1907 ...(Description of motor vehicle)...
1908 owned by ....., whose address is ....., has accrued
1909 $..... in fees for a reasonable tow, for storage, and for
1910 parking, if applicable; that the lienor served its notice to the
1911 owner, the insurance company insuring the motor vehicle
1912 ~~notwithstanding the provisions of s. 627.736, Florida Statutes~~,
1913 and all persons of record claiming a lien against the motor
1914 vehicle on ...., ...(year)..., by.....

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597-03046B-13

1915 ...(Signature)...
1916 Sworn to (or affirmed) and subscribed before me this .... day of
1917 ...., ...(year)..., by ...(name of person making statement)....
1918 ...(Signature of Notary Public).....(Print, Type, or Stamp
1919 Commissioned name of Notary Public)...
1920 Personally Known....OR Produced....as identification.
1921
1922 However, the negligent inclusion or omission of any information
1923 in this claim of lien which does not prejudice the owner does
1924 not constitute a default that operates to defeat an otherwise
1925 valid lien.
1926 (d) The claim of lien shall be served on the owner of the
1927 motor vehicle, the insurance company insuring the motor vehicle,
1928 ~~notwithstanding the provisions of s. 627.736,~~ and all persons of
1929 record claiming a lien against the motor vehicle. If attempts to
1930 notify the owner, the insurance company insuring the motor
1931 vehicle ~~notwithstanding the provisions of s. 627.736~~, or
1932 lienholders are not successful, the requirement of notice by
1933 mail shall be considered met. The claim of lien shall be so
1934 served before recordation.
1935 (e) The claim of lien shall be recorded with the clerk of
1936 court in the county where the airport is located. The recording
1937 of the claim of lien shall be constructive notice to all persons
1938 of the contents and effect of such claim. The lien shall attach
1939 at the time of recordation and shall take priority as of that
1940 time.
1941 Section 56. Subsection (4) of section 713.78, Florida
1942 Statutes, is amended to read:
1943 713.78 Liens for recovering, towing, or storing vehicles

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597-03046B-13

1944 and vessels.—

1945 (4)(a) Any person regularly engaged in the business of
1946 recovering, towing, or storing vehicles or vessels who comes
1947 into possession of a vehicle or vessel pursuant to subsection
1948 (2), and who claims a lien for recovery, towing, or storage
1949 services, shall give notice to the registered owner, the
1950 insurance company insuring the vehicle ~~notwithstanding the~~
1951 ~~provisions of s. 627.736~~, and ~~to~~ all persons claiming a lien
1952 thereon, as disclosed by the records in the Department of
1953 Highway Safety and Motor Vehicles or of a corresponding agency
1954 in any other state.

1955 (b) If a ~~Whenever any~~ law enforcement agency authorizes the
1956 removal of a vehicle or vessel or if a ~~whenever any~~ towing
1957 service, garage, repair shop, or automotive service, storage, or
1958 parking place notifies the law enforcement agency of possession
1959 of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
1960 enforcement agency of the jurisdiction where the vehicle or
1961 vessel is stored shall contact the Department of Highway Safety
1962 and Motor Vehicles, or the appropriate agency of the state of
1963 registration, if known, within 24 hours through ~~the medium of~~
1964 electronic communications, giving the full description of the
1965 vehicle or vessel. Upon receipt of the full description of the
1966 vehicle or vessel, the department shall search its files to
1967 determine the owner’s name, the insurance company insuring the
1968 vehicle or vessel, and whether any person has filed a lien upon
1969 the vehicle or vessel as provided in s. 319.27(2) and (3) and
1970 notify the applicable law enforcement agency within 72 hours.
1971 The person in charge of the towing service, garage, repair shop,
1972 or automotive service, storage, or parking place shall obtain

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597-03046B-13

1973 such information from the applicable law enforcement agency
1974 within 5 days after the date of storage and shall give notice
1975 pursuant to paragraph (a). The department may release the
1976 insurance company information to the requestor ~~notwithstanding~~
1977 ~~the provisions of s. 627.736~~.
1978 (c) Notice by certified mail shall be sent within 7
1979 business days after the date of storage of the vehicle or vessel
1980 to the registered owner, the insurance company insuring the
1981 vehicle ~~notwithstanding the provisions of s. 627.736~~, and all
1982 persons of record claiming a lien against the vehicle or vessel.
1983 The notice must ~~It shall~~ state the fact of possession of the
1984 vehicle or vessel, that a lien as provided in subsection (2) is
1985 claimed, that charges have accrued and the amount thereof, that
1986 the lien is subject to enforcement pursuant to law, ~~and~~ that the
1987 owner or lienholder, if any, has the right to a hearing as set
1988 forth in subsection (5), and that any vehicle or vessel which
1989 remains unclaimed, or for which the charges for recovery,
1990 towing, or storage services remain unpaid, may be sold free of
1991 all prior liens after 35 days if the vehicle or vessel is more
1992 than 3 years of age or after 50 days if the vehicle or vessel is
1993 3 years of age or less.
1994 (d) If attempts to locate the name and address of the owner
1995 or lienholder prove unsuccessful, the towing-storage operator
1996 shall, after 7 working days, excluding Saturday and Sunday, of
1997 the initial tow or storage, notify the public agency of
1998 jurisdiction where the vehicle or vessel is stored in writing by
1999 certified mail or acknowledged hand delivery that the towing-
2000 storage company has been unable to locate the name and address
2001 of the owner or lienholder and a physical search of the vehicle

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597-03046B-13

2002 or vessel has disclosed no ownership information and a good
2003 faith effort has been made. As used in ~~For purposes of~~ this
2004 paragraph and subsection (9), the term "good faith effort" means
2005 that the following checks have been performed by the company to
2006 establish prior state of registration and ~~for~~ title:
2007 1. Check of vehicle or vessel for any type of tag, tag
2008 record, temporary tag, or regular tag.
2009 2. Check of law enforcement report for tag number or other
2010 information identifying the vehicle or vessel~~,~~ if the vehicle or
2011 vessel was towed at the request of a law enforcement officer.
2012 3. Check of trip sheet or tow ticket of tow truck operator
2013 to see if a tag was on vehicle or vessel at beginning of tow, if
2014 private tow.
2015 4. If there is no address of the owner on the impound
2016 report, check of law enforcement report to see if an out-of-
2017 state address is indicated from driver license information.
2018 5. Check of vehicle or vessel for inspection sticker or
2019 other stickers and decals that may indicate a state of possible
2020 registration.
2021 6. Check of the interior of the vehicle or vessel for any
2022 papers that may be in the glove box, trunk, or other areas for a
2023 state of registration.
2024 7. Check of vehicle for vehicle identification number.
2025 8. Check of vessel for vessel registration number.
2026 9. Check of vessel hull for a hull identification number,
2027 which should be carved, burned, stamped, embossed, or otherwise
2028 permanently affixed to the outboard side of the transom or, if
2029 there is no transom, to the outmost seaboard side at the end of
2030 the hull that bears the rudder or other steering mechanism.

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597-03046B-13

2031 Section 57. Paragraph (a) of subsection (1), paragraph (c)
2032 of subsection (7), paragraphs (a) through (c) of subsection (8),
2033 and subsections (9) and (10) of section 817.234, Florida
2034 Statutes, are amended to read:
2035 817.234 False and fraudulent insurance claims.—
2036 (1)(a) A person commits insurance fraud punishable as
2037 provided in subsection (11) if that person, with the intent to
2038 injure, defraud, or deceive any insurer:
2039 1. Presents or causes to be presented any written or oral
2040 statement as part of, or in support of, a claim for payment or
2041 other benefit pursuant to an insurance policy or a health
2042 maintenance organization subscriber or provider contract,
2043 knowing that such statement contains ~~any~~ false, incomplete, or
2044 misleading information concerning any fact or thing material to
2045 such claim;
2046 2. Prepares or makes any written or oral statement that is
2047 intended to be presented to an ~~any~~ insurer in connection with,
2048 or in support of, any claim for payment or other benefit
2049 pursuant to an insurance policy or a health maintenance
2050 organization subscriber or provider contract, knowing that such
2051 statement contains ~~any~~ false, incomplete, or misleading
2052 information concerning any fact or thing material to such claim;
2053 3.a. Knowingly presents, causes to be presented, or
2054 prepares or makes with knowledge or belief that it will be
2055 presented to an ~~any~~ insurer, purported insurer, servicing
2056 corporation, insurance broker, or insurance agent, or ~~any~~
2057 employee or agent thereof, ~~any~~ false, incomplete, or misleading
2058 information or written or oral statement as part of, or in
2059 support of, an application for the issuance of, or the rating

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597-03046B-13

2060 of, any insurance policy, or a health maintenance organization
2061 subscriber or provider contract; or
2062 b. Knowingly conceals information concerning any fact
2063 material to such application; or
2064 4. Knowingly presents, causes to be presented, or prepares
2065 or makes with knowledge or belief that it will be presented to
2066 any insurer a claim for payment or other benefit under a motor
2067 vehicle ~~personal injury protection~~ insurance policy if the
2068 person knows that the payee knowingly submitted a false,
2069 misleading, or fraudulent application or other document when
2070 applying for licensure as a health care clinic, seeking an
2071 exemption from licensure as a health care clinic, or
2072 demonstrating compliance with part X of chapter 400.
2073 (7)
2074 (c) An insurer, or any person acting at the direction of or
2075 on behalf of an insurer, may not change an opinion in a mental
2076 or physical report ~~prepared under s. 627.736(8)~~ or direct the
2077 physician preparing the report to change such opinion; however,
2078 this provision does not preclude the insurer from calling to the
2079 attention of the physician errors of fact in the report based
2080 upon information in the claim file. Any person who violates this
2081 paragraph commits a felony of the third degree, punishable as
2082 provided in s. 775.082, s. 775.083, or s. 775.084.
2083 (8)(a) It is unlawful for any person intending to defraud
2084 any other person to solicit or cause to be solicited any
2085 business from a person involved in a motor vehicle accident for
2086 the purpose of making, adjusting, or settling motor vehicle tort
2087 claims ~~or claims for personal injury protection benefits~~
2088 ~~required by s. 627.736~~. Any person who violates ~~the provisions~~

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597-03046B-13

2089 ~~of~~ this paragraph commits a felony of the second degree,
2090 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
2091 A person who is convicted of a violation of this subsection
2092 shall be sentenced to a minimum term of imprisonment of 2 years.
2093 (b) A person may not solicit or cause to be solicited any
2094 business from a person involved in a motor vehicle accident by
2095 any means of communication other than advertising directed to
2096 the public for the purpose of making motor vehicle tort claims
2097 ~~or claims for personal injury protection benefits required by s.~~
2098 ~~627.736,~~ within 60 days after the occurrence of the motor
2099 vehicle accident. Any person who violates this paragraph commits
2100 a felony of the third degree, punishable as provided in s.
2101 775.082, s. 775.083, or s. 775.084.
2102 (c) A lawyer, health care practitioner as defined in s.
2103 456.001, or owner or medical director of a clinic required to be
2104 licensed pursuant to s. 400.9905 may not, at any time after 60
2105 days have elapsed from the occurrence of a motor vehicle
2106 accident, solicit or cause to be solicited any business from a
2107 person involved in a motor vehicle accident by means of in
2108 person or telephone contact at the person's residence, for the
2109 purpose of making motor vehicle tort claims ~~or claims for~~
2110 ~~personal injury protection benefits required by s. 627.736~~. Any
2111 person who violates this paragraph commits a felony of the third
2112 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2113 775.084.
2114 (9) A person may not organize, plan, or knowingly
2115 participate in an intentional motor vehicle crash or a scheme to
2116 create documentation of a motor vehicle crash that did not occur
2117 for the purpose of making motor vehicle tort claims ~~or claims~~

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597-03046B-13

2118 ~~for personal injury protection benefits as required by s.~~
2119 ~~627.736~~. Any person who violates this subsection commits a
2120 felony of the second degree, punishable as provided in s.
2121 775.082, s. 775.083, or s. 775.084. A person who is convicted of
2122 a violation of this subsection shall be sentenced to a minimum
2123 term of imprisonment of 2 years.
2124 (10) A licensed health care practitioner who is found
2125 guilty of insurance fraud under this section for an act relating
2126 to a motor vehicle ~~personal injury protection~~ insurance policy
2127 loses his or her license to practice for 5 years and may not
2128 receive reimbursement for bodily ~~personal~~ injury liability
2129 ~~protection~~ benefits for 10 years.
2130 Section 58. Applicability; notice to policyholders.—
2131 (1) As used in this section, the term "minimum security
2132 requirements" means security that enables a person to respond in
2133 damages for liability on account of accidents arising out of the
2134 use of a motor vehicle in the amount of $10,000 for damage to,
2135 or destruction of, property of others in any one crash; in the
2136 amount of $25,000 for bodily injury to, or the death of, one
2137 person in any one crash; and, subject to such limits for one
2138 person, in the amount of $50,000 for bodily injury to, or the
2139 death of, two or more persons in any one crash.
2140 (2) Effective January 1, 2014:
2141 (a) Motor vehicle insurance policies issued or renewed on
2142 or after that date may not include personal injury protection.
2143 (b) Any person subject to ss. 324.022 and 627.733, Florida
2144 Statutes, must maintain at least minimum security requirements.
2145 (c) Any new or renewal motor vehicle insurance policy
2146 delivered or issued for delivery in this state must provide

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597-03046B-13

2147 coverage that complies with minimum security requirements.
2148 (d) An existing motor vehicle insurance policy issued
2149 before that date which provides personal injury protection and
2150 property damage liability coverage that meet the requirements of
2151 ss. 324.022 and 627.733, Florida Statutes, on December 31, 2013,
2152 but that do not meet minimum security requirements on or after
2153 January 1, 2014, shall be deemed to meet the security
2154 requirements of s. 324.022 and s. 627.733, Florida Statutes,
2155 until such policy is renewed, nonrenewed, or canceled on or
2156 after January 1, 2014.
2157 (3) Each insurer shall allow each insured who has a new or
2158 renewal policy providing personal injury protection which
2159 becomes effective before January 1, 2014, and whose policy does
2160 not meet minimum security requirements on or after January 1,
2161 2014, to change coverages so as to eliminate personal injury
2162 protection and obtain coverage providing minimum security
2163 requirements, which shall be effective on or after January 1,
2164 2014. The insurer is not required to provide coverage complying
2165 with minimum security requirements in such policies if the
2166 insured does not pay the required premium, if any, by January 1,
2167 2014, or such later date as the insurer may allow. Any reduction
2168 in the premium must be refunded by the insurer. The insurer may
2169 not impose an additional fee or charge on the insured which
2170 applies solely to a change in coverage; however, the insurer may
2171 charge an additional required premium that is actuarially
2172 indicated.
2173 (4) By September 1, 2013, each motor vehicle insurer shall
2174 provide notice of the provisions of this section to each motor
2175 vehicle policyholder who is subject to this section. The notice

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2176 is subject to approval by the Office of Insurance Regulation and
2177 must clearly inform the policyholder that:
2178 (a) The Florida Motor Vehicle No-Fault Law is repealed,
2179 effective January 1, 2014, and that on or after that date, the
2180 insured is no longer required to maintain personal injury
2181 protection insurance coverage, that personal injury protection
2182 coverage is no longer available for purchase in this state, and
2183 that all new or renewal policies issued on or after that date do
2184 not contain such coverage.
2185 (b) Effective January 1, 2014, any person subject to the
2186 financial responsibility requirements of s. 324.022, Florida
2187 Statutes, must maintain minimum security requirements that
2188 enable such person to respond in damages for liability on
2189 account of accidents arising out of the use of a motor vehicle
2190 in the amount of $10,000 for damage to, or destruction of,
2191 property of others in any one crash; in the amount of $25,000
2192 for bodily injury to, or the death of, one person in any one
2193 crash; and, subject to such limits for one person, in the amount
2194 of $50,000 for bodily injury to, or the death of, two or more
2195 persons in any one crash.
2196 (c) Personal injury protection insurance pays covered
2197 medical expenses for injuries sustained in the motor vehicle
2198 crash by the policyholder, passengers, and relatives residing in
2199 the policyholder's household.
2200 (d) Bodily injury liability coverage protects the insured,
2201 up to the coverage limits, against loss if the insured is
2202 legally responsible for the death of or bodily injury to others
2203 in a motor vehicle accident.
2204 (e) The policyholder may be able to obtain medical payments

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2205 coverage that pays covered medical expenses for injuries
2206 sustained in a motor vehicle crash by the policyholder and
2207 relatives residing in the policyholder's household, but that
2208 such coverage is not required under state law.
2209 (f) Policyholders whose insurance policies do not contain
2210 bodily injury liability coverage are without coverage that
2211 protects against loss if the policyholder is legally responsible
2212 for the death or bodily injury of others in a motor vehicle
2213 accident.
2214 (g) Underinsured motorist coverage provides benefits up to
2215 the limits of such coverage to a policyholder or other insured
2216 under the policy who is entitled to recover damages from owners
2217 or operators of uninsured or underinsured motor vehicles because
2218 of bodily injury, sickness, disease, or death in a motor vehicle
2219 accident.
2220 (h) If the policyholder's new or renewal motor vehicle
2221 insurance policy is effective before January 1, 2014, and
2222 contains personal injury protection and property damage
2223 liability coverage as required by state law before January 1,
2224 2014, but does not meet minimum security requirements on or
2225 after January 1, 2014, such policy shall be deemed to meet
2226 minimum security requirements until it is renewed, nonrenewed,
2227 or canceled on or after January 1, 2014.
2228 (i) A policyholder whose new or renewal policy becomes
2229 effective before January 1, 2014, but does not meet minimum
2230 security requirements on or after January 1, 2014, may change
2231 coverages under the policy so as to eliminate personal injury
2232 protection and to obtain coverage providing minimum security
2233 requirements, including bodily injury liability coverage, which

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597-03046B-13

2234 are effective on or after January 1, 2014.
2235 (j) If the policyholder has any questions, he or she should
2236 contact the name and phone number provided in the notice.
2237 (5) This section shall take effect upon this act becoming a
2238 law.
2239 Section 59. Application of suspensions for failure to
2240 maintain security; reinstatement.—All suspensions for failure to
2241 maintain required security as required by law in effect before
2242 January 1, 2014, remain in full force and effect after the
2243 effective date of this act. A driver may reinstate a suspended
2244 driver license or registration as provided under s. 324.0221.
2245 Section 60. Except as otherwise expressly provided in this
2246 act, and except for this section, which shall take effect upon
2247 becoming law, this act shall take effect January 1, 2014.

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Presentation on Personal Injury Protection (PIP) Insurance

Senate Banking & Insurance Committee

April 2, 2013

Sandra Starnes
Director, Property & Casualty Product Review

Part I:

Implementation of HB 119 From 2012

OIR Implementation Activities

- Informational Memoranda
- Updates to Office Forms
- Form Filings
- Actuarial Report

Actuarial Report

Contractor: Pinnacle Actuarial Resources, Inc.

<u>Estimated savings</u>:

- PIP losses: 16.3% - 28.7%
- PIP premiums (statewide): 14.0% - 24.6%
- Personal auto premiums: 2.8% - 4.9%

An important caveat in the report:
"The savings shown assume that current rates are adequate. To the extent that current PIP rates are inadequate, it is likely that insurers will offset the savings from HB 119 against the otherwise indicated PIP rates."

Note: PIP premiums represent approximately 20% of total personal auto premiums.

Change in PIP Premium From Rate Filings

Personal Auto Rate Filings Prior to HB 119:

- For filings effective on or after 1/1/2011 – More than 85% had approved increases in PIP. The majority were double-digit increases.

Results of 135 approved filings reflecting HB 119:

- 52% resulted in decreases
- 72% resulted in decreases or no changes

Change in PIP Premium From Rate Filings (cont.)

Filing summary for the Top 25 Personal Auto Insurers (represents 80% of the market):

Amount of PIP Change	Number of Filings	Market Share
Decrease of at least 10%	10	42%
Decrease less than 10%	4	5%
No change	4	8%
Increase	7	25%

The weighted average approved PIP change of the Top 25 insurers was -2.0%.

If State Farm's filing is removed, the weighted average change was -4.8%.

Filings for Top 5*
Personal Auto Insurers

Company Name	Market Share*	File Number	Company Indication Before HB 119	Selected PIP Percentage Change
State Farm Mutual Auto Insurance	17.5%	12-15711	+22.0%	7.9%
GEICO General Insurance	10.3%	12-15922	+16.8%	-10.0%
Progressive American Insurance	6.3%	12-15814	-0.8%	-10.0%
Progressive Select Insurance	5.3%	12-15813	-0.4%	-10.0%
GEICO Indemnity	4.8%	12-15922	+15.7%	-10.0%

* Based on 2012 Total Personal Auto premiums reported on FL state page of the annual statement.

Part II:

Replacing PIP with Mandatory Bodily Injury (BI) Coverage

Estimated Premium Impacts

Description of Coverages

- Personal Injury Protection (PIP)
- Bodily Injury (BI)
- Property Damage (PD)
- Medical Payments (Med-Pay or MP)
- Uninsured Motorist (UM)
- Comprehensive (COMP)
- Collision (COLL)

Methodology

- 2 rating examples used

- 5 large auto insurers were reviewed
  - 3 represent the non-standard market
  - 2 represent the standard or preferred market

- To reflect the elimination of PIP:

  - 50% of the PIP premium was moved to BI
  - 20% of the PIP premium was moved to MP, and
  - 10% of the PIP premium was moved to UM

Summary of Premium Impacts

From: Minimum Required Limits ($10,000 PIP/$10,000 PD)
To: PIP Eliminated and:

10/20/10 (BI/PD) Limits

- Non-standard insurers experienced decreases across all regions
- Standard/preferred insurers decreases in regions where PIP fraud was prevalent

25/50/10 (BI/PD) Limits

- Central Miami only region with decrease for all insurers

If **Full Coverage policies purchased** (BI, PD, PIP, UM, MP, COMP & COLL), all insurers experienced decreases in premium if BI, PD, and UM limits remain constant.

Limits shown as A/B/C where the BI limit per person is $A, BI limit per occurrence is $B, and PD limit is $C.

Estimated Impact by Region - Central Miami Married Couple – Both Age 40

	Policies with Minimum Required Limits				Policies with Full Coverage (10/20/10/1)		
	PIP/PD	BI/PD* 10/20/10	Change		No-Fault	Tort * System	Change
Non-Standard Company A	$2,824.12	$1,760.81	**-38%**		$3,926.84	$3,405.48	**-13%**
Non-Standard Company B	$1,897.75	$1,461.38	**-23%**		$4,201.25	$3,871.50	**-8%**
Non-Standard Company C	$1,710.00	$1,456.00	**-15%**		$3,872.00	$3,601.20	**-7%**
Stand./Pref. Company D	$707.32	$587.01	**-17%**		$1,640.10	$1,527.29	**-7%**
Stand./Pref. Company E	$1,335.45	$1,049.79	**-21%**		$2,401.36	$2,162.30	**-10%**

Source: Premium shown is annual premium from Rate Collection System information for recent personal auto rate filing. Limits shown as A/B/C/D where the BI limit per person is $A, BI limit per occurrence is $B, PD limit is $C and MP limit (if applicable) is $D.
* Includes adjustment to reflect elimination of PIP.

Estimated Impact by Region - Tallahassee Married Couple – Both Age 40

	Policies with Minimum Required Limits				Policies with Full Coverage (10/20/10/1)		
	PIP/PD	BI/PD* 10/20/10	Change		No-Fault	Tort * System	Change
Non-Standard Company A	$414.88	$409.50	**-1%**		$1,046.00	$989.87	**-5%**
Non-Standard Company B	$646.00	$652.00	**1%**		$2,027.00	$1,944.20	**-4%**
Non-Standard Company C	$565.00	$628.00	**11%**		$1,705.00	$1,648.60	**-3%**
Stand./Pref. Company D	$235.30	$253.93	**8%**		$862.15	$833.02	**-3%**
Stand./Pref. Company E	$245.80	$345.88	**41%**		$894.22	$861.42	**-4%**

Source: Premium shown is annual premium from Rate Collection System information for recent personal auto rate filing. Limits shown as A/B/C/D where the BI limit per person is $A, BI limit per occurrence is $B, PD limit is $C and MP limit (if applicable) is $D.
* Includes adjustment to reflect elimination of PIP.

Part III:

PIP
&
the Patient Protection and Affordable Care Act (PPACA)

Interplay Between PIP and PPACA

PIP provides additional benefits beyond the medical services and care, such as lost wages and death benefits (estimated to be approximately 9% of PIP payments).

In addition, even under PPACA:

- Some will refuse to purchase health insurance.
- Some will purchase high deductible plans.
- For those over age 65, Medicare Part A only covers hospital costs. Part B (Medical Services) and Part D (Prescription Drugs) are still optional.

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Addendum to Presentation on Personal Injury Protection (PIP) Insurance

Senate Banking & Insurance Committee Workshop – April 2, 2013

By Sandra Starnes, Director, Property & Casualty Product Review, Office of Insurance Regulation

Excel Spreadsheet:

Tab 1 – Notes (explanation of limits, adjustments, rating examples, and Pinnacle Study on PIP Sunset Impact from 2007)

Tab 2 – Platinum A (Family) Rating Examples

- Companies used include Allstate Fire & Casualty, Direct General, GEICO General, Progressive American, State Farm
- 7 regions & cities (Central Ft. Lauderdale, Central Jacksonville, Pensacola, Central Tampa, Tallahassee, Central Miami, Central Orlando)
- Results:
    - BI, PD, PIP, UM, MP, COMP, COLL Total, Decreased limits & keep PIP, After elimination of PIP
    - Impacts on Minimum Required Limits*
    - Impacts on Full Coverage*

Tab 3 – Gold E (Young Female) Rating Examples

- Companies used include Allstate Fire & Casualty, Direct General, GEICO General, Progressive American, State Farm
- 7 regions & cities (Central Ft. Lauderdale, Central Jacksonville, Pensacola, Central Tampa, Tallahassee, Central Miami, Central Orlando)
- Results:
    - BI, PD, PIP, UM, MP, COMP, COLL Total, Decreased limits & keep PIP, After elimination of PIP
    - Impacts on Minimum Required Limits*
    - Impacts on Full Coverage*

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Addendum to Presentation on Personal Injury Protection (PIP) Insurance

Comments:
This analysis uses the Platinum A and Gold E rating examples submitted by some of the top PPA insurers in their recent rate filings.
These two examples were chosen to look at the impact on a family (Platinum A) and a young female (Gold E). The descriptions of the rating examples are at the top of each sheet.

Below is a summary of the limits(in thousands) provided in these examples:

	Platinum A	Gold E
BI	10/20	25/50
PD	10	50
PIP	10	10
UM	10/20	25/50
MP	1	5

For Platinum A, the premium was calculated for what it would have been if the limits had been increased to 25/50 for BI and UM and 5 for Med Pay (MP).
The next step was calculating the premium after PIP is eliminated for BI and UM limits of 10/20 and 25/50 and MP limits of 1 and 5.

For Gold E, the premium was calculated for what it would have been with PD limits of 10.
The next step was calculating the premium after PIP is eliminated for BI and UM limits of 25/50 and MP limits of 5. (It was assumed that if the limits were higher, the insured would not reduce to lower limits because of changes in the law.)

The following adjustments were made to reflect the elimination of PIP:
50% of PIP premium were added to BI premiums.
10% of PIP premiums were added to UM premiums.
20% of PIP premiums were added to MP premiums.

These numbers are approximations. Support can be found in a Pinnacle study performed when PIP was sunsetting in 2007.

From Pinnacle Study on PIP Sunset Impact

Page 5	PIP Losses	%		
BI	666,345,600	49.0%		
UM	119,942,208	8.8%		
MPC - NAF	24,033,420	1.8%		
MPC - AF	272,087,037	20.0%	Total MPC	21.8%
Liability	1,082,408,265	79.5%		
Health Care	222,873,388	16.4%		
Not Covered	55,718,347	4.1%		
Total	1,361,000,000	100.0%		

Platinum A shows the most possibilities. It includes looking at what the premium would have been under a minimum coverage policy (PIP/PD) to potential minimum requirements of BI/PD (10/20/10 and 25/50/10), and then BI/PD/MP limits of 25/50/10/5.
The next section of the comparison looks at the impact for those consumers that purchase a full coverage policy (BI, PIP, PD, UM, MP, COMP and COLL) and what the impacts would be with elimination of PIP and going to limits of 10/20/10/1, 25/50/10/1 and 25/50/10/5.

For Gold E, the example was already at the 25/50/50/5 level, which met the minimum requirements, so the main focus was on what the impact would have been for the minimum coverage policies using the 25/50 BI limits.

Prepared by: Sandra Starnes
4/1/2013
3:00 PM

Addendum to Presentation on Personal Injury Protection (PIP) Insurance

Platinum A Rating Example

DESCRIPTION: Age/Sex/Marital Status - Married Male Age 40, Married Female Age 40, No Additional Operators; Policy Term - One Year; Policy Tenure - New Business; Prior Insurance - Proof Available for Preceding Three Years; Coverages Purchased - BI, PD, PIP, MP, UM, COMP, COLL; Limits Purchased - 10/20,10,10,1,10/20 Non-Stacked, All limits in thousands of dollars, Unchanged for prior 3 years; Deductibles - $100 COMP, $250 COLL, $0 PIP; Number of Cars - One; Experience of Operators - No violations or accident involvement in past 3 years; Use and Mileage - Pleasure Use, 8,000 miles per year; Insurance Credit Score - 80th Percentile; Make and Model of Car - Toyota Camry LE; Age of Car - Latest model year (2007 as of October 1, 2006, etc.); Safety Devices - Drivers Side Airbag.

Allstate Fire & Casualty

										Increased Limits and keep PIP			After Elimination of PIP					
		10/20	10		10/20	1				25/50	25/50	5	10/20	10/20	1	25/50	25/50	5
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	BI	UM	MP	BI	UM	MP	BI	UM	MP
Broward (1)	Central Fort Lauderdale	$198.76	$174.83	$979.12	$120.93	$47.52	$100.27	$405.42	$2,026.85	$464.61	$244.28	$135.43	$688.32	$218.84	$243.34	$954.17	$342.19	$331.25
Duval (2)	Central Jacksonville	$149.45	$158.35	$450.14	$60.82	$27.08	$94.55	$334.16	$1,274.55	$339.86	$122.86	$77.18	$374.52	$105.83	$117.11	$564.93	$167.87	$167.21
Escambia (1)	Pensacola	$134.94	$166.02	$531.34	$52.60	$25.08	$89.98	$326.02	$1,325.98	$303.15	$106.25	$71.48	$400.61	$105.73	$131.35	$568.82	$159.38	$177.75
Hillsborough (1)	Central Tampa	$289.88	$196.38	$1,639.73	$139.72	$42.84	$94.36	$452.29	$2,855.20	$695.15	$282.23	$122.09	$1,109.75	$303.69	$370.79	$1,515.02	$446.20	$450.04
Leon (1)	Tallahassee	$134.94	$134.24	$280.64	$52.60	$19.44	$98.12	$326.02	$1,046.00	$303.15	$106.25	$55.40	$275.26	$80.66	$75.57	$443.47	$134.31	$111.53
Miami-Dade (2)	Central Miami	$240.08	$217.34	$2,606.78	$118.16	$53.17	$140.44	$550.87	$3,926.84	$569.15	$238.68	$151.53	$1,543.47	$378.84	$574.53	$1,872.54	$499.36	$672.89
Orange (2)	Central Orlando	$184.24	$169.60	$697.54	$69.32	$32.86	$92.74	$365.64	$1,611.94	$427.88	$140.03	$93.65	$533.01	$139.07	$172.37	$776.65	$209.78	$233.16

Direct General

Note: Highest MP offered is $2,000

										Increased Limits and keep PIP			After Elimination of PIP					
		10/20	10		10/20	1				25/50	25/50	2	10/20	10/20	1	25/50	25/50	2
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	BI	UM	MP	BI	UM	MP	BI	UM	MP
Broward (1)	Central Fort Lauderdale	$471.40	$240.00	$1,384.20	$312.20	$115.80	$202.80	$889.80	$3,616.20	$687.60	$487.03	$176.02	$1,163.50	$450.62	$392.64	$1,379.70	$625.45	$452.86
Duval (2)	Central Jacksonville	$270.14	$203.29	$556.71	$214.86	$48.71	$211.29	$724.43	$2,229.43	$385.71	$335.18	$74.04	$548.50	$270.53	$160.05	$664.07	$390.85	$185.38
Escambia (1)	Pensacola	$262.20	$220.00	$597.00	$209.60	$55.60	$221.20	$840.40	$2,406.00	$373.80	$326.98	$84.51	$560.70	$269.30	$175.00	$672.30	$386.68	$203.91
Hillsborough (1)	Central Tampa	$599.00	$237.76	$1,482.76	$390.12	$113.35	$231.18	$792.53	$3,846.70	$879.00	$608.59	$172.29	$1,340.38	$538.40	$409.90	$1,620.38	$756.87	$468.84
Leon (1)	Tallahassee	$213.00	$232.00	$414.00	$186.00	$35.00	$185.00	$762.00	$2,027.00	$300.00	$290.16	$53.20	$420.00	$227.40	$117.80	$507.00	$331.56	$136.00
Miami-Dade (2)	Central Miami	$388.00	$249.00	$1,648.75	$346.25	$114.25	$445.00	$1,010.00	$4,201.25	$562.50	$540.15	$173.66	$1,212.38	$511.13	$444.00	$1,386.88	$705.03	$503.41
Orange (2)	Central Orlando	$305.00	$209.00	$737.00	$314.00	$76.00	$197.00	$686.00	$2,524.00	$438.00	$489.84	$115.52	$673.50	$387.70	$223.40	$806.50	$563.54	$262.92

GEICO General

										Increased Limits and keep PIP			After Elimination of PIP					
		10/20	10		10/20	1				25/50	25/50	5	10/20	10/20	1	25/50	25/50	5
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	BI	UM	MP	BI	UM	MP	BI	UM	MP
Broward (1)	Central Fort Lauderdale	$175.78	$125.35	$408.65	$96.25	$23.98	$160.00	$350.83	$1,340.84	$266.97	$168.44	$103.11	$380.11	$137.12	$105.71	$471.30	$209.31	$184.84
Duval (2)	Central Jacksonville	$125.77	$109.60	$215.93	$55.67	$15.83	$144.47	$302.77	$970.04	$186.95	$97.42	$68.07	$233.74	$77.26	$59.02	$294.92	$119.01	$111.26
Escambia (1)	Pensacola	$110.50	$109.80	$174.80	$44.00	$15.50	$164.60	$296.80	$916.00	$162.52	$77.00	$66.65	$197.90	$61.48	$50.46	$249.92	$94.48	$101.61
Hillsborough (1)	Central Tampa	$180.13	$119.33	$383.57	$83.33	$21.67	$125.73	$293.20	$1,206.96	$273.93	$145.83	$93.18	$371.92	$121.69	$98.38	$465.72	$184.19	$169.89
Leon (1)	Tallahassee	$91.45	$89.65	$145.65	$42.50	$10.60	$200.05	$282.25	$862.15	$132.04	$74.38	$45.58	$164.28	$57.07	$39.73	$204.87	$88.95	$74.71
Miami-Dade (2)	Central Miami	$161.70	$143.29	$564.03	$82.00	$26.20	$249.75	$413.13	$1,640.10	$244.44	$143.50	$112.66	$443.72	$138.40	$139.01	$526.46	$199.90	$225.47
Orange (2)	Central Orlando	$127.87	$107.60	$287.30	$66.33	$18.43	$131.53	$274.03	$1,013.09	$190.31	$116.08	$79.25	$271.52	$95.06	$75.89	$333.96	$144.81	$136.71

Addendum to Presentation on Personal Injury Protection (PIP) Insurance

Platinum A Rating Example

Progressive American

										Increased Limits and keep PIP			After Elimination of PIP					
		10/20	10		10/20	1				25/50	25/50	5	10/20	10/20	1	25/50	25/50	5
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	BI	UM	MP	BI	UM	MP	BI	UM	MP
Broward (1)	Central Fort Lauderdale	$433.00	$354.00	$869.00	$301.00	$132.00	$168.00	$764.00	$3,021.00	$615.60	$469.56	$232.32	$867.50	$387.90	$305.80	$1,050.10	$556.46	$406.12
Duval (2)	Central Jacksonville	$311.00	$299.00	$467.00	$224.00	$73.00	$119.00	$654.00	$2,147.00	$439.92	$349.44	$128.48	$544.50	$270.70	$166.40	$673.42	$396.14	$221.88
Escambia (1)	Pensacola	$227.00	$285.00	$382.00	$165.00	$60.00	$133.00	$642.00	$1,894.00	$318.96	$257.40	$105.60	$418.00	$203.20	$136.40	$509.96	$295.60	$182.00
Hillsborough (1)	Central Tampa	$514.00	$348.00	$1,141.00	$348.00	$160.00	$130.00	$767.00	$3,408.00	$732.24	$542.88	$281.60	$1,084.50	$462.10	$388.20	$1,302.74	$656.98	$509.80
Leon (1)	Tallahassee	$204.00	$283.00	$282.00	$169.00	$45.00	$94.00	$628.00	$1,705.00	$285.84	$263.64	$79.20	$345.00	$197.20	$101.40	$426.84	$291.84	$135.60
Miami-Dade (2)	Central Miami	$423.00	$356.00	$1,354.00	$322.00	$183.00	$328.00	$906.00	$3,872.00	$601.20	$502.32	$322.08	$1,100.00	$457.40	$453.80	$1,278.20	$637.72	$592.88
Orange (2)	Central Orlando	$345.00	$298.00	$689.00	$226.00	$103.00	$102.00	$626.00	$2,389.00	$488.88	$352.56	$181.28	$689.50	$294.90	$240.80	$833.38	$421.46	$319.08

State Farm

										Increased Limits and keep PIP			After Elimination of PIP					
		10/20	10		10/20	1,000				25/50	25/50	5	10/20	10/20	1	25/50	25/50	5
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	BI	UM	MP	BI	UM	MP	BI	UM	MP
Broward (1)	Central Fort Lauderdale	$303.45	$136.33	$565.34	$96.31	$29.76	$139.75	$330.32	$1,601.26	$386.70	$141.63	$58.81	$586.12	$152.84	$142.83	$669.37	$198.17	$171.88
Duval (2)	Central Jacksonville	$244.19	$109.71	$275.82	$64.60	$19.22	$133.24	$309.78	$1,156.56	$309.19	$95.00	$36.38	$382.10	$92.18	$74.38	$447.10	$122.58	$91.55
Escambia (1)	Pensacola	$196.77	$88.41	$239.04	$68.18	$18.16	$141.30	$277.68	$1,029.54	$247.17	$100.26	$34.13	$316.29	$92.08	$65.97	$366.69	$124.17	$81.94
Hillsborough (1)	Central Tampa	$368.93	$165.75	$840.46	$85.34	$31.24	$123.10	$307.68	$1,922.50	$472.35	$125.50	$61.96	$789.16	$169.39	$199.33	$892.58	$209.55	$230.05
Leon (1)	Tallahassee	$182.08	$81.80	$164.00	$53.72	$11.68	$119.60	$281.34	$894.22	$227.95	$79.00	$20.34	$264.08	$70.12	$44.48	$309.95	$95.40	$53.14
Miami-Dade (2)	Central Miami	$311.98	$140.17	$1,195.28	$87.56	$28.48	$222.82	$415.07	$2,401.36	$397.86	$128.76	$56.09	$909.62	$207.09	$267.54	$995.50	$248.29	$295.14
Orange (2)	Central Orlando	$256.09	$115.06	$476.57	$60.95	$25.10	$131.91	$281.22	$1,346.90	$324.76	$89.63	$48.89	$494.38	$108.61	$120.41	$563.05	$137.29	$144.21

Allstate Fire & Casualty

Impacts on Minimum Required Limits

	/10	10/20/10		/10	25/50/10		/10	25/50/10/5	
Description	PIP/PD	BI/PD	Change	PIP/PD	BI/PD	Change	PIP/PD	BI/PD/MP	Change
Central Fort Lauderdale	$1,153.95	$863.15	-25.2%	$1,153.95	$1,129.00	-2.2%	$1,153.95	$1,460.25	26.5%
Central Jacksonville	$608.49	$532.87	-12.4%	$608.49	$723.28	18.9%	$608.49	$890.49	46.3%
Pensacola	$697.36	$566.63	-18.7%	$697.36	$734.84	5.4%	$697.36	$912.59	30.9%
Central Tampa	$1,836.11	$1,306.13	-28.9%	$1,836.11	$1,711.40	-6.8%	$1,836.11	$2,161.43	17.7%
Tallahassee	$414.88	$409.50	-1.3%	$414.88	$577.71	39.2%	$414.88	$689.24	66.1%
Central Miami	$2,824.12	$1,760.81	-37.7%	$2,824.12	$2,089.88	-26.0%	$2,824.12	$2,762.77	-2.2%
Central Orlando	$867.14	$702.61	-19.0%	$867.14	$946.25	9.1%	$867.14	$1,179.41	36.0%

Impacts on Full Coverage

	10/20/10/1	10/20/10/1		10/20/10/1	25/50/10/5		25/50/10/5	25/50/10/5	
Description	Full Cov (Incl PIP)	Full Cov (No PIP)	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change
Central Fort Lauderdale	$2,026.85	$1,831.03	-9.7%	$2,026.85	$2,308.14	13.9%	$2,503.96	$2,308.14	-7.8%
Central Jacksonville	$1,274.55	$1,184.52	-7.1%	$1,274.55	$1,487.07	16.7%	$1,577.10	$1,487.07	-5.7%
Pensacola	$1,325.98	$1,219.71	-8.0%	$1,325.98	$1,487.97	12.2%	$1,594.24	$1,487.97	-6.7%
Central Tampa	$2,855.20	$2,527.25	-11.5%	$2,855.20	$3,154.28	10.5%	$3,482.23	$3,154.28	-9.4%
Tallahassee	$1,046.00	$989.87	-5.4%	$1,046.00	$1,247.69	19.3%	$1,303.82	$1,247.69	-4.3%
Central Miami	$3,926.84	$3,405.48	-13.3%	$3,926.84	$3,953.43	0.7%	$4,474.79	$3,953.43	-11.7%
Central Orlando	$1,611.94	$1,472.43	-8.7%	$1,611.94	$1,847.57	14.6%	$1,987.08	$1,847.57	-7.0%

Direct General

Impacts on Minimum Required Limits

	/10	10/20/10		/10	25/50/10		/10	25/50/10/2	
Description	PIP/PD	BI/PD	Change	PIP/PD	BI/PD	Change	PIP/PD	BI/PD/MP	Change
Central Fort Lauderdale	$1,624.20	$1,403.50	-13.6%	$1,624.20	$1,619.70	-0.3%	$1,624.20	$2,072.56	27.6%
Central Jacksonville	$760.00	$751.79	-1.1%	$760.00	$867.36	14.1%	$760.00	$1,052.74	38.5%
Pensacola	$817.00	$780.70	-4.4%	$817.00	$892.30	9.2%	$817.00	$1,096.21	34.2%
Central Tampa	$1,720.52	$1,578.14	-8.3%	$1,720.52	$1,858.14	8.0%	$1,720.52	$2,326.98	35.2%
Tallahassee	$646.00	$652.00	0.9%	$646.00	$739.00	14.4%	$646.00	$875.00	35.4%
Central Miami	$1,897.75	$1,461.38	-23.0%	$1,897.75	$1,635.88	-13.8%	$1,897.75	$2,139.29	12.7%
Central Orlando	$946.00	$882.50	-6.7%	$946.00	$1,015.50	7.3%	$946.00	$1,278.42	35.1%

Impacts on Full Coverage

	10/20/10/1	10/20/10/1		10/20/10/1	25/50/10/2		25/50/10/5	25/50/10/2	
Description	Full Cov (Incl PIP)	Full Cov (No PIP)	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change
Central Fort Lauderdale	$3,616.20	$3,339.36	-7.7%	$3,616.20	$3,790.61	4.8%	$4,067.45	$3,790.61	-6.8%
Central Jacksonville	$2,229.43	$2,118.09	-5.0%	$2,229.43	$2,379.31	6.7%	$2,490.65	$2,379.31	-4.5%
Pensacola	$2,406.00	$2,286.60	-5.0%	$2,406.00	$2,544.49	5.8%	$2,663.89	$2,544.49	-4.5%
Central Tampa	$3,846.70	$3,550.15	-7.7%	$3,846.70	$4,107.56	6.8%	$4,404.11	$4,107.56	-6.7%
Tallahassee	$2,027.00	$1,944.20	-4.1%	$2,027.00	$2,153.56	6.2%	$2,236.36	$2,153.56	-3.7%
Central Miami	$4,201.25	$3,871.50	-7.8%	$4,201.25	$4,299.31	2.3%	$4,629.06	$4,299.31	-7.1%
Central Orlando	$2,524.00	$2,376.60	-5.8%	$2,524.00	$2,724.96	8.0%	$2,872.36	$2,724.96	-5.1%

GEICO General

Impacts on Minimum Required Limits

	/10	10/20/10		/10	25/50/10		/10	25/50/10/5	
Description	PIP/PD	BI/PD	Change	PIP/PD	BI/PD	Change	PIP/PD	BI/PD/MP	Change
Central Fort Lauderdale	$534.00	$505.46	-5.3%	$534.00	$596.65	11.7%	$534.00	$781.49	46.3%
Central Jacksonville	$325.53	$343.34	5.5%	$325.53	$404.52	24.3%	$325.53	$515.77	58.4%
Pensacola	$284.60	$307.70	8.1%	$284.60	$359.72	26.4%	$284.60	$461.33	62.1%
Central Tampa	$502.90	$491.25	-2.3%	$502.90	$585.05	16.3%	$502.90	$754.94	50.1%
Tallahassee	$235.30	$253.93	7.9%	$235.30	$294.52	25.2%	$235.30	$369.23	56.9%
Central Miami	$707.32	$587.01	-17.0%	$707.32	$669.75	-5.3%	$707.32	$895.21	26.6%
Central Orlando	$394.90	$379.12	-4.0%	$394.90	$441.56	11.8%	$394.90	$578.27	46.4%

Impacts on Full Coverage

	10/20/10/1	10/20/10/1		10/20/10/1	25/50/10/5		25/50/10/5	25/50/10/5	
Description	Full Cov (Incl PIP)	Full Cov (No PIP)	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change
Central Fort Lauderdale	$1,340.84	$1,259.11	-6.1%	$1,340.84	$1,501.62	12.0%	$1,583.35	$1,501.62	-5.2%
Central Jacksonville	$970.04	$926.85	-4.5%	$970.04	$1,082.02	11.5%	$1,125.21	$1,082.02	-3.8%
Pensacola	$916.00	$881.04	-3.8%	$916.00	$1,017.21	11.0%	$1,052.17	$1,017.21	-3.3%
Central Tampa	$1,206.96	$1,130.25	-6.4%	$1,206.96	$1,358.06	12.5%	$1,434.77	$1,358.06	-5.3%
Tallahassee	$862.15	$833.02	-3.4%	$862.15	$940.47	9.1%	$969.60	$940.47	-3.0%
Central Miami	$1,640.10	$1,527.29	-6.9%	$1,640.10	$1,757.99	7.2%	$1,870.80	$1,757.99	-6.0%
Central Orlando	$1,013.09	$955.63	-5.7%	$1,013.09	$1,128.64	11.4%	$1,186.10	$1,128.64	-4.8%

Addendum to Presentation on Personal Injury Protection (PIP) Insurance

Platinum A Rating Example

Progressive American

Impacts on Minimum Required Limits

Description	/10 PIP/PD	10/20/10 BI/PD	Change	/10 PIP/PD	25/50/10 BI/PD	Change	/10 PIP/PD	25/50/10/5 BI/PD/MP	Change
Central Fort Lauderdale	$1,223.00	$1,221.50	-0.1%	$1,223.00	$1,404.10	14.8%	$1,223.00	$1,810.22	48.0%
Central Jacksonville	$766.00	$843.50	10.1%	$766.00	$972.42	26.9%	$766.00	$1,194.30	55.9%
Pensacola	$667.00	$703.00	5.4%	$667.00	$794.96	19.2%	$667.00	$976.96	46.5%
Central Tampa	$1,489.00	$1,432.50	-3.8%	$1,489.00	$1,650.74	10.9%	$1,489.00	$2,160.54	45.1%
Tallahassee	$565.00	$628.00	11.2%	$565.00	$709.84	25.6%	$565.00	$845.44	49.6%
Central Miami	$1,710.00	$1,456.00	-14.9%	$1,710.00	$1,634.20	-4.4%	$1,710.00	$2,227.08	30.2%
Central Orlando	$987.00	$987.50	0.1%	$987.00	$1,131.38	14.6%	$987.00	$1,450.46	47.0%

Impacts on Full Coverage

Description	10/20/10/1 Full Cov (Incl PIP)	10/20/10/1 Full Cov (No PIP)	Change	10/20/10/1 Full Cov (Incl PIP)	25/50/10/5 Full Cov (No PIP)	Change	25/50/10/5 Full Cov (Incl PIP)	25/50/10/5 Full Cov (No PIP)	Change
Central Fort Lauderdale	$3,021.00	$2,847.20	-5.8%	$3,021.00	$3,298.68	9.2%	$3,472.48	$3,298.68	-5.0%
Central Jacksonville	$2,147.00	$2,053.60	-4.4%	$2,147.00	$2,363.44	10.1%	$2,456.84	$2,363.44	-3.8%
Pensacola	$1,894.00	$1,817.60	-4.0%	$1,894.00	$2,047.56	8.1%	$2,123.96	$2,047.56	-3.6%
Central Tampa	$3,408.00	$3,179.80	-6.7%	$3,408.00	$3,714.52	9.0%	$3,942.72	$3,714.52	-5.8%
Tallahassee	$1,705.00	$1,648.60	-3.3%	$1,705.00	$1,859.28	9.0%	$1,915.68	$1,859.28	-2.9%
Central Miami	$3,872.00	$3,601.20	-7.0%	$3,872.00	$4,098.80	5.9%	$4,369.60	$4,098.80	-6.2%
Central Orlando	$2,389.00	$2,251.20	-5.8%	$2,389.00	$2,599.92	8.8%	$2,737.72	$2,599.92	-5.0%

State Farm

Impacts on Minimum Required Limits

Description	/10 PIP/PD	10/20/10 BI/PD	Change	/10 PIP/PD	25/50/10 BI/PD	Change	/10 PIP/PD	25/50/10/5 BI/PD/MP	Change
Central Fort Lauderdale	$701.67	$722.45	3.0%	$701.67	$805.70	14.8%	$701.67	$977.58	39.3%
Central Jacksonville	$385.53	$491.81	27.6%	$385.53	$556.81	44.4%	$385.53	$648.36	68.2%
Pensacola	$327.45	$404.70	23.6%	$327.45	$455.10	39.0%	$327.45	$537.04	64.0%
Central Tampa	$1,006.21	$954.91	-5.1%	$1,006.21	$1,058.33	5.2%	$1,006.21	$1,288.38	28.0%
Tallahassee	$245.80	$345.88	40.7%	$245.80	$391.75	59.4%	$245.80	$444.89	81.0%
Central Miami	$1,335.45	$1,049.79	-21.4%	$1,335.45	$1,135.67	-15.0%	$1,335.45	$1,430.81	7.1%
Central Orlando	$591.63	$609.44	3.0%	$591.63	$678.11	14.6%	$591.63	$822.31	39.0%

Impacts on Full Coverage

Description	10/20/10/1 Full Cov (Incl PIP)	10/20/10/1 Full Cov (No PIP)	Change	10/20/10/1 Full Cov (Incl PIP)	25/50/10/5 Full Cov (No PIP)	Change	25/50/10/5 Full Cov (Incl PIP)	25/50/10/5 Full Cov (No PIP)	Change
Central Fort Lauderdale	$1,601.26	$1,488.19	-7.1%	$1,601.26	$1,645.81	2.8%	$1,758.88	$1,645.81	-6.4%
Central Jacksonville	$1,156.56	$1,101.40	-4.8%	$1,156.56	$1,213.96	5.0%	$1,269.12	$1,213.96	-4.3%
Pensacola	$1,029.54	$981.73	-4.6%	$1,029.54	$1,080.18	4.9%	$1,127.99	$1,080.18	-4.2%
Central Tampa	$1,922.50	$1,754.41	-8.7%	$1,922.50	$1,928.71	0.3%	$2,096.80	$1,928.71	-8.0%
Tallahassee	$894.22	$861.42	-3.7%	$894.22	$941.23	5.3%	$974.03	$941.23	-3.4%
Central Miami	$2,401.36	$2,162.30	-10.0%	$2,401.36	$2,316.99	-3.5%	$2,556.05	$2,316.99	-9.4%
Central Orlando	$1,346.90	$1,251.59	-7.1%	$1,346.90	$1,372.73	1.9%	$1,468.05	$1,372.73	-6.5%

Addendum to Presentation on Personal Injury Protection (PIP) Insurance

Gold E Rating Example

DESCRIPTION: Age/Sex/Marital Status - Single Female Age 25; Policy Term - One Year; Policy Tenure - New Business; Prior Insurance - Proof Available for Preceding Year; Coverages Purchased - BI, PD, PIP, MP, UM, COMP, COLL; Limits Purchased - 25/50,50,10,5,25/50 Non-Stacked, All limits in thousands of dollars, Unchanged for prior 3 years; Deductibles - $250 COMP, $500 COLL, $0 PIP; Number of Cars - One; Experience of Operators - One minor violation and one not-at-fault accident in prior 3 years, licensed at age 16; Use and Mileage - Camry driven to work 12 road miles each way, 12,000 miles per year; Insurance Credit Score - 50th Percentile; Make and Model of Car - Toyota Camry LE; Age of Car - Latest model year (2007 as of October 1, 2006, etc.) and five model years old; Safety Devices - Drivers Side Airbag.

Allstate Fire & Casualty

		25/50	50		25/50	5				Decreased Limits and keep PIP			After Elimination of PIP		
										10			25/50	25/50	5
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	PD			BI	UM	MP
Broward (1)	Central Fort Lauderdale	$620.93	$311.83	$1,372.55	$301.71	$153.48	$128.61	$787.43	$3,676.54	$309.83			$1,307.21	$438.97	$427.99
Duval (2)	Central Jacksonville	$451.86	$281.31	$631.03	$149.22	$87.41	$121.10	$643.87	$2,365.80	$279.31			$767.38	$212.32	$213.62
Escambia (1)	Pensacola	$402.06	$295.52	$744.84	$128.36	$80.92	$115.12	$627.36	$2,394.18	$293.52			$774.48	$202.84	$229.89
Hillsborough (1)	Central Tampa	$933.46	$351.69	$2,298.63	$349.37	$138.34	$120.82	$881.89	$5,074.20	$349.69			$2,082.78	$579.23	$598.07
Leon (1)	Tallahassee	$402.06	$236.70	$393.42	$128.36	$62.76	$125.80	$627.36	$1,976.46	$234.70			$598.77	$167.70	$141.44
Miami-Dade (2)	Central Miami	$762.66	$390.48	$3,654.25	$294.70	$171.66	$181.35	$1,080.49	$6,535.59	$388.48			$2,589.79	$660.13	$902.51
Orange (2)	Central Orlando	$571.19	$302.12	$977.85	$170.77	$106.09	$118.69	$707.30	$2,954.01	$300.12			$1,060.12	$268.56	$301.66

Direct General

		25/50	50		25/50	2				Decreased Limits and keep PIP			After Elimination of PIP		
										10			25/50	25/50	2
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	PD			BI	UM	MP
Broward (1)	Central Fort Lauderdale	$873.80	$372.80	$1,574.80	$612.80	$221.60	$180.20	$928.80	$4,764.80	$310.80			$1,661.20	$770.28	$536.56
Duval (2)	Central Jacksonville	$485.71	$313.29	$628.00	$421.43	$93.86	$187.29	$756.14	$2,885.72	$262.02			$799.71	$484.23	$219.46
Escambia (1)	Pensacola	$470.00	$340.00	$674.20	$411.40	$106.00	$196.40	$878.00	$3,076.00	$283.92			$807.10	$478.82	$240.84
Hillsborough (1)	Central Tampa	$1,120.18	$369.53	$1,687.29	$766.00	$217.29	$204.88	$827.00	$5,192.17	$308.12			$1,963.83	$934.73	$554.75
Leon (1)	Tallahassee	$374.00	$359.00	$464.00	$364.00	$68.00	$164.00	$795.00	$2,588.00	$299.49			$606.00	$410.40	$160.80
Miami-Dade (2)	Central Miami	$713.00	$388.00	$1,877.25	$680.00	$219.00	$393.25	$1,054.00	$5,324.50	$323.26			$1,651.63	$867.73	$594.45
Orange (2)	Central Orlando	$552.00	$323.00	$834.00	$616.00	$146.00	$175.00	$716.00	$3,362.00	$269.98			$969.00	$699.40	$312.80

GEICO General

		25/50	50		25/50	5				Decreased Limits and keep PIP			After Elimination of PIP		
										10			25/50	25/50	5
Region	Description	BI	PD	PIP	UM	MP	COMP	COLL	Total:	PD			BI	UM	MP
Broward (1)	Central Fort Lauderdale	$369.23	$198.10	$540.10	$168.45	$145.88	$149.40	$408.53	$1,979.69	$172.57			$639.28	$222.46	$253.90
Duval (2)	Central Jacksonville	$255.50	$172.10	$281.97	$97.43	$95.63	$135.07	$352.13	$1,389.83	$150.16			$396.49	$125.63	$152.02
Escambia (1)	Pensacola	$220.80	$172.40	$226.80	$77.00	$94.10	$153.70	$345.10	$1,289.90	$150.41			$334.20	$99.68	$139.46
Hillsborough (1)	Central Tampa	$379.17	$188.17	$506.63	$145.87	$131.77	$117.50	$340.93	$1,810.04	$164.01			$632.49	$196.53	$233.10
Leon (1)	Tallahassee	$177.50	$139.35	$187.70	$74.40	$63.50	$186.75	$328.05	$1,157.25	$121.92			$271.35	$93.17	$101.04
Miami-Dade (2)	Central Miami	$337.23	$227.71	$748.30	$143.51	$159.25	$233.03	$481.60	$2,330.63	$198.09			$711.38	$218.34	$308.91
Orange (2)	Central Orlando	$260.30	$168.87	$377.53	$116.13	$111.77	$122.93	$318.47	$1,476.00	$147.37			$449.07	$153.88	$187.28

Progressive American

										Decreased Limits and keep PIP			After Elimination of PIP		
		25/50	50		25/50	5				10			25/50	25/50	5
Region	**Description**	**BI**	**PD**	**PIP**	**UM**	**MP**	**COMP**	**COLL**	**Total:**	**PD**			**BI**	**UM**	**MP**
Broward (1)	Central Fort Lauderdale	$1,125.00	$718.00	$1,727.00	$509.00	$463.00	$275.00	$1,221.00	$6,038.00	$653.64			$1,988.50	$681.70	$808.40
Duval (2)	Central Jacksonville	$804.00	$600.00	$925.00	$379.00	$259.00	$194.00	$1,043.00	$4,204.00	$546.36			$1,266.50	$471.50	$444.00
Escambia (1)	Pensacola	$583.00	$572.00	$754.00	$278.00	$213.00	$217.00	$1,025.00	$3,642.00	$520.91			$960.00	$353.40	$363.80
Hillsborough (1)	Central Tampa	$1,340.00	$705.00	$2,272.00	$589.00	$564.00	$211.00	$1,224.00	$6,905.00	$641.82			$2,476.00	$816.20	$1,018.40
Leon (1)	Tallahassee	$523.00	$568.00	$554.00	$286.00	$156.00	$152.00	$1,002.00	$3,241.00	$517.27			$800.00	$341.40	$266.80
Miami-Dade (2)	Central Miami	$1,098.00	$723.00	$2,697.00	$544.00	$643.00	$536.00	$1,449.00	$7,690.00	$658.18			$2,446.50	$813.70	$1,182.40
Orange (2)	Central Orlando	$896.00	$600.00	$1,368.00	$382.00	$362.00	$165.00	$999.00	$4,772.00	$546.36			$1,580.00	$518.80	$635.60

State Farm

										Decreased Limits and keep PIP			After Elimination of PIP		
		25/50	50		25/50	5				10			25/50	25/50	5
Region	**Description**	**BI**	**PD**	**PIP**	**UM**	**MP**	**COMP**	**COLL**	**Total:**	**PD**			**BI**	**UM**	**MP**
Broward (1)	Central Fort Lauderdale	$617.53	$277.44	$925.87	$141.63	$85.98	$141.50	$494.24	$2,684.19	$228.10			$1,080.47	$234.22	$271.15
Duval (2)	Central Jacksonville	$489.43	$219.89	$441.00	$95.00	$52.42	$134.90	$462.94	$1,895.58	$178.57			$709.93	$139.10	$140.62
Escambia (1)	Pensacola	$386.94	$173.84	$379.42	$100.26	$49.10	$143.06	$414.02	$1,646.64	$141.17			$576.65	$138.20	$124.98
Hillsborough (1)	Central Tampa	$759.11	$341.05	$1,386.64	$125.50	$90.70	$124.64	$459.74	$3,287.38	$276.96			$1,452.43	$264.16	$368.03
Leon (1)	Tallahassee	$355.14	$159.56	$253.76	$79.00	$28.40	$121.08	$419.64	$1,416.58	$129.58			$482.02	$104.38	$79.15
Miami-Dade (2)	Central Miami	$635.97	$285.72	$1,980.83	$128.76	$81.93	$225.66	$623.32	$3,962.19	$232.03			$1,626.39	$326.84	$478.10
Orange (2)	Central Orlando	$515.15	$231.45	$777.20	$89.63	$71.19	$133.55	$419.45	$2,237.62	$187.96			$903.75	$167.35	$226.63

Allstate Fire & Casualty

Impacts on Minimum Required Limits | **Impacts on Full Coverage**

Description	/10 PIP/PD	25/50/10 BI/PD	Change	/10 PIP/PD	25/50/10/5 BI/PD/MP	Change	25/50/10/5 Full Cov (Incl PIP)	25/50/10/5 Full Cov (No PIP)	Change
Central Fort Lauderdale	$1,682.38	$1,617.04	-3.9%	$1,682.38	$2,045.03	21.6%	$3,676.54	$3,402.03	-7.5%
Central Jacksonville	$910.34	$1,046.69	15.0%	$910.34	$1,260.30	38.4%	$2,365.80	$2,239.59	-5.3%
Pensacola	$1,038.36	$1,068.00	2.9%	$1,038.36	$1,297.89	25.0%	$2,394.18	$2,245.21	-6.2%
Central Tampa	$2,648.32	$2,432.47	-8.2%	$2,648.32	$3,030.53	14.4%	$5,074.20	$4,614.47	-9.1%
Tallahassee	$628.12	$833.47	32.7%	$628.12	$974.91	55.2%	$1,976.46	$1,897.78	-4.0%
Central Miami	$4,042.73	$2,978.27	-26.3%	$4,042.73	$3,880.78	-4.0%	$6,535.59	$5,804.74	-11.2%
Central Orlando	$1,277.97	$1,360.24	6.4%	$1,277.97	$1,661.90	30.0%	$2,954.01	$2,758.44	-6.6%

Direct General

Impacts on Minimum Required Limits | **Impacts on Full Coverage**

Description	/10 PIP/PD	25/50/10 BI/PD	Change	/10 PIP/PD	25/50/10/2 BI/PD/MP	Change	25/50/10/2 Full Cov (Incl PIP)	25/50/10/2 Full Cov (No PIP)	Change
Central Fort Lauderdale	$1,885.60	$1,972.00	4.6%	$1,885.60	$2,508.56	33.0%	$4,764.80	$4,449.84	-6.6%
Central Jacksonville	$890.02	$1,061.73	19.3%	$890.02	$1,281.19	44.0%	$2,885.72	$2,760.12	-4.4%
Pensacola	$958.12	$1,091.02	13.9%	$958.12	$1,331.86	39.0%	$3,076.00	$2,941.16	-4.4%
Central Tampa	$1,995.41	$2,271.95	13.9%	$1,995.41	$2,826.69	41.7%	$5,192.17	$4,854.71	-6.5%
Tallahassee	$763.49	$905.49	18.6%	$763.49	$1,066.29	39.7%	$2,588.00	$2,495.20	-3.6%
Central Miami	$2,200.51	$1,974.89	-10.3%	$2,200.51	$2,569.34	16.8%	$5,324.50	$4,949.05	-7.1%
Central Orlando	$1,103.98	$1,238.98	12.2%	$1,103.98	$1,551.78	40.6%	$3,362.00	$3,195.20	-5.0%

GEICO General

Impacts on Minimum Required Limits | **Impacts on Full Coverage**

Description	/10 PIP/PD	25/50/10 BI/PD	Change	/10 PIP/PD	25/50/10/5 BI/PD/MP	Change	25/50/10/5 Full Cov (Incl PIP)	25/50/10/5 Full Cov (No PIP)	Change
Central Fort Lauderdale	$712.67	$811.85	13.9%	$712.67	$1,065.75	49.5%	$1,979.69	$1,871.67	-5.5%
Central Jacksonville	$432.13	$546.65	26.5%	$432.13	$698.67	61.7%	$1,389.83	$1,333.44	-4.1%
Pensacola	$377.21	$484.61	28.5%	$377.21	$624.07	65.4%	$1,289.90	$1,244.54	-3.5%
Central Tampa	$670.64	$796.50	18.8%	$670.64	$1,029.59	53.5%	$1,810.04	$1,708.71	-5.6%
Tallahassee	$309.62	$393.27	27.0%	$309.62	$494.31	59.7%	$1,157.25	$1,119.71	-3.2%
Central Miami	$946.39	$909.47	-3.9%	$946.39	$1,218.38	28.7%	$2,330.63	$2,180.97	-6.4%
Central Orlando	$524.90	$596.44	13.6%	$524.90	$783.71	49.3%	$1,476.00	$1,400.49	-5.1%

Progressive American

	Impacts on Minimum Required Limits						Impacts on Full Coverage		
	/10	25/50/10		/10	25/50/10/5		25/50/10/5	25/50/10/5	
Description	PIP/PD	BI/PD	Change	PIP/PD	BI/PD/MP	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change
Central Fort Lauderdale	$2,380.64	$2,642.14	11.0%	$2,380.64	$3,450.54	44.9%	$6,038.00	$5,692.60	-5.7%
Central Jacksonville	$1,471.36	$1,812.86	23.2%	$1,471.36	$2,256.86	53.4%	$4,204.00	$4,019.00	-4.4%
Pensacola	$1,274.91	$1,480.91	16.2%	$1,274.91	$1,844.71	44.7%	$3,642.00	$3,491.20	-4.1%
Central Tampa	$2,913.82	$3,117.82	7.0%	$2,913.82	$4,136.22	42.0%	$6,905.00	$6,450.60	-6.6%
Tallahassee	$1,071.27	$1,317.27	23.0%	$1,071.27	$1,584.07	47.9%	$3,241.00	$3,130.20	-3.4%
Central Miami	$3,355.18	$3,104.68	-7.5%	$3,355.18	$4,287.08	27.8%	$7,690.00	$7,150.60	-7.0%
Central Orlando	$1,914.36	$2,126.36	11.1%	$1,914.36	$2,761.96	44.3%	$4,772.00	$4,498.40	-5.7%

State Farm

	Impacts on Minimum Required Limits						Impacts on Full Coverage		
	/10	25/50/10		/10	25/50/10/5		25/50/10/5	25/50/10/5	
Description	PIP/PD	BI/PD	Change	PIP/PD	BI/PD/MP	Change	Full Cov (Incl PIP)	Full Cov (No PIP)	Change
Central Fort Lauderdale	$1,153.97	$1,308.57	13.4%	$1,153.97	$1,579.72	36.9%	$2,684.19	$2,499.02	-6.9%
Central Jacksonville	$619.57	$888.50	43.4%	$619.57	$1,029.12	66.1%	$1,895.58	$1,807.38	-4.7%
Pensacola	$520.59	$717.82	37.9%	$520.59	$842.80	61.9%	$1,646.64	$1,570.76	-4.6%
Central Tampa	$1,663.60	$1,729.39	4.0%	$1,663.60	$2,097.42	26.1%	$3,287.38	$3,010.05	-8.4%
Tallahassee	$383.34	$611.60	59.5%	$383.34	$690.75	80.2%	$1,416.58	$1,365.83	-3.6%
Central Miami	$2,212.86	$1,858.42	-16.0%	$2,212.86	$2,336.51	5.6%	$3,962.19	$3,566.02	-10.0%
Central Orlando	$965.16	$1,091.71	13.1%	$965.16	$1,318.34	36.6%	$2,237.62	$2,082.18	-6.9%

PIP and PPACA Comparisons and Considerations

	PIP (HB 119, 2012)	PPACA	Comments

Mandated Coverage	Requires motorists to carry at least $10,000 of no-fault insurance; in accordance with 2012 legislation, PIP benefits include up to $10,000 to treat an emergency medical condition, and pay for 80% of reasonable medical expenses for the following services:
	• Initial services in a hospital or a facility owned by a hospital and emergency transport and treatment.
	• Upon referral, follow up services and care consistent with the initial diagnosis.
	
	PIP benefits are limited to $2,500 of reasonable medical expenses when the injured person does not have an emergency medical condition.
		Requires individuals to maintain coverage for federally-defined essential health benefits including:
		• Ambulatory patient services
		• Emergency services
		• Hospitalization
		• Maternity and newborn care
		• Mental health and substance abuse
		• Prescription drugs
		• Rehabilitative and habilitative services and devices
		• Laboratory services
		• Preventive and wellness services
		• Pediatric care including oral and vision care
			• All of the services covered by PIP are also covered services under PPACA.
			• Although compliance with the PPACA mandate is difficult to predict at this time, several estimates have been offered:
			  ○ The Office of Economic and Demographic Research estimates that 2.1 million people will become newly insured over a four-year period.
			  ○ At the end of that ramp up 1.8 million Floridians or 9.9% of the population are expected to remain uninsured.

Providers Eligible for Payment	• Physicians, including medical doctors, osteopathic physicians, chiropractic physicians; • Hospitals and facilities owned by a hospital; • Ambulatory surgery center; • Licensed physical therapists based upon a physician referral; • Licensed health clinics meeting specific criteria; • Services consistent with the underlying medical diagnosis.	• Network providers including all licensed practitioners and facilities. • Out-of-network providers under conditions specified by the policy.	• PIP limitations on providers who can be reimbursed are responses to fraudulent activities, but may also limit access for medically necessary services. • Network management is a costly administrative activity for a $10,000 policy.
Payment Rates	In accordance with a schedule of maximum charges. Some services permitted reimbursement at 80% of 200% of Medicare.	• Negotiated between insurer and provider.	• Charge schedules under PIP are likely to be higher than payments under many health insurance plans. • Higher payments encourage over-utilization.

	PIP (HB 119, 2012)	PPACA	Comments
Other Payment Requirements	• Timely payment requirements; • Penalties for failure to pay timely.	• Prompt payment requirements under state law.	
Fraud Prevention	• Clinic registration; • Possible loss of practitioners' licenses for conviction of fraud.	• Insurers use a variety of techniques to prevent fraud including provider credentialing, prior authorization, utilization review, etc.	• Clinic registration requirements do not provide the basis for financial analysis and are largely ineffective at preventing fraud.

EDR Summary Statistics

	Adjusted Baseline		Adjusted Baseline with Woodworking		Adjusted Baseline with Woodworking and Medicaid Expansion	
	Number	Percent	Number	Percent	Number	Percent
Total Population	18,849,600		18,849,600		18,849,600	
Population Uninsured	4,040,731	21.4%	4,040,731	21.4%	4,040,731	21.4%
Newly Insured	2,169,986		2,246,380		2,549,380	
General Population	2,169,986		2,169,986		1,819,750	
Woodworking			76,394		76,394	
Medicaid Expansion					653,236	
Remain Uninsured	1,870,745	9.9%	1,794,351	9.5%	1,491,351	7.9%

In total, Medicaid Expansion would include 854,154 participants, which includes CHIP Transfer and Crowd Out.

Difference in Newly Insured	Adjusted Baseline with Woodworking	Adjusted Baseline with Woodworking and Medicaid Expansion
To Adjusted Baseline	76,394	379,394
To Adjusted Baseline with Woodworking	0	303,000

Numbers are only tied to the base population for 2011 and the ultimate levels will be higher due to population growth. Similarly, statistics are also drawn from the base population and the percentages would not be achieved until the conclusion of all ramp-up and phase-in periods.

Source: March 4, 2013 presentation to the Select Committees on Patient Protection and Affordable Care Act, Economic Analysis of PPACA and Medicaid Expansion, updated based on the March 7, 2013 Social Services Estimating Conference, Estimates Related to Federal Affordable Care Act: Title XIX (Medicaid) & Title XXI (CHIP) Programs.

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Banking and Insurance Committee **Judge:**

Started: 4/2/2013 12:37:16 PM
Ends: 4/2/2013 3:30:34 PM Length: 02:53:19

12:37:25 PM	Senator Simmons call meeting to order
12:38:11 PM	CAA call roll -- quorum present
12:38:52 PM	Remarks by Chairman
12:39:19 PM	SB 1046 taken up by Senator Brandes
12:39:39 PM	Substitute Amendment 511142 --
12:40:27 PM	Amend to Amend --444890 by Senator simmons
12:41:04 PM	Senator Simmons turn chair over to Senator Detert
12:41:24 PM	Sen. Simmons recognized to explain amd. to amd. 444890 -- removes viaticals from bill
12:42:24 PM	without objection amd. to amd. 444890-- favorable
12:42:59 PM	Amd. to Amd. 531060 by Senator Negron -- withdrawn
12:45:51 PM	Senator Brandes recognized to explain substitute amendment
12:46:50 PM	Senator Detert recognized for question
12:49:44 PM	Senator Detert recognized for question
12:49:44 PM	Mark Delegal representing State Farm
12:51:27 PM	Mark Delegal representing State Farm
12:52:36 PM	Substitute amendment -- w/o objection -- adopted
12:53:41 PM	Motion for CS by Sen. Hays -- w/o objection
12:54:01 PM	Roll call on CS/SB 1046 --favorable
12:55:07 PM	Roll call on CS/SB 1046 --favorable
12:55:10 PM	Tab 2- SB 324 by Sen. Brandes
12:55:25 PM	Sen. Brandes recognized to explain the bill
12:56:01 PM	Delete all amendment by Hays --
12:56:20 PM	Amd. to delete all Amendment -- technical amendment -- w/o objection -- adopted
12:57:02 PM	Amd. to Amd. 693492 -- withdrawn by Senator Hays
1:01:21 PM	Back on the delete all Amendment (484256) --
1:02:21 PM	Melissa Burt Delliese representing Security First Ins. Co.
1:03:05 PM	Jay Neal, Exe. Dir. FAIR
1:08:12 PM	Amd. 484256 -- adopted as amended
1:08:29 PM	Motion for CS -- Sen. Hays -- w/o objecgtion adopted
1:08:56 PM	Motion for CS -- Sen. Hays -- w/o objecgtion adopted
1:08:57 PM	CAA calls roll on CS/SB 324--passed
1:10:11 PM	TAB 10 - SB 262 by Sen. Smith -- explains the bill
1:11:00 PM	Amd. 950798 amd. by Sen. Clemens -- w/o objection -- adopted
1:12:41 PM	Motion for CS by Hays -- w/o objection -- adopted
1:13:05 PM	Roll call on CS/SB 262 --favorable
1:14:06 PM	SB 924 by Sen. Latvala
1:14:33 PM	Sen. Latvala recognized to explain bill
1:15:36 PM	Jef Album
1:15:47 PM	Jef Album, Delta Dental Insurance Co.
1:24:42 PM	Sen. Latvala recognized to close on bill.
1:25:05 PM	CSS calls roll on SB 924 -- favorable
1:26:19 PM	TAB 3 - SPB 7138 - Public Records - Health Insurance
1:27:14 PM	Explanation of bill by Senator Simmons
1:29:36 PM	Explanation of bill by Senator Simmons
1:30:50 PM	Amd. 671196 - Sen. Simmons --w/o objection - favorable
1:31:50 PM	Amd. 514588 by s
1:32:03 PM	Amd. 514588 by Sen. Simmons -- w/o objection -- favorable
1:32:34 PM	Amd. 352000 by Sen. Simmons -- w/o objection -- favorable
1:33:08 PM	Amd. 352008 - technical amendment -- w/o objection -- favorable
1:33:35 PM	Amd. 271732 -- w/o objection -- faorable
1:34:07 PM	Amd. 257656 -- w/o favorable
1:34:20 PM	Amd. 572796 -- w/o - favorable

1:34:44 PM Amd. 856052 - technical amd. -- w/o objection - favorable
1:35:09 PM Amd. 965632 by Sen. Simmons -- w/o objection -- favorable
1:36:02 PM Roll call on SPB 7138 -- favorable
1:36:32 PM Roll call on SPB 7138 -- favorable
1:36:54 PM TAB 14 -- SPB 7136 - explanation of bill by Senator Simmons
1:37:51 PM Roll call on SPB 7136 -- Favorable
1:38:48 PM TAB 15 - SPB 7140 - explanation of bill by Sen. Simmons
1:39:44 PM Roll call vote on SPB 7140 -- favorable
1:40:47 PM Roll call vote on SPB 7140 -- favorable
1:41:02 PM TAB 5 - SB 836 by Sen. Simmons
1:41:18 PM Amd. 355782 - delete all amendment
1:41:35 PM Explanation of amendment by Sen. Simmons
1:42:51 PM Rebecca Mathews, FL Office of Ins. Reg.
1:43:15 PM w/o objection Amd. 355782 adopted
1:43:36 PM Roll call on SB 836 -- Favorable/cs
1:44:03 PM TAB 6 -- S 834 by Senator Simmons
1:44:21 PM Amd. 939038
1:44:40 PM Motion to TP SB 834
1:45:50 PM TAB 4--SB 1262
1:46:50 PM Sen. Simmons turn chair to Sen. Clemens
1:49:06 PM Amd. to substitute amendment 398790 by Sen. Ring
1:55:26 PM Explanation of Substitute Amendment by Sen. Ring
1:57:41 PM Don Brown, AIF
2:00:03 PM Jay Neal, FAIR
2:01:47 PM Robin Westcott - Insurance Consumer Advocate
2:17:09 PM Robin Westcott - Insurance Consumer Advocate
2:17:41 PM Tom Jerger, American Traditions Ins. Co.
2:22:15 PM Gary Farmer, Florida Justice Association
2:23:35 PM Sen. Simmons makes motion for time certain vote of 2:35 pm. on Sen. Rings amendment --adopted
2:33:02 PM Amd. to Substitute Amendment -- 398790 -- Ring -- passed
2:34:02 PM Motion to TP SB 1262 by Sen. Hays
2:35:26 PM TAB 9 S 242 by Sen. Hukill
2:36:03 PM Amd. 263352 - delete all amendment - explanation of amendment by Sen. Hukill
2:37:03 PM Amd. to Amd. by Sen. Richter (270236) -- w/o objection -- adopted
2:40:23 PM Delete all Amd. (as amended) --w/o objection -- favorable
2:41:24 PM Motion for CS --adopted
2:41:58 PM Roll call on SB 242 -- favorable
2:42:56 PM TAB 16 -- SB 410
2:44:36 PM French Brown, FL Office of Financial Regulation
2:45:22 PM French Brown, FL Office of Financial Regulation
2:45:26 PM Roll call on S 410 -- Favorable
2:46:41 PM TAB 11 -- S 550 by Sen. Simpson (Sen. Simpson's aide explains the bill)
2:48:36 PM Amd. 580832 by Sen. Hays -- delete all /late filed--w/o objection by 2/3 vote amd. taken up
2:49:39 PM Delete all amd. 580832 -- w/o objection - favorable
2:50:22 PM Delete all amd. 580832 -- w/o objection - favorable
2:50:22 PM Motion for CS - Detert --w/o adopted
2:51:43 PM Roll call on CS/SB 550 -- Favorable
2:52:47 PM TA B 6 -- SB 834 by Sen. Simmons
2:53:25 PM Amd. 939038 -- w/o favorable
2:53:55 PM Amd. 436368 (late filed technical amd.) w/o adopted
2:54:18 PM Amd. 536046 (late filed technical amd.) w/o adopted
2:54:58 PM Amd. 536046 (late filed technical amd.) w/o adopted
2:55:00 PM Motion for CS - Simmons
2:55:04 PM Roll call on SB 834 -- Fav/CS
2:57:26 PM TAB 17 - S 1410 by Sen. Simmons - explanation
2:58:27 PM Amd. 360216 late filed
2:59:21 PM Amd. to Amd. by Sen. Margolis (825868) w/o adopted
3:00:25 PM Delete all Amend. 360216 - w/o adopted
3:00:52 PM Motion for CS -- Simmons
3:01:08 PM Roll call on CS/SB 1410 -- favable
3:02:03 PM TAB 7 - CS/SB 1172 - explanation of bill by Senator Simmons
3:06:18 PM Roll call on CS/SB 1172 -- favorable

3:09:53 PM	Remarks by Chairman on PIP
3:11:40 PM	Michael Carlson, Personal Insurance Federation of Florida
3:12:55 PM	Tim Meenan - Nationwide Insurance Company
3:16:40 PM	Paul Jess, Florida Justice Association
3:17:40 PM	Paul Lambert, FL State Massage Therapy Association
3:20:03 PM	Paul Sanford, Florida Blue
3:22:41 PM	Bill Bell, FL Hospital Association
3:24:37 PM	Sandra Starnes, Office of Insurance Regulation
3:30:18 PM	Meeting adjourned