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CS/HB 1087, Engrossed 1

2011 Legislature

1 A bill to be entitled
2 An act relating to insurance; amending s. 440.12, F.S.;
3 authorizing payment of workers' compensation benefits on a
4 prepaid card under certain circumstances; requiring the
5 keeping and furnishing, upon request, of certain records;
6 providing for the adoption of rules; amending s. 440.20,
7 F.S.; specifying when an insurer's obligation to pay
8 workers' compensation benefits is satisfied if payment is
9 made on a prepaid card; amending s. 440.49, F.S.; revising
10 the dates applicable to calculations of annual assessments
11 upon certain workers' compensation insurers relating to
12 the special disability trust fund; providing application
13 to specified years and rate filings; amending s. 624.402,
14 F.S.; providing an exemption from having to obtain a
15 certificate of authority to insurers that cover only
16 nonresidents of the United States under certain
17 conditions; requiring such insurers to provide certain
18 documentation to the Office of Insurance Regulation;
19 requiring certificates, policies, or contracts issued by
20 such insurers to include a disclaimer relating to the
21 coverage provided; defining a "nonresident" for purposes
22 of applying the exemption provided to such insurers from
23 having to obtain a certificate of authority; providing
24 penalties applicable to alien insurers who transact
25 insurance without complying with certain provisions;
26 deleting procedures and requirements relating to an
27 exemption from obtaining a certificate of authority
28 provided to alien insurers who issue life insurance

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29 | policies and annuity contracts to certain nonresidents;
30 | amending s. 624.424, F.S.; revising the timeframes that
31 | limit how frequently an insurer may use the same
32 | accountant or partner to prepare an annual audited
33 | financial report; amending s. 626.207, F.S.; defining the
34 | term "financial services business"; precluding licensure
35 | under the Florida Insurance Code of specified persons who
36 | commit specified offenses; providing application to
37 | convictions and certain pleas, regardless of adjudication;
38 | establishing waiting periods relating to other specified
39 | offenses during which time an applicant is disqualified
40 | for licensure; granting rulemaking authority to the
41 | Department of Financial Services relating to specific
42 | penalties against licensees; clarifying rulemaking
43 | authority relating to penalties against licensees;
44 | providing that specified statutory provisions prohibiting
45 | prior crimes from being a bar to employment are not
46 | applicable to applicants for licensure under the Florida
47 | Insurance Code; amending s. 626.7451, F.S.; requiring
48 | funds collected for an insurer to be held in a bank
49 | insured by the Federal Deposit Insurance Corporation;
50 | amending s. 626.8651, F.S.; revising requirements for a
51 | public adjuster apprentice license to include additional
52 | qualifying designations; amending s. 627.4133, F.S.;
53 | changing the designated person or persons who must be
54 | notified by an insurer from the "insured" to the "first-
55 | named insured" in situations involving the nonrenewal,
56 | renewal premium, cancellation, or termination of workers'

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57 | compensation, employer liability, or certain property and
58 | casualty insurance coverage; specifying that the date of
59 | cancellation of a workers' compensation or employer's
60 | liability policy is the date of the insured's written
61 | request to cancel; amending s. 627.4137, F.S.; requiring a
62 | claimant's request concerning insurance coverage to be
63 | served upon the disclosing entity in a specified manner;
64 | amending s. 627.7277, F.S.; making a conforming change
65 | that specifies the "first-named insured" as the person who
66 | is to receive notification of a renewal premium; amending
67 | s. 627.728, F.S.; changing the designated person or
68 | persons who must be notified by an insurer from the
69 | "insured" to the "first-named insured" in certain
70 | situations involving the cancellation or nonrenewal of
71 | motor vehicle insurance coverage; making a conforming
72 | change that specifies the "first-named insured's insurance
73 | agent" as a person who is to receive certain notifications
74 | relating to motor vehicle insurance coverage; amending s.
75 | 627.7281, F.S.; making a conforming change that specifies
76 | the "first-named insured" as the person who is to receive
77 | notification of cancellation of motor vehicle insurance
78 | coverage; amending s. 634.403, F.S.; exempting certain
79 | persons providing service warranties relating to consumer
80 | products from licensing requirements under certain
81 | circumstances; amending s. 627.442, F.S.; limiting the
82 | requirement for premium audits of workers' compensation
83 | coverage to specified instances; amending s. 627.7295,
84 | F.S.; providing application; requiring a certain amount of

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85 | motor vehicle insurance premium to be paid before the
86 | effective date of a policy binder or policy in order to
87 | issue the binder or policy; authorizing an insurer to
88 | cancel certain motor vehicle insurance policies or binders
89 | for nonpayment of premium; removing a restriction
90 | requiring payment of the first policy payment of a motor
91 | vehicle insurance policy before issuance of a binder or
92 | policy when payments are being made in a specified manner;
93 | amending s. 626.916, F.S.; revising provisions relating to
94 | insurance coverage eligibility for export under the
95 | Surplus Lines Law; providing applicability; amending s.
96 | 817.234, F.S.; revising a cross-reference; providing civil
97 | penalties consisting of monetary fines relating to making
98 | false and fraudulent insurance claims for the purpose of
99 | receiving motor vehicle insurance proceeds; providing
100 | escalating monetary fines for repeat offenses; providing a
101 | mandatory minimum civil fine relating to certain
102 | international motor vehicle accident schemes; allocating
103 | fine revenues to a specified trust fund for specified
104 | purposes; authorizing certain agreements between a
105 | defendant and a state attorney relating to the payment of
106 | civil fines for making false and fraudulent insurance
107 | claims for the purpose of receiving motor vehicle
108 | insurance proceeds; providing effective dates.

109 |
110 | Be It Enacted by the Legislature of the State of Florida:
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112 Section 1. Subsection (1) of section 440.12, Florida
 113 Statutes, is amended to read:

114 440.12 Time for commencement and limits on weekly rate of
 115 compensation.—

116 (1) ~~No~~ Compensation is not ~~shall be~~ allowed for the first
 117 7 days of the disability, except for benefits provided under ~~for~~
 118 ~~in~~ s. 440.13. However, if the injury results in disability of
 119 more than 21 days, compensation shall be allowed from the
 120 commencement of the disability.

121 (a) All weekly compensation payments, except for the first
 122 payment, shall be paid by check or, if authorized by the
 123 employee, on a prepaid card pursuant to paragraph (b) or
 124 deposited directly into the employee's account at a financial
 125 institution. As used in this subsection, the term "financial
 126 institution" means a financial institution as defined in s.
 127 655.005(1)(h).

128 (b) Upon receipt of authorization by the employee as
 129 provided in paragraph (a), a carrier may use a prepaid card to
 130 deliver the payment of compensation to an employee if the
 131 employee is:

132 1. Provided with at least one means of accessing his or
 133 her entire compensation payment once per week without incurring
 134 fees;

135 2. Provided with the ability to make point-of-sale
 136 purchases without incurring fees from the financial institution
 137 issuing the prepaid card; and

138 3. Provided with the terms and conditions of the prepaid
 139 card program, including a description of any fees that may be

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140 assessed.

141 (c) Each carrier shall keep a record of all payments made
 142 under this subsection, including the time and manner of such
 143 payments, and shall furnish these records or a report based on
 144 these records to the Division of Insurance Fraud and the
 145 Division of Workers' Compensation, upon request.

146 (d) The department may adopt rules to administer this
 147 section.

148 Section 2. Paragraph (a) of subsection (1) of section
 149 440.20, Florida Statutes, is amended to read:

150 440.20 Time for payment of compensation and medical bills;
 151 penalties for late payment.—

152 (1) (a) Unless it denies compensability or entitlement to
 153 benefits, the carrier shall pay compensation directly to the
 154 employee as required by ss. 440.14, 440.15, and 440.16, in
 155 accordance with the obligations set forth in those such
 156 sections. Upon receipt of the employee's authorization as
 157 provided for in s. 440.12(1) (a) ~~If authorized by the employee,~~
 158 the carrier's obligation to pay compensation directly to the
 159 employee is satisfied when the carrier directly deposits, by
 160 electronic transfer or other means, compensation into the
 161 employee's account at a financial institution or onto a prepaid
 162 card in accordance with s. 440.12(1). As used in this paragraph,
 163 the term "financial institution" means a financial institution
 164 as defined in s. 655.005(1) (h). Compensation by direct deposit
 165 or through the use of a prepaid card is considered paid on the
 166 date the funds become available for withdrawal by the employee.

167 Section 3. Paragraph (b) of subsection (9) of section

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168 440.49, Florida Statutes, is amended to read:
 169 440.49 Limitation of liability for subsequent injury
 170 through Special Disability Trust Fund.—
 171 (9) SPECIAL DISABILITY TRUST FUND.—
 172 (b)1. The Special Disability Trust Fund shall be
 173 maintained by annual assessments upon the insurance companies
 174 writing compensation insurance in the state, the commercial
 175 self-insurers under ss. 624.462 and 624.4621, the assessable
 176 mutuals as defined in s. 628.6011, and the self-insurers under
 177 this chapter, which assessments shall become due and be paid
 178 quarterly at the same time and in addition to the assessments
 179 provided in s. 440.51. The department shall estimate annually in
 180 advance the amount necessary for the administration of this
 181 subsection and the maintenance of this fund and shall make such
 182 assessment in the manner hereinafter provided.
 183 2. The annual assessment shall be calculated to produce
 184 during the next calendar ~~ensuing fiscal~~ year an amount which,
 185 when combined with that part of the balance anticipated to be in
 186 the fund on December 31 ~~June 30~~ of the current calendar ~~fiscal~~
 187 year which is in excess of \$100,000, is equal to the average of:
 188 a. The sum of disbursements from the fund during the
 189 immediate past 3 calendar years, and
 190 b. Two times the disbursements of the most recent calendar
 191 year.
 192 c. Such assessment rate shall first apply on a calendar
 193 year basis for the period beginning January 1, 2012, and shall
 194 be included in workers' compensation rate filings approved by
 195 the office which become effective on or after January 1, 2012.

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196 The assessment rate effective January 1, 2011, shall also apply
 197 to the interim period from July 1, 2011, through December 31,
 198 2011, and shall be included in workers' compensation rate
 199 filings, whether regular or amended, approved by the office
 200 which become effective on or after July 1, 2011. Thereafter, the
 201 annual assessment rate shall take effect January 1 of the next
 202 calendar year and shall be included in workers' compensation
 203 rate filings approved by the office which become effective on or
 204 after January 1 of the next calendar year. Assessments shall
 205 become due and be paid quarterly.

206
 207 Such amount shall be prorated among the insurance companies
 208 writing compensation insurance in the state and the self-
 209 insurers. Provided however, for those carriers that have
 210 excluded ceded reinsurance premiums from their assessments on or
 211 before January 1, 2000, no assessments on ceded reinsurance
 212 premiums shall be paid by those carriers until such time as the
 213 former Division of Workers' Compensation of the Department of
 214 Labor and Employment Security or the department advises each of
 215 those carriers of the impact that the inclusion of ceded
 216 reinsurance premiums has on their assessment. The department may
 217 not recover any past underpayments of assessments levied against
 218 any carrier that on or before January 1, 2000, excluded ceded
 219 reinsurance premiums from their assessment prior to the point
 220 that the former Division of Workers' Compensation of the
 221 Department of Labor and Employment Security or the department
 222 advises of the appropriate assessment that should have been
 223 paid.

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224 3. The net premiums written by the companies for workers'
 225 compensation in this state and the net premium written
 226 applicable to the self-insurers in this state are the basis for
 227 computing the amount to be assessed as a percentage of net
 228 premiums. Such payments shall be made by each carrier and self-
 229 insurer to the department for the Special Disability Trust Fund
 230 in accordance with such regulations as the department
 231 prescribes.

232 4. The Chief Financial Officer is authorized to receive
 233 and credit to such Special Disability Trust Fund any sum or sums
 234 that may at any time be contributed to the state by the United
 235 States under any Act of Congress, or otherwise, to which the
 236 state may be or become entitled by reason of any payments made
 237 out of such fund.

238 Section 4. Subsection (8) of section 624.402, Florida
 239 Statutes, is amended to read:

240 624.402 Exceptions, certificate of authority required.—A
 241 certificate of authority shall not be required of an insurer
 242 with respect to:

243 (8) (a) An insurer domiciled outside the United States
 244 covering only persons who, at the time of issuance or renewal,
 245 are nonresidents of the United States if:

246 1. The insurer or any affiliated person as defined in s.
 247 624.04 under common ownership or control with the insurer does
 248 not solicit, sell, or accept application for any insurance
 249 policy or contract to be delivered or issued for delivery to any
 250 person in any state;

251 2. The insurer registers with the office via a letter of

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252 notification upon commencing business from this state;
253 3. The insurer provides the following information, in
254 English, to the office annually by March 1:
255 a. The name of the insurer, the country of domicile, the
256 address of the insurer's principal office and office in this
257 state, the names of the owners of the insurer and their
258 percentage of ownership, the names of the officers and directors
259 of the insurer, the name, e-mail, and telephone number of a
260 contact person for the insurer, and the number of individuals
261 who are employed by the insurer or its affiliates in this state;
262 b. The lines of insurance and types of products offered by
263 the insurer;
264 c. A statement from the applicable regulatory body of the
265 insurer's domicile certifying that the insurer is licensed or
266 registered for those lines of insurance and types of products in
267 that domicile; and
268 d. A copy of the filings required by the applicable
269 regulatory body of the insurer's country of domicile in that
270 country's official language or in English, if available;
271 4. All certificates, policies, or contracts issued in this
272 state showing coverage under the insurer's policy include the
273 following statement in a contrasting color and at least 10-point
274 type: "The policy providing your coverage and the insurer
275 providing this policy have not been approved by the Florida
276 Office of Insurance Regulation"; and
277 5. In the event the insurer ceases to do business from
278 this state, the insurer will provide written notification to the
279 office within 30 days after cessation.

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280 (b) For purposes of this subsection, "nonresident" means a
 281 person who resides in and maintains a physical place of domicile
 282 in a country other than the United States, which he or she
 283 recognizes as and intends to maintain as his or her permanent
 284 home. A nonresident does not include an unauthorized immigrant
 285 present in the United States. Notwithstanding any other
 286 provision of law, it is conclusively presumed, for purposes of
 287 this subsection, that a person is a resident of the United
 288 States if such person has:

- 289 1. Had his or her principal place of domicile in the
 290 United States for 180 days or more in the 365 days prior to
 291 issuance or renewal of the policy;
- 292 2. Registered to vote in any state;
- 293 3. Made a statement of domicile in any state; or
- 294 4. Filed for homestead tax exemption on property in any
 295 state.

296 (c) Subject to the limitations provided in this
 297 subsection, services, including those listed in s. 624.10, may
 298 be provided by the insurer or an affiliated person as defined in
 299 s. 624.04 under common ownership or control with the insurer.

300 (d) An alien insurer transacting insurance in this state
 301 without complying with this subsection shall be in violation of
 302 this chapter and subject to the penalties provided in s. 624.15.

303 ~~(a) Life insurance policies or annuity contracts issued by~~
 304 ~~an insurer domiciled outside the United States covering only~~
 305 ~~persons who, at the time of issuance, are not residents of the~~
 306 ~~United States and are not nonresidents illegally residing in the~~
 307 ~~United States, provided:~~

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308 ~~1. The insurer must currently be an authorized insurer in~~
 309 ~~its country of domicile as to the kind or kinds of insurance~~
 310 ~~proposed to be offered and must have been such an insurer for~~
 311 ~~not fewer than the immediately preceding 3 years, or must be the~~
 312 ~~wholly owned subsidiary of such authorized insurer or must be~~
 313 ~~the wholly owned subsidiary of an already eligible authorized~~
 314 ~~insurer as to the kind or kinds of insurance proposed for a~~
 315 ~~period of not fewer than the immediately preceding 3 years.~~
 316 ~~However, the office may waive the 3-year requirement if the~~
 317 ~~insurer has operated successfully for a period of at least the~~
 318 ~~immediately preceding year and has capital and surplus of not~~
 319 ~~less than \$25 million.~~

320 ~~2. Before the office may grant eligibility, the requesting~~
 321 ~~insurer shall furnish the office with a duly authenticated copy~~
 322 ~~of its current annual financial statement, in English, and with~~
 323 ~~all monetary values therein expressed in United States dollars,~~
 324 ~~at an exchange rate then current and shown in the statement, in~~
 325 ~~the case of statements originally made in the currencies of~~
 326 ~~other countries, and with such additional information relative~~
 327 ~~to the insurer as the office may request.~~

328 ~~3. The insurer must have and maintain surplus as to~~
 329 ~~policyholders of not less than \$15 million. Any such surplus as~~
 330 ~~to policyholders shall be represented by investments consisting~~
 331 ~~of eligible investments for like funds of like domestic insurers~~
 332 ~~under part II of chapter 625; however, any such surplus as to~~
 333 ~~policyholders may be represented by investments permitted by the~~
 334 ~~domestic regulator of such alien insurance company if such~~
 335 ~~investments are substantially similar in terms of quality,~~

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336 ~~liquidity, and security to eligible investments for like funds~~
337 ~~of like domestic insurers under part II of chapter 625.~~

338 ~~4. The insurer must be of good reputation as to the~~
339 ~~providing of service to its policyholders and the payment of~~
340 ~~losses and claims.~~

341 ~~5. To maintain eligibility, the insurer shall furnish the~~
342 ~~office within the time period specified in s. 624.424(1)(a) a~~
343 ~~duly authenticated copy of its current annual and quarterly~~
344 ~~financial statements, in English, and with all monetary values~~
345 ~~therein expressed in United States dollars, at an exchange rate~~
346 ~~then-current and shown in the statement, in the case of~~
347 ~~statements originally made in the currencies of other countries,~~
348 ~~and with such additional information relative to the insurer as~~
349 ~~the office may request.~~

350 ~~6. An insurer receiving eligibility under this subsection~~
351 ~~shall agree to make its books and records pertaining to its~~
352 ~~operations in this state available for inspection during normal~~
353 ~~business hours upon request of the office.~~

354 ~~7. The insurer shall provide to the applicant for the~~
355 ~~policy or contract a copy of the most recent quarterly financial~~
356 ~~statements of the insurer providing, in clear and conspicuous~~
357 ~~language:~~

358 ~~a. The date of organization of the insurer.~~

359 ~~b. The identity of and rating assigned by each recognized~~
360 ~~insurance company rating organization that has rated the insurer~~
361 ~~or, if applicable, that the insurer is unrated.~~

362 ~~c. That the insurer does not hold a certificate of~~
363 ~~authority issued in this state and that the office does not~~

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364 ~~exercise regulatory oversight over the insurer.~~

365 ~~d. The identity and address of the regulatory authority~~
 366 ~~exercising oversight of the insurer.~~

367
 368 ~~This paragraph does not impose upon the office any duty or~~
 369 ~~responsibility to determine the actual financial condition or~~
 370 ~~claims practices of any unauthorized insurer, and the status of~~
 371 ~~eligibility, if granted by the office, indicates only that the~~
 372 ~~insurer appears to be financially sound and to have satisfactory~~
 373 ~~claims practices and that the office has no credible evidence to~~
 374 ~~the contrary.~~

375 ~~(b) If at any time the office has reason to believe that~~
 376 ~~an insurer issuing policies or contracts pursuant to this~~
 377 ~~subsection is insolvent or is in unsound financial condition,~~
 378 ~~does not make reasonable prompt payment of benefits, or is no~~
 379 ~~longer eligible under the conditions specified in this~~
 380 ~~subsection, the office may conduct an examination or~~
 381 ~~investigation in accordance with s. 624.316, s. 624.3161, or s.~~
 382 ~~624.320 and, if the findings of such examination or~~
 383 ~~investigation warrant, may withdraw the eligibility of the~~
 384 ~~insurer to issue policies or contracts pursuant to this~~
 385 ~~subsection without having a certificate of authority issued by~~
 386 ~~the office.~~

387 ~~(c) This subsection does not provide an exception to the~~
 388 ~~agent licensure requirements of chapter 626. Any insurer issuing~~
 389 ~~policies or contracts pursuant to this subsection shall appoint~~
 390 ~~the agents that the insurer uses to sell such policies or~~
 391 ~~contracts as provided in chapter 626.~~

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392 ~~(d) An insurer issuing policies or contracts pursuant to~~
 393 ~~this subsection is subject to part IX of chapter 626, Unfair~~
 394 ~~Insurance Trade Practices, and the office may take such actions~~
 395 ~~against the insurer for a violation as are provided in that~~
 396 ~~part.~~

397 ~~(e) Policies and contracts issued pursuant to this~~
 398 ~~subsection are not subject to the premium tax specified in s.~~
 399 ~~624.509.~~

400 ~~(f) Applications for life insurance coverage offered under~~
 401 ~~this subsection must contain, in contrasting color and not less~~
 402 ~~than 12-point type, the following statement on the same page as~~
 403 ~~the applicant's signature:~~

404
 405 ~~This policy is primarily governed by the laws of a~~
 406 ~~foreign country. As a result, all of the rating and~~
 407 ~~underwriting laws applicable to policies filed in this~~
 408 ~~state do not apply to this coverage, which may result~~
 409 ~~in your premiums being higher than would be~~
 410 ~~permissible under a Florida-approved policy. Any~~
 411 ~~purchase of individual life insurance should be~~
 412 ~~considered carefully, as future medical conditions may~~
 413 ~~make it impossible to qualify for another individual~~
 414 ~~life policy. If the insurer issuing your policy~~
 415 ~~becomes insolvent, this policy is not covered by the~~
 416 ~~Florida Life and Health Insurance Guaranty~~
 417 ~~Association. For information concerning individual~~
 418 ~~life coverage under a Florida-approved policy, consult~~
 419 ~~your agent or the Florida Department of Financial~~

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420 ~~Services.~~

421
 422 ~~(g) All life insurance policies and annuity contracts~~
 423 ~~issued pursuant to this subsection must contain on the first~~
 424 ~~page of the policy or contract, in contrasting color and not~~
 425 ~~less than 10 point type, the following statement:~~

426
 427 ~~The benefits of the policy providing your coverage are~~
 428 ~~governed primarily by the law of a country other than~~
 429 ~~the United States.~~

430
 431 ~~(h) All single premium life insurance policies and single~~
 432 ~~premium annuity contracts issued to persons who are not~~
 433 ~~residents of the United States and are not nonresidents~~
 434 ~~illegally residing in the United States pursuant to this~~
 435 ~~subsection shall be subject to the provisions of chapter 896.~~

436 Section 5. Paragraph (d) of subsection (8) of section
 437 624.424, Florida Statutes, is amended to read:

438 624.424 Annual statement and other information.—

439 (8)

440 (d) An insurer may not use the same accountant or partner
 441 of an accounting firm responsible for preparing the report
 442 required by this subsection for more than 5 ~~7~~ consecutive years.
 443 Following this period, the insurer may not use such accountant
 444 or partner for a period of 5 ~~2~~ years, but may use another
 445 accountant or partner of the same firm. An insurer may request
 446 the office to waive this prohibition based upon an unusual
 447 hardship to the insurer and a determination that the accountant

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448 is exercising independent judgment that is not unduly influenced
 449 by the insurer considering such factors as the number of
 450 partners, expertise of the partners or the number of insurance
 451 clients of the accounting firm; the premium volume of the
 452 insurer; and the number of jurisdictions in which the insurer
 453 transacts business.

454 Section 6. Effective upon this act becoming a law, section
 455 626.207, Florida Statutes, is amended to read:

456 626.207 Disqualification of applicants and licensees;
 457 penalties against licensees; rulemaking authority Department
 458 ~~rulemaking authority; waiting periods for applicants; penalties~~
 459 ~~against licensees.-~~

460 (1) For purposes of this section, the term "financial
 461 services business" means any financial activity regulated by the
 462 Department of Financial Services, the Office of Insurance
 463 Regulation, or the Office of Financial Regulation. ~~The~~
 464 ~~department shall adopt rules establishing specific waiting~~
 465 ~~periods for applicants to become eligible for licensure~~
 466 ~~following denial, suspension, or revocation pursuant to s.~~
 467 ~~626.611, s. 626.621, s. 626.8437, s. 626.844, s. 626.935, s.~~
 468 ~~634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.~~
 469 ~~634.423, s. 642.041, or s. 642.043. The purpose of the waiting~~
 470 ~~periods is to provide sufficient time to demonstrate reformation~~
 471 ~~of character and rehabilitation. The waiting periods shall vary~~
 472 ~~based on the type of conduct and the length of time since the~~
 473 ~~conduct occurred and shall also be based on the probability that~~
 474 ~~the propensity to commit illegal conduct has been overcome. The~~
 475 ~~waiting periods may be adjusted based on aggravating and~~

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476 ~~mitigating factors established by rule and consistent with this~~
477 ~~purpose.~~

478 (2) For purposes of this section, the terms "felony of the
479 first degree" and "capital felony" include all felonies
480 designated as such by the Florida Statutes, as well as any
481 felony so designated in the jurisdiction in which the plea is
482 entered or judgment is rendered.

483 (3) An applicant who commits a felony of the first degree,
484 a capital felony, a felony involving money laundering, fraud, or
485 embezzlement, or a felony directly related to the financial
486 services business is permanently barred from applying for a
487 license under this part. This bar applies to convictions, guilty
488 pleas, or nolo contendere pleas, regardless of adjudication, by
489 any applicant, officer, director, majority owner, partner,
490 manager, or other person who manages or controls any applicant.

491 (4) For all other crimes not included in subsection (3),
492 the department shall adopt rules establishing the process and
493 application of disqualifying periods that include:

494 (a) A 15-year disqualifying period for all felonies
495 involving moral turpitude that are not specifically included in
496 the permanent bar contained in subsection (3).

497 (b) A 7-year disqualifying period for all felonies to
498 which neither the permanent bar in subsection (3) nor the 15-
499 year disqualifying period in paragraph (a) applies.

500 (c) A 7-year disqualifying period for all misdemeanors
501 directly related to the financial services business.

502 (5) The department shall adopt rules providing for
503 additional disqualifying periods due to the commitment of

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504 multiple crimes and other factors reasonably related to the
505 applicant's criminal history. The rules shall provide for
506 mitigating and aggravating factors. However, mitigation may not
507 result in a period of disqualification of less than 7 years and
508 may not mitigate the disqualifying periods in paragraphs (4) (b)
509 and (c).

510 (6) For purposes of this section, the disqualifying
511 periods begin upon the applicant's final release from
512 supervision or upon completion of the applicant's criminal
513 sentence, including payment of fines, restitution, and court
514 costs for the crime for which the disqualifying period applies.

515 (7) After the disqualifying period has been met, the
516 burden is on the applicant to demonstrate that the applicant has
517 been rehabilitated, does not pose a risk to the insurance-buying
518 public, is fit and trustworthy to engage in the business of
519 insurance pursuant to s. 626.611(7), and is otherwise qualified
520 for licensure.

521 (8)~~(2)~~ The department shall adopt rules establishing
522 specific penalties against licensees in accordance with ss.
523 626.641 and 626.651 for violations of s. 626.611, s. 626.621, s.
524 626.8437, s. 626.844, s. 626.935, s. 634.181, s. 634.191, s.
525 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s.
526 642.043. The purpose of the revocation or suspension is to
527 provide a sufficient penalty to deter future violations of the
528 Florida Insurance Code. The imposition of a revocation or the
529 length of suspension shall be based on the type of conduct and
530 the probability that the propensity to commit further illegal
531 conduct has been overcome at the time of eligibility for

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532 relicensure. The ~~revocation or the~~ length of suspension may be
 533 adjusted based on aggravating or mitigating factors, established
 534 by rule and consistent with this purpose.

535 (9) Section 112.011 does not apply to any applicants for
 536 licensure under the Florida Insurance Code, including, but not
 537 limited to, agents, agencies, adjusters, adjusting firms,
 538 customer representatives, or managing general agents.

539 Section 7. Subsection (3) of section 626.7451, Florida
 540 Statutes, is amended to read:

541 626.7451 Managing general agents; required contract
 542 provisions.—No person acting in the capacity of a managing
 543 general agent shall place business with an insurer unless there
 544 is in force a written contract between the parties which sets
 545 forth the responsibility for a particular function, specifies
 546 the division of responsibilities, and contains the following
 547 minimum provisions:

548 (3) All funds collected for the account of the insurer
 549 shall be held by the managing general agent in a fiduciary
 550 capacity in a bank which is insured by the Federal Deposit
 551 Insurance Corporation ~~a member of the Federal Reserve System.~~
 552 The ~~This~~ account shall be used for all payment as directed by
 553 the insurer. The managing general agent may retain up to ~~no more~~
 554 ~~than~~ 60 days of estimated claims payments and allocated loss
 555 adjustment expenses.

556
 557 For the purposes of this section and ss. 626.7453 and 626.7454,
 558 the term "controlling person" or "controlling" has the meaning
 559 set forth in s. 625.012(5)(b)1., and the term "controlled

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560 person" or "controlled" has the meaning set forth in s.
561 625.012 (5) (b) 2.

562 Section 8. Subsection (4) of section 626.8651, Florida
563 Statutes, is amended to read:

564 626.8651 Public adjuster apprentice license;
565 qualifications.—

566 (4) An applicant must have received designation as an
567 Accredited Claims Adjuster (ACA), as a Certified Adjuster (CA),
568 or as a Certified Claims Adjuster (CCA) after completion of
569 training that qualifies the applicant to engage in the business
570 of a public adjuster apprentice fairly and without injury to the
571 public. Such training and instruction must address adjusting
572 damages and losses under insurance contracts, the terms and
573 effects of insurance contracts, and knowledge of the laws of
574 this state relating to insurance contracts.

575 Section 9. Paragraphs (a) and (b) of subsection (1),
576 paragraphs (a) and (b) of subsection (2), and subsection (4) of
577 section 627.4133, Florida Statutes, are amended to read:

578 627.4133 Notice of cancellation, nonrenewal, or renewal
579 premium.—

580 (1) Except as provided in subsection (2):

581 (a) An insurer issuing a policy providing coverage for
582 workers' compensation and employer's liability insurance,
583 property, casualty, except mortgage guaranty, surety, or marine
584 insurance, other than motor vehicle insurance subject to s.
585 627.728, shall give the first-named ~~named~~ insured at least 45
586 days' advance written notice of nonrenewal or of the renewal
587 premium. If the policy is not to be renewed, the written notice

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588 shall state the reason or reasons as to why the policy is not to
589 be renewed. This requirement applies only if the insured has
590 furnished all of the necessary information so as to enable the
591 insurer to develop the renewal premium prior to the expiration
592 date of the policy to be renewed.

593 (b) An insurer issuing a policy providing coverage for
594 property, casualty, except mortgage guaranty, surety, or marine
595 insurance, other than motor vehicle insurance subject to s.
596 627.728 or s. 627.7281, shall give the first-named ~~named~~ insured
597 written notice of cancellation or termination other than
598 nonrenewal at least 45 days prior to the effective date of the
599 cancellation or termination, including in the written notice the
600 reason or reasons for the cancellation or termination, except
601 that:

602 1. When cancellation is for nonpayment of premium, at
603 least 10 days' written notice of cancellation accompanied by the
604 reason therefor shall be given. As used in this subparagraph and
605 s. 440.42(3), the term "nonpayment of premium" means failure of
606 the named insured to discharge when due any of her or his
607 obligations in connection with the payment of premiums on a
608 policy or any installment of such premium, whether the premium
609 is payable directly to the insurer or its agent or indirectly
610 under any premium finance plan or extension of credit, or
611 failure to maintain membership in an organization if such
612 membership is a condition precedent to insurance coverage.
613 "Nonpayment of premium" also means the failure of a financial
614 institution to honor an insurance applicant's check after
615 delivery to a licensed agent for payment of a premium, even if

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616 the agent has previously delivered or transferred the premium to
617 the insurer. If a dishonored check represents the initial
618 premium payment, the contract and all contractual obligations
619 shall be void ab initio unless the nonpayment is cured within
620 the earlier of 5 days after actual notice by certified mail is
621 received by the applicant or 15 days after notice is sent to the
622 applicant by certified mail or registered mail, and if the
623 contract is void, any premium received by the insurer from a
624 third party shall be refunded to that party in full; and

625 2. When such cancellation or termination occurs during the
626 first 90 days during which the insurance is in force and the
627 insurance is canceled or terminated for reasons other than
628 nonpayment of premium, at least 20 days' written notice of
629 cancellation or termination accompanied by the reason therefor
630 shall be given except where there has been a material
631 misstatement or misrepresentation or failure to comply with the
632 underwriting requirements established by the insurer.

633
634 After the policy has been in effect for 90 days, no such policy
635 shall be canceled by the insurer except when there has been a
636 material misstatement, a nonpayment of premium, a failure to
637 comply with underwriting requirements established by the insurer
638 within 90 days of the date of effectuation of coverage, or a
639 substantial change in the risk covered by the policy or when the
640 cancellation is for all insureds under such policies for a given
641 class of insureds. This subsection does not apply to
642 individually rated risks having a policy term of less than 90
643 days.

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644 (2) With respect to any personal lines or commercial
 645 residential property insurance policy, including, but not
 646 limited to, any homeowner's, mobile home owner's, farmowner's,
 647 condominium association, condominium unit owner's, apartment
 648 building, or other policy covering a residential structure or
 649 its contents:

650 (a) The insurer shall give the first-named ~~named~~ insured
 651 at least 45 days' advance written notice of the renewal premium.

652 (b) The insurer shall give the first-named ~~named~~ insured
 653 written notice of nonrenewal, cancellation, or termination at
 654 least 100 days prior to the effective date of the nonrenewal,
 655 cancellation, or termination. However, the insurer shall give at
 656 least 100 days' written notice, or written notice by June 1,
 657 whichever is earlier, for any nonrenewal, cancellation, or
 658 termination that would be effective between June 1 and November
 659 30. The notice must include the reason or reasons for the
 660 nonrenewal, cancellation, or termination, except that:

661 1. The insurer shall give the first-named ~~named~~ insured
 662 written notice of nonrenewal, cancellation, or termination at
 663 least 180 days prior to the effective date of the nonrenewal,
 664 cancellation, or termination for a first-named ~~named~~ insured
 665 whose residential structure has been insured by that insurer or
 666 an affiliated insurer for at least a 5-year period immediately
 667 prior to the date of the written notice.

668 2. When cancellation is for nonpayment of premium, at
 669 least 10 days' written notice of cancellation accompanied by the
 670 reason therefor shall be given. As used in this subparagraph,
 671 the term "nonpayment of premium" means failure of the named

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672 insured to discharge when due any of her or his obligations in
673 connection with the payment of premiums on a policy or any
674 installment of such premium, whether the premium is payable
675 directly to the insurer or its agent or indirectly under any
676 premium finance plan or extension of credit, or failure to
677 maintain membership in an organization if such membership is a
678 condition precedent to insurance coverage. "Nonpayment of
679 premium" also means the failure of a financial institution to
680 honor an insurance applicant's check after delivery to a
681 licensed agent for payment of a premium, even if the agent has
682 previously delivered or transferred the premium to the insurer.
683 If a dishonored check represents the initial premium payment,
684 the contract and all contractual obligations shall be void ab
685 initio unless the nonpayment is cured within the earlier of 5
686 days after actual notice by certified mail is received by the
687 applicant or 15 days after notice is sent to the applicant by
688 certified mail or registered mail, and if the contract is void,
689 any premium received by the insurer from a third party shall be
690 refunded to that party in full.

691 3. When such cancellation or termination occurs during the
692 first 90 days during which the insurance is in force and the
693 insurance is canceled or terminated for reasons other than
694 nonpayment of premium, at least 20 days' written notice of
695 cancellation or termination accompanied by the reason therefor
696 shall be given except where there has been a material
697 misstatement or misrepresentation or failure to comply with the
698 underwriting requirements established by the insurer.

699 4. The requirement for providing written notice of

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700 nonrenewal by June 1 of any nonrenewal that would be effective
701 between June 1 and November 30 does not apply to the following
702 situations, but the insurer remains subject to the requirement
703 to provide such notice at least 100 days prior to the effective
704 date of nonrenewal:

705 a. A policy that is nonrenewed due to a revision in the
706 coverage for sinkhole losses and catastrophic ground cover
707 collapse pursuant to s. 627.706, as amended by s. 30, chapter
708 2007-1, Laws of Florida.

709 b. A policy that is nonrenewed by Citizens Property
710 Insurance Corporation, pursuant to s. 627.351(6), for a policy
711 that has been assumed by an authorized insurer offering
712 replacement or renewal coverage to the policyholder.

713
714 After the policy has been in effect for 90 days, the policy
715 shall not be canceled by the insurer except when there has been
716 a material misstatement, a nonpayment of premium, a failure to
717 comply with underwriting requirements established by the insurer
718 within 90 days of the date of effectuation of coverage, or a
719 substantial change in the risk covered by the policy or when the
720 cancellation is for all insureds under such policies for a given
721 class of insureds. This paragraph does not apply to individually
722 rated risks having a policy term of less than 90 days.

723 (4) Notwithstanding ~~the provisions of~~ s. 440.42(3), if
724 cancellation of a policy providing coverage for workers'
725 compensation and employer's liability insurance is requested in
726 writing by the insured, such cancellation shall be effective on
727 the date requested by the insured or, if no date is specified by

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728 the insured, cancellation shall be effective on the date of the
 729 written request. The carrier is not required to send notice of
 730 cancellation to the insured if the cancellation is requested in
 731 writing by the insured ~~the carrier sends the notice of~~
 732 ~~cancellation to the insured.~~ Any retroactive assumption of
 733 coverage and liabilities under a policy providing workers'
 734 compensation and employer's liability insurance may not exceed
 735 21 days.

736 Section 10. Subsection (3) is added to section 627.4137,
 737 Florida Statutes, to read:

738 627.4137 Disclosure of certain information required.—

739 (3) Any request made to a self-insured corporation
 740 pursuant to this section shall be sent by certified mail to the
 741 registered agent of the disclosing entity.

742 Section 11. Subsection (2) of section 627.7277, Florida
 743 Statutes, is amended to read:

744 627.7277 Notice of renewal premium.—

745 (2) An insurer shall mail or deliver to the first-named
 746 insured ~~its policyholder~~ at least 30 days' advance written
 747 notice of the renewal premium for the policy.

748 Section 12. Paragraph (a) of subsection (3), paragraphs
 749 (a) and (d) of subsection (4), and subsections (5) and (6) of
 750 section 627.728, Florida Statutes, are amended to read:

751 627.728 Cancellations; nonrenewals.—

752 (3) (a) No notice of cancellation of a policy to which this
 753 section applies shall be effective unless mailed or delivered by
 754 the insurer to the first-named ~~named~~ insured and to the first-
 755 named ~~named~~ insured's insurance agent at least 45 days prior to

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756 the effective date of cancellation, except that, when
757 cancellation is for nonpayment of premium, at least 10 days'
758 notice of cancellation accompanied by the reason therefor shall
759 be given. No notice of cancellation of a policy to which this
760 section applies shall be effective unless the reason or reasons
761 for cancellation accompany the notice of cancellation.

762 (4) (a) No insurer shall fail to renew a policy unless it
763 mails or delivers to the first-named ~~named~~ insured, at the
764 address shown in the policy, and to the first-named ~~named~~
765 insured's insurance agent at her or his business address, at
766 least 45 days' advance notice of its intention not to renew; and
767 the reasons for refusal to renew must accompany such notice.
768 This subsection does not apply:

- 769 1. If the insurer has manifested its willingness to renew;
770 or
771 2. In case of nonpayment of premium.

772
773 Notwithstanding the failure of an insurer to comply with this
774 subsection, the policy shall terminate on the effective date of
775 any other automobile liability insurance policy procured by the
776 insured with respect to any automobile designated in both
777 policies. Unless a written explanation for refusal to renew
778 accompanies the notice of intention not to renew, the policy
779 shall remain in full force and effect.

780 (d) Instead of canceling or nonrenewing a policy, an
781 insurer may, upon expiration of the policy term, transfer a
782 policy to another insurer under the same ownership or management
783 as the transferring insurer, by giving the first-named ~~named~~

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784 insured at least 45 days' advance notice of its intent to
 785 transfer the policy and of the premium and the specific reasons
 786 for any increase in the premium.

787 (5) United States postal proof of mailing or certified or
 788 registered mailing of notice of cancellation, of intention not
 789 to renew, or of reasons for cancellation, or of the intention of
 790 the insurer to issue a policy by an insurer under the same
 791 ownership or management, to the first-named ~~named~~ insured at the
 792 address shown in the policy shall be sufficient proof of notice.

793 (6) When a policy is canceled, other than for nonpayment
 794 of premium, or in the event of failure to renew a policy to
 795 which subsection (4) applies, the insurer shall notify the
 796 first-named ~~named~~ insured of her or his possible eligibility for
 797 insurance through the Automobile Joint Underwriting Association.
 798 Such notice shall accompany or be included in the notice of
 799 cancellation or the notice of intent not to renew and shall
 800 state that such notice of availability of the Automobile Joint
 801 Underwriting Association is given pursuant to this section.

802 Section 13. Section 627.7281, Florida Statutes, is amended
 803 to read:

804 627.7281 Cancellation notice.—An insurer issuing a policy
 805 of motor vehicle insurance not covered under the cancellation
 806 provisions of s. 627.728 shall give the first-named ~~named~~
 807 insured notice of cancellation at least 45 days prior to the
 808 effective date of cancellation, except that, when cancellation
 809 is for nonpayment of premium, at least 10 days' notice of
 810 cancellation accompanied by the reason therefor shall be given.
 811 As used in this section, "policy" does not include a binder as

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812 defined in s. 627.420 unless the duration of the binder period
 813 exceeds 60 days.

814 Section 14. Section 634.403, Florida Statutes, is amended
 815 to read:

816 634.403 License required; exemptions.-

817 (1) No person in this state shall provide or offer to
 818 provide service warranties to residents of this state unless
 819 authorized therefor under a subsisting license issued by the
 820 office. The service warranty association shall pay to the office
 821 a license fee of \$200 for such license for each license year, or
 822 part thereof, the license is in force.

823 (2) An insurer, while authorized to transact property or
 824 casualty insurance in this state, may also transact a service
 825 warranty business without additional qualifications or
 826 authority, but shall be otherwise subject to the applicable
 827 provisions of this part.

828 (3) The office may, pursuant to s. 120.569, in its
 829 discretion and without advance notice and hearing, issue an
 830 immediate final order to cease and desist to any person or
 831 entity which violates this section. The Legislature finds that a
 832 violation of this section constitutes an imminent and immediate
 833 threat to the public health, safety, and welfare of the
 834 residents of this state.

835 (4) Any person that is an affiliate of a domestic insurer
 836 as defined in chapter 624 is exempt from application of this
 837 part if the person does not issue, or market or cause to be
 838 marketed, service warranties to residents of this state and does
 839 not administer service warranties that were originally issued to

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840 residents of this state. The domestic insurer or its wholly
841 owned Florida licensed insurer must be the direct obligor of all
842 service warranties issued by such affiliate or must issue a
843 contractual liability insurance policy to such affiliate that
844 meets the conditions described in s. 634.406(3). If the Office
845 of Insurance Regulation determines, after notice and opportunity
846 for a hearing, that a person's intentional business practices do
847 not comply with any of the exemption requirements of this
848 subsection, the person shall be subject to this part.

849 (5) A person is exempt from the license requirement in
850 this section if the person complies with the following:

851 (a) The service warranties are only sold to nonresidents
852 of this state and the person does not issue, market, or cause to
853 be marketed service warranties to residents of this state.

854 (b) The person submits a letter of notification that
855 provides the following information to the office upon the start
856 of business from this state and annually thereafter by March 1:

857 1. The type of products offered and a statement certifying
858 that the products are not regulated in the state in which the
859 person is transacting business or that the person is licensed in
860 the state in which the person is transacting business.

861 2. The name of the person, the state of domicile, the home
862 address and address in this state of the person, the names of
863 the owners and their percentage of ownership, the names of the
864 officers and directors, the name, e-mail, and telephone number
865 of a contact person, the states in which the person is
866 transacting business, and how many individuals are employed in
867 this state.

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868 (c) If the person ceases to do business from this state,
 869 the person shall provide written notification to the office
 870 within 30 days after cessation of business.

871 ~~(6)~~~~(5)~~ Any person who provides, offers to provide, or
 872 holds oneself out as providing or offering to provide a service
 873 warranty to residents of ~~in~~ this state ~~or from this state~~
 874 without holding a subsisting license commits, in addition to any
 875 other violation, a misdemeanor of the first degree, punishable
 876 as provided in s. 775.082 or s. 775.083.

877 Section 15. Section 627.442, Florida Statutes, is amended
 878 to read:

879 627.442 Insurance contracts.—

880 (1) A person who requires a workers' compensation
 881 insurance policy pursuant to a construction contract may not
 882 reject a workers' compensation insurance policy issued by a
 883 self-insurance fund that is subject to part V of chapter 631
 884 based upon the self-insurance fund not being rated by a
 885 nationally recognized insurance rating service.

886 (2) Notwithstanding s. 440.381(3), premium audits are not
 887 required for workers' compensation coverage, other than an audit
 888 required by the insurance policy or an order of the office, or
 889 at least once each policy period, if requested by the insured.

890 Section 16. Subsections (4) and (7) of section 627.7295,
 891 Florida Statutes, are amended to read:

892 627.7295 Motor vehicle insurance contracts.—

893 (4) If subsection (7) does not apply, the insurer may
 894 cancel the policy in accordance with this code except that,
 895 notwithstanding s. 627.728, an insurer may not cancel a new

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896 policy or binder during the first 60 days immediately following
897 the effective date of the policy or binder except for nonpayment
898 of premium ~~unless the reason for the cancellation is the~~
899 ~~issuance of a check for the premium that is dishonored for any~~
900 ~~reason.~~

901 (7) A policy of private passenger motor vehicle insurance
902 or a binder for such a policy may be initially issued in this
903 state only if, before the effective date of such binder or
904 policy, the insurer or agent has collected from the insured an
905 amount equal to 2 months' premium. An insurer, agent, or premium
906 finance company may not, directly or indirectly, take any action
907 resulting in the insured having paid from the insured's own
908 funds an amount less than the 2 months' premium required by this
909 subsection. This subsection applies without regard to whether
910 the premium is financed by a premium finance company or is paid
911 pursuant to a periodic payment plan of an insurer or an
912 insurance agent. This subsection does not apply if an insured or
913 member of the insured's family is renewing or replacing a policy
914 or a binder for such policy written by the same insurer or a
915 member of the same insurer group. This subsection does not apply
916 to an insurer that issues private passenger motor vehicle
917 coverage primarily to active duty or former military personnel
918 or their dependents. This subsection does not apply if all
919 policy payments are paid pursuant to a payroll deduction plan or
920 an automatic electronic funds transfer payment plan from the
921 policyholder, ~~provided that the first policy payment is made by~~
922 ~~cash, cashier's check, check, or a money order.~~ This subsection
923 and subsection (4) do not apply if all policy payments to an

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924 insurer are paid pursuant to an automatic electronic funds
 925 transfer payment plan from an agent, a managing general agent,
 926 or a premium finance company and if the policy includes, at a
 927 minimum, personal injury protection pursuant to ss. 627.730-
 928 627.7405; motor vehicle property damage liability pursuant to s.
 929 627.7275; and bodily injury liability in at least the amount of
 930 \$10,000 because of bodily injury to, or death of, one person in
 931 any one accident and in the amount of \$20,000 because of bodily
 932 injury to, or death of, two or more persons in any one accident.
 933 This subsection and subsection (4) do not apply if an insured
 934 has had a policy in effect for at least 6 months, the insured's
 935 agent is terminated by the insurer that issued the policy, and
 936 the insured obtains coverage on the policy's renewal date with a
 937 new company through the terminated agent.

938 Section 17. Subsection (3) of section 626.916, Florida
 939 Statutes, is amended to read:

940 626.916 Eligibility for export.—

941 (3) (a) Subsection (1) does not apply to wet marine and
 942 transportation or aviation risks which are subject to s.
 943 626.917.

944 (b) Paragraphs (1)(a)-(d) do not apply to classes of
 945 insurance which are subject to s. 627.062(3)(d)1. These classes
 946 may be exportable under the following conditions:

947 1. The insurance must be placed only by or through a
 948 surplus lines agent licensed in this state;

949 2. The insurer must be made eligible under s. 626.918; and

950 3. The insured must sign a disclosure that substantially
 951 provides the following: "You are agreeing to place coverage in

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952 the surplus lines market. Superior coverage may be available in
 953 the admitted market and at a lesser cost. Persons insured by
 954 surplus lines carriers are not protected under the Florida
 955 Insurance Guaranty Act with respect to any right of recovery for
 956 the obligation of an insolvent unlicensed insurer." If the
 957 notice is signed by the insured, the insured is presumed to have
 958 been informed and to know that other coverage may be available,
 959 and, with respect to the diligent-effort requirement under
 960 subsection (1), there is no liability on the part of, and no
 961 cause of action arises against, the retail agent presenting the
 962 form.

963 Section 18. The amendments to s. 626.207, Florida
 964 Statutes, made by this act do not apply retroactively and apply
 965 only to applicants whose applications are pending or submitted
 966 on or after the date that the amendments to s. 626.207, Florida
 967 Statutes, made by this act become law. This section shall take
 968 effect upon this act becoming a law.

969 Section 19. Paragraph (c) of subsection (7) of section
 970 817.234, Florida Statutes, is amended, present subsection (12)
 971 of that section is renumbered as subsection (13), and a new
 972 subsection (12) is added to that section, to read:

973 817.234 False and fraudulent insurance claims.—

974 (7)

975 (c) An insurer, or any person acting at the direction of
 976 or on behalf of an insurer, may not change an opinion in a
 977 mental or physical report prepared under s. 627.736 ~~(8)-(7)~~ or
 978 direct the physician preparing the report to change such
 979 opinion; however, this provision does not preclude the insurer

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980 from calling to the attention of the physician errors of fact in
 981 the report based upon information in the claim file. Any person
 982 who violates this paragraph commits a felony of the third
 983 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 984 775.084.

985 (12) In addition to any criminal liability, a person
 986 convicted of violating any provision of this section for the
 987 purpose of receiving insurance proceeds from a motor vehicle
 988 insurance contract is subject to a civil penalty.

989 (a) Except for a violation of subsection (9), the civil
 990 penalty shall be:

991 1. A fine up to \$5,000 for a first offense.

992 2. A fine greater than \$5,000, but not to exceed \$10,000,
 993 for a second offense.

994 3. A fine greater than \$10,000, but not to exceed \$15,000,
 995 for a third or subsequent offense.

996 (b) The civil penalty for a violation of subsection (9)
 997 must be at least \$15,000 but may not exceed \$50,000.

998 (c) The civil penalty shall be paid to the Insurance
 999 Regulatory Trust Fund within the Department of Financial
 1000 Services and used by the department for the investigation and
 1001 prosecution of insurance fraud.

1002 (d) This subsection does not prohibit a state attorney
 1003 from entering into a written agreement in which the person
 1004 charged with the violation does not admit to or deny the charges
 1005 but consents to payment of the civil penalty.

1006 Section 20. Except as otherwise expressly provided in this
 1007 act and except for this section, which shall take effect upon

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1008 | this act becoming a law, this act shall take effect July 1,
1009 | 2011.