

By the Committee on Budget; and Senator Smith

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1                   A bill to be entitled  
2           An act relating to insurance; amending s. 120.80,  
3           F.S.; allowing the Division of Administrative Hearings  
4           to have final order authority with respect to certain  
5           license applicants; amending ss. 440.12 and 440.20,  
6           F.S.; authorizing the payment of workers' compensation  
7           benefits through the use of a prepaid card; providing  
8           requirements; amending s. 624.402, F.S.; revising  
9           provisions relating to certain insurers serving  
10          nonresidents domiciled outside the United States who  
11          are exempt from requirements to obtain a certificate  
12          of authority; amending s. 626.207, F.S., relating to  
13          penalties; providing definitions; barring persons  
14          convicted of certain crimes from licensure as an  
15          insurance agent; revising provisions relating to  
16          disqualifying periods for persons convicted of other  
17          crimes; providing an exemption from the limitation  
18          against state employment for persons convicted of  
19          certain crimes; amending s. 627.4133, F.S.; changing  
20          the designated person or persons who must be notified  
21          by an insurer from the "insured" to the "first-named  
22          insured" in situations involving the nonrenewal,  
23          renewal premium, cancellation, or termination of  
24          workers' compensation, employer liability, or certain  
25          property and casualty insurance coverage; specifying  
26          the effective date for the cancellation of a policy  
27          requested in writing by the insured; amending s.  
28          627.4137, F.S.; requiring a claimant's request about  
29          insurance coverage to be appropriately served upon the

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30 disclosing entity; amending s. 627.442, F.S.;

31 providing that premium audits for workers'

32 compensation or property and casualty coverages are

33 not required; providing exceptions; amending s.

34 627.7277, F.S.; making a conforming change that

35 specifies the "first-named insured" as the person who

36 is to receive notification of a renewal premium;

37 amending s. 627.728, F.S.; changing the designated

38 person or persons who must be notified by an insurer

39 from the "insured" to the "first-named insured" in

40 certain situations involving the cancellation or

41 nonrenewal of motor vehicle insurance coverage; making

42 a conforming change that specifies the "first-named

43 insured's insurance agent" as a person who is to

44 receive certain notifications relating to motor

45 vehicle insurance coverage; amending s. 627.7281,

46 F.S.; making a conforming change that specifies the

47 "first-named insured" as the person who is to receive

48 notification of cancellation of motor vehicle

49 insurance coverage; creating s. 634.1711, F.S.;

50 allowing a consumer to purchase a service agreement

51 for a premium negotiated with the salesperson;

52 authorizing the service agreement company to establish

53 the premium rate; amending s. 634.403, F.S.; exempting

54 certain persons from service warranty licensure

55 requirements under certain circumstances; providing

56 effective dates.

57

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

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59

60 Section 1. Subsection (17) of section 120.80, Florida  
61 Statutes, is created to read:

62 120.80 Exceptions and special requirements; agencies.—

63 (17) DEPARTMENT OF FINANCIAL SERVICES.—Notwithstanding ss.  
64 120.569, 120.57, and 120.60, if an applicant for licensure as an  
65 agent or adjuster pursuant to the Florida Insurance Code has  
66 been convicted of, or pled guilty or nolo contendere to, a  
67 felony, the disqualifying periods have been met, and the  
68 department has denied the application pursuant to s. 626.207(6),  
69 the division shall have final order authority.

70 Section 2. Subsection (1) of section 440.12, Florida  
71 Statutes, is amended to read:

72 440.12 Time for commencement and limits on weekly rate of  
73 compensation.—

74 (1) ~~No~~ Compensation is not shall be allowed for the first 7  
75 days of the disability, except for benefits provided under ~~for~~  
76 ~~in~~ s. 440.13. However, if the injury results in disability of  
77 more than 21 days, compensation shall be allowed from the  
78 commencement of the disability.

79 (a) All weekly compensation payments, except for the first  
80 payment, shall be paid by check or, if authorized by the  
81 employee, on a prepaid card pursuant to paragraph (b) or  
82 deposited directly into the employee's account at a financial  
83 institution. As used in this subsection, the term "financial  
84 institution" means a financial institution as defined in s.  
85 655.005(1) ~~(h)~~.

86 (b) Upon receipt of authorization by the employee as  
87 provided in paragraph (a), a carrier may use a prepaid card to

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88 deliver compensation payments to an employee if the employee:

89 1. Has at least one means of accessing his or her entire  
90 compensation payment once per week without incurring fees;

91 2. Has the ability to make point-of-sale purchases without  
92 incurring fees from the financial institution issuing the  
93 prepaid card; and

94 3. Is provided with terms and conditions of the prepaid  
95 card program, including a description of any fees that may be  
96 assessed.

97 (c) Each carrier shall keep a record of all payments made  
98 under this subsection and the time and manner of such payments,  
99 and shall furnish these records, or a report based on these  
100 records, to the Division of Insurance Fraud and the Division of  
101 Workers' Compensation upon request.

102 (d) The department may adopt rules to administer this  
103 subsection.

104 Section 3. Paragraph (a) of subsection (1) of section  
105 440.20, Florida Statutes, is amended to read:

106 440.20 Time for payment of compensation and medical bills;  
107 penalties for late payment.-

108 (1) (a) Unless the carrier ~~it~~ denies compensability or  
109 entitlement to benefits, the carrier shall pay compensation  
110 directly to the employee as required by ss. 440.14, 440.15, and  
111 440.16, in accordance with the obligations set forth in those  
112 ~~such~~ sections. Upon receipt of the employee's authorization as  
113 provided in s. 440.12(1) ~~If authorized by the employee,~~ the  
114 carrier's obligation to pay compensation directly to the  
115 employee is satisfied when the carrier directly deposits, by  
116 electronic transfer or other means, compensation into the

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117 employee's account at a financial institution or onto a prepaid  
118 card in accordance with s. 440.12(1). As used in this paragraph,  
119 the term "financial institution" means a financial institution  
120 as defined in s. 655.005(1) ~~(h)~~. Compensation by direct deposit  
121 or through the use of a prepaid card is considered paid on the  
122 date the funds become available for withdrawal by the employee.

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

125 624.402 Exceptions, certificate of authority required.—A  
126 certificate of authority shall not be required of an insurer  
127 with respect to:

128 (8) An insurer domiciled outside the United States covering  
129 only persons who, at the time of issuance or renewal, are  
130 nonresidents of the United States.

131 (a) In order to qualify for this exemption, the insurer:

132 1. Must register with the office via a letter of  
133 notification upon commencing business from this state.

134 2. Must provide the following information to the office  
135 annually by March 1:

136 a. The name of the insurer; the insurer's country of  
137 domicile; the address of the insurer's principal office and  
138 office in this state; the names of the owners of the insurer and  
139 their percentage of ownership; the names of the officers and  
140 directors of the insurer; the name, e-mail, and telephone number  
141 of a contact person for the insurer; and the number of  
142 individuals who are employed by the insurer or its affiliates in  
143 this state;

144 b. The type of products offered by the insurer;

145 c. A statement from the applicable regulatory body of the

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146 insurer's domicile certifying that the insurer is licensed or  
147 registered in that domicile; and

148 d. A copy of the filings required by the applicable  
149 regulatory body of the insurer's domicile.

150 3. Or any affiliated person as defined in s. 624.04 under  
151 common ownership or control with the insurer, may not solicit,  
152 sell, or accept an application for any insurance policy or  
153 contract to be delivered or issued for delivery to any  
154 individual other than a nonresident.

155 (b) All policies or certificates delivered to nonresidents  
156 in this state must include the following statement in a  
157 contrasting color and at least 10-point type: "The policy  
158 providing your coverage and the insurer providing this policy  
159 have not been approved by the Florida Office of Insurance  
160 Regulation."

161 (c) If the insurer ceases to do business from this state,  
162 the insurer must agree to provide written notification to the  
163 office within 30 days after cessation.

164 (d) Subject to the limitations contained in this  
165 subsection, services, including those listed in s. 624.10, may  
166 be provided by the insurer or an affiliated person as defined in  
167 s. 624.04 under common ownership or control with the insurer.

168 (e) An alien insurer transacting insurance in this state  
169 without complying with this subsection is in violation of this  
170 chapter and subject to the penalties under s. 624.15.

171 (f) An insurer that holds a certificate of authority in  
172 this state may issue and deliver policies to nonresidents at  
173 temporary or secondary addresses in this state, along with a  
174 notice that the policy form and rate is not subject to the

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175 approval of the Office of Insurance Regulation.

176 (g) The term "nonresident" means an individual who resides  
177 in and maintains a physical place of domicile in a country other  
178 than the United States, which he or she recognizes as and  
179 intends to maintain as his or her permanent home. The term does  
180 not include an unauthorized immigrant present in the United  
181 States. Notwithstanding any other provision of law, it is  
182 conclusively presumed that an individual is a resident of the  
183 United States if such individual:

184 1. Has had his or her principal place of domicile in the  
185 United States for 180 days or more in the 365 days before  
186 issuance or renewal the policy;

187 2. Has registered to vote in any state;

188 3. Has made a statement of domicile in any state; or

189 4. Has filed for homestead tax exemption on property in any  
190 state.

191 ~~(a) Life insurance policies or annuity contracts issued by~~  
192 ~~an insurer domiciled outside the United States covering only~~  
193 ~~persons who, at the time of issuance, are not residents of the~~  
194 ~~United States and are not nonresidents illegally residing in the~~  
195 ~~United States, provided:~~

196 ~~1. The insurer must currently be an authorized insurer in~~  
197 ~~its country of domicile as to the kind or kinds of insurance~~  
198 ~~proposed to be offered and must have been such an insurer for~~  
199 ~~not fewer than the immediately preceding 3 years, or must be the~~  
200 ~~wholly owned subsidiary of such authorized insurer or must be~~  
201 ~~the wholly owned subsidiary of an already eligible authorized~~  
202 ~~insurer as to the kind or kinds of insurance proposed for a~~  
203 ~~period of not fewer than the immediately preceding 3 years.~~

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204 ~~However, the office may waive the 3-year requirement if the~~  
205 ~~insurer has operated successfully for a period of at least the~~  
206 ~~immediately preceding year and has capital and surplus of not~~  
207 ~~less than \$25 million.~~

208 ~~2. Before the office may grant eligibility, the requesting~~  
209 ~~insurer shall furnish the office with a duly authenticated copy~~  
210 ~~of its current annual financial statement, in English, and with~~  
211 ~~all monetary values therein expressed in United States dollars,~~  
212 ~~at an exchange rate then current and shown in the statement, in~~  
213 ~~the case of statements originally made in the currencies of~~  
214 ~~other countries, and with such additional information relative~~  
215 ~~to the insurer as the office may request.~~

216 ~~3. The insurer must have and maintain surplus as to~~  
217 ~~policyholders of not less than \$15 million. Any such surplus as~~  
218 ~~to policyholders shall be represented by investments consisting~~  
219 ~~of eligible investments for like funds of like domestic insurers~~  
220 ~~under part II of chapter 625; however, any such surplus as to~~  
221 ~~policyholders may be represented by investments permitted by the~~  
222 ~~domestic regulator of such alien insurance company if such~~  
223 ~~investments are substantially similar in terms of quality,~~  
224 ~~liquidity, and security to eligible investments for like funds~~  
225 ~~of like domestic insurers under part II of chapter 625.~~

226 ~~4. The insurer must be of good reputation as to the~~  
227 ~~providing of service to its policyholders and the payment of~~  
228 ~~losses and claims.~~

229 ~~5. To maintain eligibility, the insurer shall furnish the~~  
230 ~~office within the time period specified in s. 624.424(1)(a) a~~  
231 ~~duly authenticated copy of its current annual and quarterly~~  
232 ~~financial statements, in English, and with all monetary values~~



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233 ~~therein expressed in United States dollars, at an exchange rate~~  
234 ~~then current and shown in the statement, in the case of~~  
235 ~~statements originally made in the currencies of other countries,~~  
236 ~~and with such additional information relative to the insurer as~~  
237 ~~the office may request.~~

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

242 ~~7. The insurer shall provide to the applicant for the~~  
243 ~~policy or contract a copy of the most recent quarterly financial~~  
244 ~~statements of the insurer providing, in clear and conspicuous~~  
245 ~~language:~~

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

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

250 ~~c. That the insurer does not hold a certificate of~~  
251 ~~authority issued in this state and that the office does not~~  
252 ~~exercise regulatory oversight over the insurer.~~

253 ~~d. The identity and address of the regulatory authority~~  
254 ~~exercising oversight of the insurer.~~

255  
256 ~~This paragraph does not impose upon the office any duty or~~  
257 ~~responsibility to determine the actual financial condition or~~  
258 ~~claims practices of any unauthorized insurer, and the status of~~  
259 ~~eligibility, if granted by the office, indicates only that the~~  
260 ~~insurer appears to be financially sound and to have satisfactory~~  
261 ~~claims practices and that the office has no credible evidence to~~

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262 ~~the contrary.~~

263 ~~(b) If at any time the office has reason to believe that an~~  
264 ~~insurer issuing policies or contracts pursuant to this~~  
265 ~~subsection is insolvent or is in unsound financial condition,~~  
266 ~~does not make reasonable prompt payment of benefits, or is no~~  
267 ~~longer eligible under the conditions specified in this~~  
268 ~~subsection, the office may conduct an examination or~~  
269 ~~investigation in accordance with s. 624.316, s. 624.3161, or s.~~  
270 ~~624.320 and, if the findings of such examination or~~  
271 ~~investigation warrant, may withdraw the eligibility of the~~  
272 ~~insurer to issue policies or contracts pursuant to this~~  
273 ~~subsection without having a certificate of authority issued by~~  
274 ~~the office.~~

275 ~~(c) This subsection does not provide an exception to the~~  
276 ~~agent licensure requirements of chapter 626. Any insurer issuing~~  
277 ~~policies or contracts pursuant to this subsection shall appoint~~  
278 ~~the agents that the insurer uses to sell such policies or~~  
279 ~~contracts as provided in chapter 626.~~

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

285 ~~(e) Policies and contracts issued pursuant to this~~  
286 ~~subsection are not subject to the premium tax specified in s.~~  
287 ~~624.509.~~

288 ~~(f) Applications for life insurance coverage offered under~~  
289 ~~this subsection must contain, in contrasting color and not less~~  
290 ~~than 12-point type, the following statement on the same page as~~

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291 ~~the applicant's signature:~~

292

293 ~~This policy is primarily governed by the laws of a~~  
294 ~~foreign country. As a result, all of the rating and~~  
295 ~~underwriting laws applicable to policies filed in this~~  
296 ~~state do not apply to this coverage, which may result~~  
297 ~~in your premiums being higher than would be~~  
298 ~~permissible under a Florida-approved policy. Any~~  
299 ~~purchase of individual life insurance should be~~  
300 ~~considered carefully, as future medical conditions may~~  
301 ~~make it impossible to qualify for another individual~~  
302 ~~life policy. If the insurer issuing your policy~~  
303 ~~becomes insolvent, this policy is not covered by the~~  
304 ~~Florida Life and Health Insurance Guaranty~~  
305 ~~Association. For information concerning individual~~  
306 ~~life coverage under a Florida-approved policy, consult~~  
307 ~~your agent or the Florida Department of Financial~~  
308 ~~Services.~~

309

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

314

315 ~~The benefits of the policy providing your coverage are~~  
316 ~~governed primarily by the law of a country other than~~  
317 ~~the United States.~~

318

319 ~~(h) All single-premium life insurance policies and single-~~

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320 ~~premium annuity contracts issued to persons who are not~~  
321 ~~residents of the United States and are not nonresidents~~  
322 ~~illegally residing in the United States pursuant to this~~  
323 ~~subsection shall be subject to the provisions of chapter 896.~~

324 Section 5. Effective upon this act becoming a law, section  
325 626.207, Florida Statutes, is amended to read:

326 626.207 ~~Department rulemaking authority; waiting periods~~  
327 ~~for applicants; Penalties against licensees.-~~

328 (1) As used in this section, the term:

329 (a) "Financial services business" means any financial  
330 activity regulated by the Department of Financial Services, the  
331 Office of Insurance Regulation, or the Office of Financial  
332 Regulation.

333 (b) "First-degree felony" and "capital felony" include all  
334 felonies designated as such by state law, as well as any felony  
335 so designated in the jurisdiction in which the plea is entered  
336 or judgment is rendered.

337 ~~(1) The department shall adopt rules establishing specific~~  
338 ~~waiting periods for applicants to become eligible for licensure~~  
339 ~~following denial, suspension, or revocation pursuant to s.~~  
340 ~~626.611, s. 626.621, s. 626.8437, s. 626.844, s. 626.935, s.~~  
341 ~~634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.~~  
342 ~~634.423, s. 642.041, or s. 642.043. The purpose of the waiting~~  
343 ~~periods is to provide sufficient time to demonstrate reformation~~  
344 ~~of character and rehabilitation. The waiting periods shall vary~~  
345 ~~based on the type of conduct and the length of time since the~~  
346 ~~conduct occurred and shall also be based on the probability that~~  
347 ~~the propensity to commit illegal conduct has been overcome. The~~  
348 ~~waiting periods may be adjusted based on aggravating and~~

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349 ~~mitigating factors established by rule and consistent with this~~  
350 ~~purpose.~~

351 (2) An applicant who commits a first-degree felony; a  
352 capital felony; a felony involving money laundering, fraud, or  
353 embezzlement; or a felony directly related to a financial  
354 services business is permanently barred from applying for a  
355 license under this part. This bar applies to convictions, guilty  
356 pleas, or nolo contendere pleas, regardless of adjudication, by  
357 an applicant, officer, director, majority owner, partner,  
358 manager, or other person who manages or controls an applicant.

359 (3) For all other crimes not included in subsection (2),  
360 the department shall adopt rules establishing the process and  
361 application of disqualifying periods:

362 (a) A 15-year disqualifying period for all felonies  
363 involving moral turpitude that are not specifically included in  
364 the permanent bar in subsection (2).

365 (b) A 7-year disqualifying period for all felonies to which  
366 the permanent bar in subsection (2) and the 15 year  
367 disqualifying period in paragraph (a) do not apply.

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

370 (4) The department shall adopt rules providing for  
371 additional disqualifying periods due to the commitment of  
372 multiple crimes and other factors reasonably related to the  
373 applicant's criminal history. The rules shall provide for  
374 mitigating and aggravating factors. However, mitigation may not  
375 result in a period of disqualification of less than 7 years and  
376 may not mitigate the disqualifying periods in paragraphs (3) (b)  
377 and (c).

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378       (5) For purposes of this section, the disqualifying periods  
379 begin upon the applicant's final release from supervision or  
380 upon completion of the applicant's criminal sentence, including  
381 payment of fines, restitution, and court costs, for the crime  
382 for which the disqualifying period applies.

383       (6) After the disqualifying period has been met, the burden  
384 is on the applicant to demonstrate that the applicant has been  
385 rehabilitated, does not pose a risk to the insurance buying  
386 public, is fit and trustworthy to engage in the business of  
387 insurance pursuant to s. 626.611(7), and is otherwise qualified  
388 for licensure. Hearings shall be conducted in accordance with s.  
389 120.80(17).

390       (7)~~(2)~~ The department shall adopt rules establishing  
391 specific penalties against licensees in accordance with ss.  
392 626.641 and 626.651 for violations of s. 626.611, s. 626.621, s.  
393 626.8437, s. 626.844, s. 626.935, s. 634.181, s. 634.191, s.  
394 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s.  
395 642.043. The purpose of the revocation or suspension is to  
396 provide a sufficient penalty to deter future violations of the  
397 Florida Insurance Code. The imposition of a revocation or the  
398 length of suspension shall be based on the type of conduct and  
399 the probability that the propensity to commit further illegal  
400 conduct has been overcome at the time of eligibility for  
401 relicensure. The ~~revocation or the~~ length of suspension may be  
402 adjusted based on aggravating or mitigating factors, established  
403 by rule and consistent with this purpose.

404       (8) The provisions of s. 112.011 do not apply to applicants  
405 for licensure under the Florida Insurance Code, including, but  
406 not limited to agents, agencies, adjusters, adjusting firms,

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407 customer representatives, or managing general agents.

408 Section 6. Paragraphs (a) and (b) of subsection (1),  
409 paragraphs (a) and (b) of subsection (2), and subsection (4) of  
410 section 627.4133, Florida Statutes, are amended to read:

411 627.4133 Notice of cancellation, nonrenewal, or renewal  
412 premium.—

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

414 (a) An insurer issuing a policy providing coverage for  
415 workers' compensation and employer's liability insurance,  
416 property, casualty, except mortgage guaranty, surety, or marine  
417 insurance, other than motor vehicle insurance subject to s.  
418 627.728, shall give the first-named ~~named~~ insured at least 45  
419 days' advance written notice of nonrenewal or of the renewal  
420 premium. If the policy is not to be renewed, the written notice  
421 must ~~shall~~ state the reason or reasons ~~as to~~ why the policy is  
422 not to be renewed. This requirement applies only if the insured  
423 has furnished all of the necessary information so as to enable  
424 the insurer to develop the renewal premium before ~~prior to~~ the  
425 expiration date of the policy ~~to be renewed~~.

426 (b) An insurer issuing a policy providing coverage for  
427 property, casualty, except mortgage guaranty, surety, or marine  
428 insurance, other than motor vehicle insurance subject to s.  
429 627.728 or s. 627.7281, shall give the first-named ~~named~~ insured  
430 written notice of cancellation or termination other than  
431 nonrenewal at least 45 days before ~~prior to~~ the effective date  
432 of the cancellation or termination, including in the written  
433 notice the reason or reasons for the cancellation or  
434 termination, except that:

435 1. If ~~When~~ cancellation is for nonpayment of premium, at

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436 least 10 days' written notice of cancellation accompanied by the  
437 reason for cancellation must ~~therefor shall~~ be given. As used in  
438 this subparagraph and s. 440.42(3), the term "nonpayment of  
439 premium" means failure of the named insured to discharge when  
440 due any of her or his obligations in connection with the payment  
441 of premiums on a policy or any installment of such premium,  
442 whether the premium is payable directly to the insurer or its  
443 agent or indirectly under any premium finance plan or extension  
444 of credit, or failure to maintain membership in an organization  
445 if such membership is a condition precedent to insurance  
446 coverage. The term ~~"Nonpayment of premium"~~ also means the  
447 failure of a financial institution to honor an insurance  
448 applicant's check after delivery to a licensed agent for payment  
449 of a premium, even if the agent has previously delivered or  
450 transferred the premium to the insurer. If a dishonored check  
451 represents the initial premium payment, the contract and all  
452 contractual obligations are ~~shall be~~ void ab initio unless the  
453 nonpayment is cured within the earlier of 5 days after actual  
454 notice by certified mail is received by the applicant or 15 days  
455 after notice is sent to the applicant by certified mail or  
456 registered mail. ~~and~~ If the contract is void, any premium  
457 received by the insurer from a third party must ~~shall~~ be  
458 refunded to that party in full. ~~and~~

459 2. If ~~When~~ such cancellation or termination occurs during  
460 the first 90 days during which the insurance is in force and the  
461 insurance is canceled or terminated for reasons other than  
462 nonpayment of premium, at least 20 days' written notice of  
463 cancellation or termination accompanied by the reason for  
464 cancellation must ~~therefor shall~~ be given except where there has



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465 been a material misstatement or misrepresentation or failure to  
466 comply with the underwriting requirements established by the  
467 insurer.

468  
469 After the policy has been in effect for 90 days, ~~no~~ such policy  
470 may not ~~shall~~ be canceled by the insurer except when there has  
471 been a material misstatement, a nonpayment of premium, a failure  
472 to comply with underwriting requirements established by the  
473 insurer within 90 days after ~~of~~ the date of effectuation of  
474 coverage, or a substantial change in the risk covered by the  
475 policy or when the cancellation is for all insureds under such  
476 policies for a given class of insureds. This subsection does not  
477 apply to individually rated risks having a policy term of less  
478 than 90 days.

479 (2) With respect to any personal lines or commercial  
480 residential property insurance policy, including, but not  
481 limited to, any homeowner's, mobile home owner's, farmowner's,  
482 condominium association, condominium unit owner's, apartment  
483 building, or other policy covering a residential structure or  
484 its contents:

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

487 (b) The insurer shall give the first-named ~~named~~ insured  
488 written notice of nonrenewal, cancellation, or termination at  
489 least 100 days before ~~prior to~~ the effective date of the  
490 nonrenewal, cancellation, or termination. However, the insurer  
491 shall give at least 100 days' written notice, or written notice  
492 by June 1, whichever is earlier, for any nonrenewal,  
493 cancellation, or termination that would be effective between

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494 June 1 and November 30. The notice must include the reason or  
495 reasons for the nonrenewal, cancellation, or termination, except  
496 that:

497 1. The insurer shall give the first-named ~~named~~ insured  
498 written notice of nonrenewal, cancellation, or termination at  
499 least 180 days before ~~prior to~~ the effective date of the  
500 nonrenewal, cancellation, or termination for a first-named ~~named~~  
501 insured whose residential structure has been insured by that  
502 insurer or an affiliated insurer for at least a 5-year period  
503 immediately before ~~prior to~~ the date of the written notice.

504 2. If ~~When~~ cancellation is for nonpayment of premium, at  
505 least 10 days' written notice of cancellation accompanied by the  
506 reason for cancellation must ~~therefor shall~~ be given. As used in  
507 this subparagraph, the term "nonpayment of premium" means  
508 failure of the named insured to discharge when due any of her or  
509 his obligations in connection with the payment of premiums on a  
510 policy or any installment of such premium, whether the premium  
511 is payable directly to the insurer or its agent or indirectly  
512 under any premium finance plan or extension of credit, or  
513 failure to maintain membership in an organization if such  
514 membership is a condition precedent to insurance coverage. The  
515 term "Nonpayment of premium" also means the failure of a  
516 financial institution to honor an insurance applicant's check  
517 after delivery to a licensed agent for payment of a premium,  
518 even if the agent has previously delivered or transferred the  
519 premium to the insurer. If a dishonored check represents the  
520 initial premium payment, the contract and all contractual  
521 obligations are ~~shall be~~ void ab initio unless the nonpayment is  
522 cured within the earlier of 5 days after actual notice by

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523 certified mail is received by the applicant or 15 days after  
524 notice is sent to the applicant by certified mail or registered  
525 mail, ~~and~~ If the contract is void, any premium received by the  
526 insurer from a third party must ~~shall~~ be refunded to that party  
527 in full.

528 3. If ~~When~~ such cancellation or termination occurs during  
529 the first 90 days during which the insurance is in force and the  
530 insurance is canceled or terminated for reasons other than  
531 nonpayment of premium, at least 20 days' written notice of  
532 cancellation or termination accompanied by the reason for  
533 cancellation must ~~therefor shall~~ be given except where there has  
534 been a material misstatement or misrepresentation or failure to  
535 comply with the underwriting requirements established by the  
536 insurer.

537 4. The requirement for providing written notice of  
538 nonrenewal by June 1 of any nonrenewal that would be effective  
539 between June 1 and November 30 does not apply to the following  
540 situations, but the insurer remains subject to the requirement  
541 to provide such notice at least 100 days before ~~prior to~~ the  
542 effective date of nonrenewal:

543 a. A policy that is nonrenewed due to a revision in the  
544 coverage for sinkhole losses and catastrophic ground cover  
545 collapse pursuant to s. 627.706, as amended by s. 30, chapter  
546 2007-1, Laws of Florida.

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

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552 After the policy has been in effect for 90 days, the policy may  
553 ~~shall~~ not be canceled by the insurer except when there has been  
554 a material misstatement, a nonpayment of premium, a failure to  
555 comply with underwriting requirements established by the insurer  
556 within 90 days of the date of effectuation of coverage, or a  
557 substantial change in the risk covered by the policy or if ~~when~~  
558 the cancellation is for all insureds under such policies for a  
559 given class of insureds. This paragraph does not apply to  
560 individually rated risks having a policy term of less than 90  
561 days.

562 (4) Notwithstanding ~~the provisions of~~ s. 440.42(3), if  
563 cancellation of a policy providing coverage for workers'  
564 compensation and employer's liability insurance is requested in  
565 writing by the insured, such cancellation is ~~shall be~~ effective  
566 on the date requested by the insured, or if no date is  
567 specified, cancellation is effective as of the date of the  
568 written request ~~the carrier sends the notice of cancellation to~~  
569 ~~the insured.~~ The carrier is not required to send notice of  
570 cancellation to the insured if the cancellation is requested in  
571 writing. Any retroactive assumption of coverage and liabilities  
572 under a policy providing workers' compensation and employer's  
573 liability insurance may not exceed 21 days.

574 Section 7. Subsection (3) is added to section 627.4137,  
575 Florida Statutes, to read:

576 627.4137 Disclosure of certain information required.-

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

580 Section 8. Section 627.442, Florida Statutes, is amended to

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581 read:

582 627.442 Insurance contracts.—

583 (1) A person who requires a workers' compensation insurance  
584 policy pursuant to a construction contract may not reject a  
585 workers' compensation insurance policy issued by a self-  
586 insurance fund that is subject to part V of chapter 631 based  
587 upon the self-insurance fund not being rated by a nationally  
588 recognized insurance rating service.

589 (2) Notwithstanding s. 440.381(3), premium audits are not  
590 required for workers' compensation or property and casualty  
591 coverages, except as provided by the insurance policy, by an  
592 order of the office, or at least every 2 years if requested by  
593 the employer.

594 Section 9. Subsection (2) of section 627.7277, Florida  
595 Statutes, is amended to read:

596 627.7277 Notice of renewal premium.—

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

600 Section 10. Paragraph (a) of subsection (3), paragraphs (a)  
601 and (d) of subsection (4), and subsections (5) and (6) of  
602 section 627.728, Florida Statutes, are amended to read:

603 627.728 Cancellations; nonrenewals.—

604 (3) (a) ~~No~~ Notice of cancellation of a policy to which this  
605 section applies is not shall be effective unless mailed or  
606 delivered by the insurer to the first-named ~~named~~ insured and to  
607 the first-named ~~named~~ insured's insurance agent at least 45 days  
608 before ~~prior to~~ the effective date of cancellation, except that,  
609 if ~~when~~ cancellation is for nonpayment of premium, at least 10

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610 days' notice of cancellation accompanied by the reason for  
611 cancellation must ~~therefor shall~~ be given. A ~~No~~ notice of  
612 cancellation is not of a policy to which this section applies  
613 ~~shall be~~ effective unless the ~~reason or~~ reasons for cancellation  
614 accompany the notice ~~of cancellation~~.

615 (4) (a) An ~~No~~ insurer must ~~shall fail to~~ renew a policy  
616 unless it mails or delivers to the first-named ~~named~~ insured, at  
617 the address shown in the policy, and to the first-named ~~named~~  
618 insured's insurance agent at her or his business address, at  
619 least 45 days' advance notice of its intention not to renew; and  
620 the reasons for refusal to renew must accompany such notice.

621 This subsection does not apply:

- 622 1. If the insurer has manifested its willingness to renew;  
623 or  
624 2. In case of nonpayment of premium.

625  
626 Notwithstanding the failure of an insurer to comply with this  
627 subsection, the policy terminates ~~shall terminate~~ on the  
628 effective date of any other automobile liability insurance  
629 policy procured by the insured with respect to any automobile  
630 designated in both policies. Unless a written explanation for  
631 refusal to renew accompanies the notice of intention not to  
632 renew, the policy remains ~~shall remain~~ in full force and effect.

633 (d) Instead of canceling or nonrenewing a policy, an  
634 insurer may, upon expiration of the policy term, transfer a  
635 policy to another insurer under the same ownership or management  
636 as the transferring insurer, by giving the first-named ~~named~~  
637 insured at least 45 days' advance notice of its intent to  
638 transfer the policy and of the premium and the specific reasons

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639 for any increase in the premium.

640 (5) United States postal proof of mailing or certified or  
641 registered mailing of notice of cancellation, of intention not  
642 to renew, or of reasons for cancellation, or of the intention of  
643 the insurer to issue a policy by an insurer under the same  
644 ownership or management, to the first-named ~~named~~ insured at the  
645 address shown in the policy is ~~shall be~~ sufficient proof of  
646 notice.

647 (6) If ~~When~~ a policy is canceled, other than for nonpayment  
648 of premium, or in the event of failure to renew a policy to  
649 which subsection (4) applies, the insurer shall notify the  
650 first-named ~~named~~ insured of her or his possible eligibility for  
651 insurance through the Automobile Joint Underwriting Association.  
652 Such notice must ~~shall~~ accompany or be included in the notice of  
653 cancellation or the notice of intent not to renew and ~~shall~~  
654 state that the ~~such~~ notice of availability of the Automobile  
655 Joint Underwriting Association is given pursuant to this  
656 section.

657 Section 11. Section 627.7281, Florida Statutes, is amended  
658 to read:

659 627.7281 Cancellation notice.—An insurer issuing a policy  
660 of motor vehicle insurance not covered under the cancellation  
661 provisions of s. 627.728 shall give the first-named ~~named~~  
662 insured notice of cancellation at least 45 days before ~~prior to~~  
663 the effective date of cancellation, except that if, ~~when~~  
664 cancellation is for nonpayment of premium, at least 10 days'  
665 notice of cancellation accompanied by the reason for  
666 cancellation must ~~therefor shall~~ be given. As used in this  
667 section, the term "policy" does not include a binder as defined

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668 in s. 627.420 unless the duration of the binder period exceeds  
669 60 days.

670 Section 12. Section 634.1711, Florida Statutes, is created  
671 to read:

672 634.1711 Premium payable.—Notwithstanding s. 634.1815 and  
673 s. 634.282(6), (7), and (13), a consumer may purchase a service  
674 agreement for a premium amount negotiated with the salesperson.  
675 The service agreement company is responsible for establishing  
676 minimum premium rates to ensure its solvency under this part.  
677 Other than the premium rates, no other terms or conditions of  
678 the service agreement may be revised, amended, or changed by the  
679 salesperson.

680 Section 13. Section 634.403, Florida Statutes, is amended  
681 to read:

682 634.403 License required; exemptions.—

683 (1) No person in this state shall provide or offer to  
684 provide service warranties to residents of this state unless  
685 authorized ~~therefor~~ under a subsisting license issued by the  
686 office. The service warranty association shall pay to the office  
687 a license fee of \$200 for such license for each license year, or  
688 part thereof, the license is in force.

689 (2) An insurer, while authorized to transact property or  
690 casualty insurance in this state, may also transact a service  
691 warranty business without additional qualifications or  
692 authority, but is ~~shall be~~ otherwise subject to the applicable  
693 provisions of this part.

694 (3) The office may, pursuant to s. 120.569, ~~in its~~  
695 ~~discretion and~~ without advance notice and hearing, issue an  
696 immediate final order to cease and desist to any person or



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697 entity which violates this section. The Legislature finds that a  
698 violation of this section constitutes an imminent and immediate  
699 threat to the public health, safety, and welfare of the  
700 residents of this state.

701 (4) Any person that is an affiliate of a domestic insurer  
702 as defined in chapter 624 is exempt from application of this  
703 part if the person does not issue, or market or cause to be  
704 marketed, service warranties to residents of this state and does  
705 not administer service warranties that were originally issued to  
706 residents of this state. The domestic insurer or its wholly  
707 owned Florida licensed insurer must be the direct obligor of all  
708 service warranties issued by such affiliate or must issue a  
709 contractual liability insurance policy to such affiliate that  
710 meets the conditions described in s. 634.406(3). If the office  
711 ~~of Insurance Regulation~~ determines, after notice and opportunity  
712 for a hearing, that a person's intentional business practices do  
713 not comply with any of the exemption requirements of this  
714 subsection, the person is ~~shall be~~ subject to this part.

715 (5) A person is exempt from licensure under this section if  
716 it complies with the following:

717 (a) The service warranties are sold only to persons who are  
718 not residents of this state and the person does not issue,  
719 market, or cause to be marketed service warranties to residents  
720 of this state and does not administer service warranties that  
721 were originally issued to residents of this state.

722 (b) The person submits a letter of notification to the  
723 office upon the start of business from this state and annually  
724 by March 1, which provides the following information:

725 1. The type of products offered and a statement certifying

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726 that the products are not regulated in the state in which it is  
727 transacting business or that the person is licensed in the state  
728 in which it is transacting business.

729 2. The name of the person; the state of domicile; the home  
730 address and Florida address of the person; the names of the  
731 owners and their percentage of ownership; the names of the  
732 officers and directors; the name, e-mail, and telephone number  
733 of a contact person; the states in which it is transacting  
734 business; and how many individuals are employed in this state.

735 (c) If the person ceases to do business from this state, it  
736 provides written notification to the office within 30 days after  
737 cessation.

738 (6)~~(5)~~ Any person who provides, offers to provide, or holds  
739 oneself out as providing or offering to provide a service  
740 warranty to residents of in this state ~~or from this state~~  
741 without holding a subsisting license commits, in addition to any  
742 other violation, a misdemeanor of the first degree, punishable  
743 as provided in s. 775.082 or s. 775.083.

744 Section 14. Except as otherwise expressly provided in this  
745 act and except for this section, which shall take effect upon  
746 this act becoming a law, this act shall take effect July 1,  
747 2011.